

in State Court. Both of those cases she has competent legal counsel representing her. Those cases are being litigated in a court of law according to the rules of the court of law. And any claims she has against the City have been raised in those cases and will be adjudicated by a jury or a judge. It is outside their hands at this point in time because she has chosen to take her case to the courts of the United States of America, Southern District of Florida, and the Circuit Court of the 19th Judicial Circuit. Those cases remain active. They simply can't deal with something that another jurisdiction has already been chosen by the complaining party to handle.

The next item on the Agenda was Public Hearing on Application for Conditional Use & Site Plan submitted by Clarence E. Glover for construction of Mount Bethel Baptist Church to be located on South 25th Street, east of Fort Pierce Central High School; said property zoned R-1, Single Family Low Density Residential Zone.

Mr. Ryan Sweeney, Development Review Planner, said this is an application for Site Plan and Conditional Use to construct a 12,000 square foot church on a parcel located on South 25th Street just east of Fort Pierce Central High School. The parcel is zoned R-1, Single Family Low Density. This is the same church structure that has been approved twice by the City Commission in the past; both of those instances at a previous location on South 37th Street. A total of 14 notifications were sent via mail to property owners within 500 feet of the subject parcel. As of today, a total of 4 have been received - 2 approve, 1 disapproves, and 1 is a no vote from the St. Lucie County School District, who said they had no concerns. He also received correspondence tonight as he was walking into this meeting via a County Commissioner. County Commissioner Frannie Hutchinson, representing one of the unincorporated citizens who lives outside the 500 foot notification distance, Carol and William Bradshaw, who also disapprove.

Commissioner Alexander asked if individuals live in the unincorporated section, what does that have to do with the City of Fort Pierce?

Mr. Sweeney said the City Code requires that property owners, regardless of whether they are in the City or the County, receive notice by mail within 500 feet of the subject parcel. Property owners outside of that area would not receive notice. At the December 11, 2012 meeting, the Planning Board voted unanimously to recommend approval of the Site Plan and Conditional Use with staff-recommended conditions. Therefore, as the proposed Site Plan and Conditional Use meets the requirements of the City Code and is found to be consistent with the City's Comprehensive Plan, Staff recommends approval of the Site Plan and Conditional Use with the following conditions: (1) The applicant shall record the St. Lucie County requested right-of-way dedication within 90 days of Site Plan approval; (2) The applicant shall enter into a Road Improvement Agreement with St. Lucie County within 90 days of Site Plan approval; (3) The applicant shall complete all of the required off-site improvements prior to the issuance of a Certificate of Occupancy; (4) The applicant shall remove all listed exotic

22-187(1)(e) of the City Code prior to the issuance of a Certificate of Occupancy; and (5) The applicant shall have a formal gopher tortoise survey completed prior to the issuance of a Building Permit or any other site disturbance permit.

Commissioner Becht said Mr. Sweeney mentioned a County Commissioner. The County hasn't taken a position here?

Mr. Sweeney said the residents reached out to their County Commissioner, who then sent an email.

Commissioner Becht said but the County hasn't taken a position.

Mr. Sweeney said no.

Commissioner Becht said they have a Joint Planning Agreement with the County where they show each other their projects.

Mr. Sweeney said absolutely. St. Lucie County Planning & Zoning sits on the TRC (Technical Review Committee). They had no objections.

Mayor Hudson asked but the resident that reached out is in the 500 feet?

Mr. Sweeney said no, they are outside the 500 foot notification requirement.

Commissioner Sessions asked the conditions that have been recommended by Staff, does the applicant have any problems with that?

Mr. Sweeney said they have agreed to all of the conditions that Staff has recommended.

Mayor Hudson declared a Public Hearing in session and asked if anyone in the audience wished to be heard.

Ms. Kate Alvira, 2291 Sweetwater Drive, said they are to the north of this proposed development. What separates them is the Sweetwater Hammock, owned by the County. She is within 500 feet as her house sits at the very end of the road, so they did give her a paper to attend the meeting about this proposal. Has anybody heard of Sweetwater or seen it in the news? After any major hurricane or tropical storm, they are flooded, four feet of water. Luckily when the developer built their neighborhood, it sits up high enough, their homes do not flood, but their garages do. It comes in for a lot of different reasons. One is, Gordy Spillway is let loose, it comes down and comes into their road. The canoe launch is another way it comes into that property. They are in a flood plain. The reason that property is zoned Residential Low Density, she believes, is because of the flooding. If they start putting all that asphalt and concrete and buildings in there, what is going to happen? When they built the school and built the development across from them, they are now seeing water coming in off of 25th Street. Now they are going to build a church? She has nothing against that. But what else are they going to build? That is why she

going to affect them adversely with the water coming off their pavement and flooding them. They need to protect their neighborhood, they are taxpayers. They have been working with Frannie Hutchinson on this problem and she is involved because that is the County; but that property is actually considered City. They were told by the Commissioners they had no idea about this. So she thinks a little bit more investigating has to be done.

Mayor Hudson asked is staff aware of this issue with the flooding?

Mr. Sweeney said both St. Lucie County Engineering and Public Works, and also the City Engineering Staff, sit on the TRC. The engineer that did the stormwater calculations is here and can speak. But they are required to do a "no net loss" stormwater management system.

Mayor Hudson asked are there further developments down the road?

Mr. Sweeney said they have a Conceptual Development Plan. It is a non-binding concept which was approved recently (October 15, 2012). In order for any of that to be permitted to be constructed, they are going to have to go through future land use map amendments, rezoning, site plan approval - there is a host of other things that will have to occur where the City Commission will certainly have the ability to provide input, as well as any residents, at that time. Right now this is merely an application for the church, the parking associated with it, and the stormwater improvements.

Commissioner Sessions said he understands the point Commissioner Becht made with regards to the gentleman's agreement, on planning issues they work concurrently together. Are they starting to get into a world where they have to have the County's approval? And why is this situation unique where there is a condition that a County requirement be placed on an applicant?

Mr. Sweeney said South 25th Street is a County-owned and maintained right-of-way. So when they impose conditions that require right-of-way dedication or road improvement agreements with the County, it is because the road that this develops abuts is owned by the County. So to that extent yes, they do have to receive County approval in order for them to permit the driveway to connect to the County road. The County Commissioners probably would not be made aware of this project other than the sign that was posted by the property or if they happened to be a property owner within 500 feet of the subject project or the legal ad that is posted in the newspaper. A lot of folks got wind of this by watching the Planning Board meeting on TV. They are over and above, in his opinion, open about the projects they are reviewing. If County Staff raised an issue, they would go through their proper protocols. But this isn't a secret by any means.

Commissioner Sessions said he just hopes they don't get in a situation or start opening up a can of worms. It is a Site Plan

approval. He was just wondering, did it necessitate placing on

the applicant those first two conditions. But according to what Mr. Sweeney said, the applicant didn't have a problem with it. But the next applicant may. He just wanted to bring that to his attention.

Mr. Sweeney said over the years they have had some applications that came forward with unusual County conditions; and the City Commission decided not to impose such conditions on those particular development applications. They traditionally honor the County conditions, provided they work with the applicants and the applicants are willing to adhere to those and if they are reasonable. But sometimes the Commission has seen that those conditions are not reasonable; therefore, it is up to the applicant to work out any logistics with the County should there be an issue such as connecting to the road, which would necessitate a right-of-way permit issued by the County. Those things do happen, but they try to work those logistics out with the County during the review process while the application is under review.

Commissioner Perona said he has lived here long enough to know that the usual Florida weather is unusual. With storm surge and things like that, do they have a comfort level with the issues that were raised? He is familiar with that area. He almost purchased property in there until he went to see it during a storm and found out that he needed a boat to get to it. Net zero storm runoff, basically is that something that has been considered in almost every scenario that could give some comfort to the fact that this development would not be adding to the problem in the area?

Commissioner Becht said the City is currently in some form of claim or litigation by a property owner that developed a church and they are complaining that they don't have any run-off from their property because they complied with the City's requirements - Westside Baptist. Their position is, the City made them build this so that it really was a net-zero runoff and they shouldn't have to pay stormwater fees because they don't discharge out to their facilities, if he understands the basis for the lawsuit. He heard the lady's concerns about drainage. He thinks their staff, engineers, and the applicant are able to make this project work, so this property owner has the right and the ability to develop their property without creating additional impositions on adjoining property owners, whether it be the County or private citizens.

Mr. Jack Andrews, City Engineer, said that is correct. When the project comes through, it is very closely scrutinized. Any storage that is taken away by the development is replaced by the development. They review it for the amount of runoff produced and the developer will have to compensate for any runoff they produce by improving their property.

Commissioner Perona asked what about the unusual weather they get? Do they have a sense that this is really going to handle and mitigate those issues to the point where it isn't going to be any worse than if it was just vacant property?

Mr. Andrews said this is an area that is historically flooded. This development will be upland of that and will have to maintain their water to prevent any additional runoff from going into the system. This is not going to do anything for what is coming upstream to this. This is unfortunately on the downstream side of a large drainage area. They have the problem with the area not handling all the runoffs. This project shouldn't affect it one way or the other.

Mayor Hudson asked is he saying it won't make it worse?

Mr. Andrews said it will not make it worse.

Commissioner Becht said there had been discussions at the County level, when the County had money, about buying property and submitting the property that the County bought to areas where that water could be stored temporarily during storm events. Obviously the money went away, it's not there to buy the properties. There have also been arguments made that if they use somebody's land and flood it regularly, then that can become a de facto taking, and it is something they need to stay away from. One other point, they actually have a formal agreement with the County where they are trying to work better together by coordinating the development that does happen. It is not an optional or gentleman's agreement where their City Staff sits down with County Staff, it is mandatory. They just weren't doing it, so the Commissions formalized it with the Joint Planning Agreement. It has worked better since they adopted it. He shares the concerns about the County's taking property. Here apparently the County is not taking too much of a right-of-way dedications. For example, on one project on King's Highway the County asked for 300 feet of an applicant's property. The FDOT representative was here. FDOT controls King's Highway. The FDOT representative said they only need 110 feet. So in that particular instance, they got things worked out for their applicant so that this exorbitant land request by the County was not enforced by the City through their planning process.

Mr. Daniel Retherford, Engineering, Design, & Construction Inc., said he is here representing the applicant. On the issue about the County imposing some things, it is pretty regular. The City has caught all the things that kind of stood out, that weren't quite right. The conditions attached to this are perfectly legit, it is things the applicant is going to have to do regardless because they are asking for access to the County's right-of-way. They are going to have to do these things as part of the permitting process. It's okay, they agree. But he thanks the Commission for looking out for them. As far as the stormwater goes, it is a matter of state, county, and city laws. Any project that comes through the City of Fort Pierce, two things have to happen. If they are in a flood plain, they have to compensate for any storage they take up and they have to have no adverse effects. For instance, if they take up a pound of dirt and put in on their property, they need to find that same volume somewhere on their property and dig a hole. That's how that works, they can have zero adverse impact. That is any project that is in a flood plain in the City or anywhere in the State actually. The second thing that has to happen is, any

Andrews office, they have to make sure that the stormwater leaves the property at a rate slower than it did before they got there. So they have to store more and they have to let it go slower - every project that comes through, every time. As far as the church, they are really excited, they want to get to work and get to construction as soon as possible.

Seeing no one further and hearing no one wishing to be heard, Mayor Hudson declared the Public Hearing closed.

Motion was made by Commissioner Alexander, seconded by Commissioner Sessions, to approve the Conditional Use & Site Plan submitted by Clarence E. Glover for construction of Mount Bethel Baptist Church to be located on South 25th Street, east of Fort Pierce Central High School, with the following conditions: (1) The applicant shall record the St. Lucie County requested right-of-way dedication within 90 days of Site Plan approval; (2) The applicant shall enter into a Road Improvement Agreement with St. Lucie County within 90 days of Site Plan approval; (3) The applicant shall complete all of the required off-site improvements prior to the issuance of a Certificate of Occupancy; (4) The applicant shall remove all listed exotic plant species from the project limits in accordance with Section 22-187(1)(e) of the City Code prior to the issuance of a Certificate of Occupancy; and (5) The applicant shall have a formal gopher tortoise survey completed prior to the issuance of a Building Permit or any other site disturbance permit.

Those voting in favor of the motion were: Commissioners Alexander, Becht, Perona, Sessions, and Hudson. Those opposed: None.

Ordinance No. L-286 entitled, "AN ORDINANCE OF THE CITY COMMISSION OF THE CITY OF FORT PIERCE, FLORIDA; **REZONING TWO (2) PARCELS OF LAND LOCATED IN THE EDGARTOWN HISTORIC DISTRICT; ONE PARCEL WHICH IS ZONED R-4, MEDIUM DENSITY RESIDENTIAL ZONE, AND ONE PARCEL WHICH IS ZONED C-3, GENERAL COMMERCIAL ZONE; BOTH PARCELS TO BE REZONED TO ES, EDGARTOWN SETTLEMENT ZONE; PROVIDING FOR REPEAL OF ORDINANCES OR PARTS THEREOF IN CONFLICT; PROVIDING FOR AN EFFECTIVE DATE.**" was placed on second and final reading and read by title only.

Mayor Hudson declared a Public Hearing on Ordinance No. L-286 in session and asked if anyone in the audience wished to be heard.

Seeing no one and hearing no one wishing to be heard, Mayor Hudson declared the Public Hearing closed.

Motion was made by Commissioner Alexander, seconded by Commissioner Perona, that Ordinance No. L-286 be passed on second and final reading.

Those voting in favor of the passage of Ordinance No. L-286 on second and final reading were: Commissioners Alexander, Becht, Perona, Sessions, and Hudson. Those opposed: None.

City Clerk Steele introduced the following Resolution by title only: