

Chairman Weaver: Very good. Are there any further questions of the applicant? (none) Thank you very much Mr. Cleveland. Any discussion? (none) Closing the public meeting. Returning to the board for a discussion or a motion.

**Ms. Castro made a motion to approve with staff recommendations.**

**Mr. Burdge seconds.**

Chairman Weaver: Ok for discussion I just wanted to say Mr. Walker you and I had a chance to discuss earlier today, I have a financial interest in an adjacent property and we talked it through and confirmed that I don't have a conflict on this matter.

Mr. Walker: Yes Mr. Chair that is correct.

Chairman Weaver: Thank you very much. Is there any further discussion?

Mr. Chase: Is the motion to move the band shell construction up in the phase or are we motioning with the phasing as indicated in the site plan.

Chairman Weaver: Correct me if I am wrong but the motion is to accept the application as it has presented with staff's conditions as written. Is that correct?

Ms. Castro: That is correct.

Mr. Chase: Ok thank you.

Chairman Weaver: Any further discussion? Staff call the roll please.

**A voice vote was taken.**

**The motion passed unanimously.**

Chairman Weaver: Just for clarity Mr. Poitier was concerned there may have been an amendment to the motion and just for the record there was no amendment there was a request for a discussion that we fleshed out that the original motion stood as presented.

Mr. Poitier: Right the reason why I asked was because it was already seconded and it was not changed.

Chairman Weaver: It was not changed Mr. Chase as a couple of questions about the motion as it was presented, it was confirmed how it was presented and Mr. Chase ended his discussion and we went forward with the motion as originally presented. Ok thank you Mr. Cleveland.

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The next item considered - **Item #10 – Alleyway Abandonment – 810 South US HWY 1.**

Chairman Weaver: Agenda item number 10 the alleyway abandonment at 810 South US HWY 1. Staff report please.

Mr. Sweeney: Thank you Mr. Chair and members of the Board. I would like to start with my sincerest apologies for the way this fell on the agenda. The Planning Board has a predetermined way of establishing the agenda.

This application has been a long endeavor and of course it would prove to be a long one tonight as well. The application is for the abandonment of an existing 20 foot platted alley between the American Legion Post 40 / Mosaics of America Inc located between 810 South US HWY 1 and 901 South Third Street. This is the aerial location map (referring to the display) I tried my best to explain in this diagram here but back on 06 December 1966 Ordinance E-388 abandoned the platted alley for most of the property and reserved a utility and ingress easement over same. For whatever reason they failed to abandon the remainder of the alleyway. I have my suspicion that at this point it is bordered between two properties whereas here the American Legion owned all of the abutting parcels so it was not a big deal as far as splitting ownership. Here you will find that the proposed abandonment is actually going to be required as with any abandonment when there are two different property owners that abut it the land will be split, split the difference. So the American Legion will get the western 10 feet of the alley and the Mosaics of America will receive the eastern 10 feet of the alley and a utility easement will be reserved over the entire portion.

Staff is recommending approval of the abandonment with the following condition:

- 1. The applicant shall provide two separate sketch and legal descriptions for what I am calling 'splitting the difference', the eastern and the western 10 feet.***

Right now the sketch and the legal that is provided in your packet simply abandons the entire 20 feet but it does not clearly define or depict how that property is going to be split among the two parties. So I am requiring that they submit revised sketch and legal descriptions depicting as such.

Chairman Weaver: Thank you very much sir. Any questions of staff?

Mr. Burdge: Does that alley continue further south?

Mr. Sweeney: Mr. Chair and Mr. Burdge that alley continues all the way south to whatever the next east/west street is.

Mr. Burdge: That would be the one that would go towards the Police Station.

Mr. Sweeney: The PD yes correct.

Mr. Burdge: And the alleyway if we look on the picture here, yes in the blue area that you have that was at one time, that was abandoned to the American Legion.

Mr. Sweeney: Correct.

Mr. Burdge: Ok and who is asking for this to be abandoned?

Mr. Sweeney: Mr. Chair and Mr. Burdge, the American Legion is the original applicant. When I first sent this out to TRC and the City's Attorney Office they did require that the neighboring property owner join in on the application so the applicant has been revised to include Mosaics of America.

Mr. Burdge: Ok I know in the past that when the City abandoned alleyways, when they were being asked to abandon alleyways, if it is my remembrance we used to ask them to buy it from us.

Mr. Sweeney: Mr. Chair and Mr. Burdge that is a very good point the section on abandonment in the City Code is Section 17-1 and it is literally two lines. It says that "All abandonments shall be done via Ordinance" and the second section says "The applicant shall be required to pay for all costs associated with the abandonment of the alleyway". I have not been provided with an appraisal of this property so I have a tough time believing that it is truly valueless but I don't know a cost that would be associated with this alley. It is certainly something that I think we can recommend as a requirement that they submit so that we can determine the cost that may or not be associated with this.

Mr. Burdge: The aspect of splitting it I think that was always understood. A number of alleyways off of North 10<sup>th</sup>, 11<sup>th</sup> and 12<sup>th</sup> Street(s) were abandoned at some point and I don't remember if the City at that point requested that they pay them or if we just abandoned them and split the property in half. But somewhere I remember that the City, especially when they were being requested asked that some price be paid for them. I know that the City at times have tried to abandon property that the property owners refused to take that was on South 19<sup>th</sup> Street just south of Virginia Ave.

Mr. Sweeney: Mr. Chair and Mr. Burdge that is a good point. The congress of that is when the City tries to purchase right of way, you know we pay a lot.

Mr. Walker: Mr. Chair excuse me.

Chairman Weaver: Yes Mr. Walker.

Mr. Walker: Mr. Chair normally the discussion about whether the City is to put the property out for bid or to divide it between the adjoin property owners is a discussion that takes place at the Commission level. That is a decision to be made by the elected officials, the Board itself traditionally confines its consideration to the planning factors that govern the decision making process for instance; the City has in years in past had a alleyway abandonment study that was done for the specific purpose of reviewing each of the alleyways to see whether there was any public purpose to be served in retaining the property or not. I don't know whether or to what extent that study remains germane or would have any application at all to this specific property, I merely cite that as an example of the sort of planning factors that the Board takes into account in discharging its recommending role in this matter. But the Board does not itself get involved in the financial

niceties of how the property is to be disposed of once that initial decision is made to abandon the property.

Chairman Weaver: Thank you very much Mr. Walker. We will keep our comments to the technical aspects.

Mr. Burdge: I just regress back to the old days Jim you know that. (laughter)

Chairman Weaver: It is worth noting as we end that part of it that if the City required that alley be put there in a plat years ago I would find it awkward if they asked to be paid for it when it was abandoned later on but that is out of our purview. Mr. Poitier you had a question?

Mr. Poitier: I wanted to ask Mr. Sweeny you want us to approve this?

Mr. Sweeney: Mr. Chair and Mr. Poitier the staff is recommending approval that the alleyway be abandoned with the understanding that... the Ordinance unfortunately has not be drafted but the Ordinance will reserve easement over same and that is a requirement of the FPUA. There are existing utilities, gas, water, overhead electric so staff is recommending approval that the abandonment be approved and again the Ordinance will reserve easement over same.

Mr. Poitier: Ok we had one four years ago that the City was fighting over, the same one the attorney was talking about.

Mr. Sweeney: Mr. Poitier and Mr. Chair the planning issues for this particular abandonment application are zero. If there were an access or... it is important to point out that the existing American Legion structure is actually constructed about 9 ½ feet into the alleyway. So the reason that they are requesting this abandonment is to effectively be able to own the property that their building is actually on. Currently a portion, this southeastern corner is in the City's property at the moment. So that is the reason, again there is no access or other planning related function that this particular portion of this particular platted alleyway serves at this time.

Mr. Poitier: Ok.

Chairman Weaver: Ok great thank you Mr. Sweeney. Any further questions of staff? (none) Is there anyone here from the public who would like to speak on this matter please come forward?

Mr. Tom James (representative American Legion): First of all I wish you would have got me up here a whole lot earlier but...

Chairman Weaver: You have to blame staff for that sir. (laughter)

Mr. Tom James (representative American Legion): Actually Ryan has been a lot of help for us and I don't have a problem with him at all. My name is Tom James and I am the Commander of the American Legion Post 40, 4027 US HWY 1 Fort Pierce.

The reason we are trying to do this is so that our property actually does... so we will own the underneath of our property. This has been a nightmare I will tell you we have been two years to get this far. We had to get a new survey and the legal descriptions. The legal description he wants (Mr. Sweeney) I have two of them. One that divides it and stuff like that. I believe I turned one in but I have copies so that is no problem. What we are trying to do is just... like I say we have been two years just trying to get to this point where we actually own the property that our building is on. I appreciate your consideration, thank you very much.

Chairman Weaver: The buy in of the property owner to the east and the split of the land and the split of the cost...

Mr. Sweeney: Mr. Chair that is a good question. We did meet with both the representatives, one from the American Legion as well as the representative from Mosaics of America Inc. they have joined in on the application. They did indicate that they would not be interested in paying anything for purchasing the actual property. So if it turns out again I don't want to get off track but they are involved and they have joined in on the application.

Chairman Weaver: And for the record you have probably spent some money on the surveys and your time.

Mr. Tom James (representative American Legion): We have spent \$850.00 on the survey plus the permit was \$500.00, I believe to get the abandonment started so we have money invested in it and the American Legion has paid for all of that.

Chairman Weaver: That was probably for your benefit to put that on the record and thank you.

Mr. Tom James (representative American Legion): Thank you.

Chairman Weaver: Anyone else from the public who would like to speak on this? Seeing none I will close the public meeting and return to the board.

**Mr. Burdge made a motion for approval with the staff comments and recommendations in dividing the properties and such into two and that the FPUA continues to have its easement.**

**Mr. Poitier seconds.**

Chairman Weaver: We have a motion and a second is there any further discussion? Staff please call the roll.

**A voice vote was taken.**

**The motion passed unanimously.**

Chairman Weaver: Thank you very much for your time and you are one step closer to being abandoned. (laughter)

Mr. Tom James (representative American Legion): Thank you all very much.

Mr. Poitier: You are welcome.

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**Item #11 – LDR Update.**

Chairman Weaver: Item number 11 the LDR update.

Mr. Margotta: Ok did you get a good chance to review what we sent you on the LDR update? That is too tongue and cheek probably for this. About a week or so ago as we were developing this final agenda it became more than apparent to me that it has gone beyond not working out with our consultant, Duncan and Associates. We quantified it because we feel that we are going into a level of negotiation with them. The basic jest of it, what it comes down to is that they have done 38.5% of the work and they have billed us for 100%. They would like for us to pay for the final amount and they have not done any public meetings yet much less given us a final document so this thing has torn apart.

We have done a lot of work. There was a lot of committee work done by the Planning Board, we had a committee set aside from citizens that provided the staff with a lot of information which of course we have passed on to our consultant. It is coded and known by our staff and we now have to embark on an effort of completing this. I wanted to bring this up to you because unless you want to have a special meeting at your next meeting I am going to purpose how staff is going to address sections. I can't do this all at once, I cant take the whole thing but I think I can do in macro sections. For instance zoning categories or design and performance standards like setbacks, heights and so on and then procedures like the procedures we use for reviewing Special Exceptions or Conditional Use and so on, administrative type of things. Those are three big sections that I can look at in the Ordinance to work on, bring to you and hopefully get this done within a few months. I also have a better idea of just how many months we are talking about.

But folks we have run aground and now I get to go through the pleasure of figuring out how to extricate ourselves from the contract that we have had, you would think that would be simple enough but they are claiming that we owe them more than I would ever say that we are going to pay them. So we might end up in a different type of situation with them and that will run its own course that is all on staff to finish. It has been years that we have been working on this and I felt it was important for me to come to you and explain the situation. This is not something I can or could have put into a memo well enough in time to get out in your packet. Take me at my word we are at failure.

If you have some questions for me let me know or if you have some guidance for me. I just wanted to give you how I want to do it and what to present to you next month so we can get the ball rolling again.