



PLANNING & ZONING ADVISORY BOARD

Minutes of May 06, 2019

Meeting Called to order at 7:00 p.m.

1. ROLL CALL

P&Z Board Members

MEMBERS	05/06/19	03/18/19	12/03/18	09/05/18	08/06/18	06/18/18	05/07/18	04/16/18	03/19/18
Jimmy Goulet	P	P	P	P	P	P	A	P	P
Craig Konhauzer	P	P	P	P	A	A	P	A	P
David Rouse	P	P	P	P	P	P	P	P	P
Jim Federici	P	P	P	P	P	P	P	P	P
Lisa Dodge***	A	P							
Kelly Vanbuskirk***	P	P							
Bob Sands***	P	P							
Jeremy Katzman***	P	P							
Alex Weisberg***	P	P							

Reappointed ** Resigned *** New appointment

STAFF PRESENT: Matt Wood, Director of Growth Management
Jason Chockley, Planner
Carlos Vega, Administrative Specialist

APPLICANT: Jason James, CPH, Inc., Agent
Jamie Javorsky, Homeowner

2. **P&Z BOARD - MINUTES - WAIVE/APPROVE MINUTES OF 03/18/19:** Motion to waive the reading of the minutes made by Craig Konhauzer and seconded by Kelly Vanbuskirk. All ayes on voice vote. **MOTION WAS APPROVED.** Motion to approve the minutes made by Alex Weisberg and seconded by Jimmy Goulet. There were all ayes on voice vote. **MOTION WAS APPROVED**

3. **PUBLIC COMMENTS:** None

4. **NEW BUSINESS:**

- A. McDonald’s at Pine Lake Plaza – Site Plan Amendment SPA#1-1-19
Located at 10260 Griffin Road.
- B. McDonald’s at Pine Lake Plaza –Sign Waiver #SW 2-1-19
Located at 10260 Griffin Road.
- C. Javorski Residence Variance# V 2-3-19
Located at 10653 Zurich St.

5. **CODE CHANGES:**

A. Proposed Code Change – Swale Trees –Chapter 25-48/49

B. Proposed Code Change – Tree Preservation Code – Chapter 18

Mr. Wood made an announcement to the board informing them that members of the BSO Code Compliance staff were present this evening in response to the board’s request to have them appear in reference to the last meeting as there were discussions about parking in the swale and parking in the streets. They are here to answer any further questions on that issue or other questions for code.

Chairman Rouse turned the item over to Mr. Wood and he proceeded to read the Staff report for item 4A Site Plan Amendment SPA#1-1-19 which is a petition proposing to update the architectural elevations of the McDonald's building at Pine Lake Plaza and to modify the drive-thru lane and equipment as well as the parking spaces and drive aisle on the west side of the site. In addition, the changes reflect a relocation of the dumpster enclosure and bringing the site into compliance with ADA requirements.

Chairman Rouse turned the meeting over to the applicant to present their petition.

Jason James introduced himself as the project manager from CPH, agent on behalf of McDonald's. He stated some brief history on the project regarding McDonald's MRP program or their Master Renovation Program. CPH was fortunate enough to be able to renovate many of the McDonald's facilities, approximately 100 stores across the State of Florida. They were chosen to do the renovations at this McDonald's to bring the new modern look scheme. As most of you know McDonalds has a certain way they like to see things as they have studied the art of selling cheeseburgers very well and so they know certain things that work for them and what is important for them is their branding element, arches and logos, things like that. As part of the master renovation project, they are proposing to redo certain ADA components to bring them to ADA compliance as Mr. Wood stated in the staff report and that will be the limited amount of site work of this project. He agreed with the staff report and stated that he brought some boards to show the proposed elevations. He stated that part of the sign waiver is to increase the arches and also the logo bar sign along with the Chelsea modern scheme as shown on the presentation board. He stated that he will answer any question the board may have for him.

Chairman Rouse turned the meeting over to the board for questions.

Board had none.

MOTION: TO APPROVE AS STATED THE SITE PLAN AMENDMENT# SPA 1-1-19 LOCATED AT 10260 GRIFFIN RD. MOTION MADE BY CRAIG KONHAUZER AND SECONDED BY JIMMY GOULET. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

Chairman Rouse turned the item over to Mr. Wood and he proceeded to read the Staff report for item 4B Sign Waiver SW#2-1-19 which is a petition requesting 5 waivers from Section 25-23 of the Code relative to permanent wall signage summarized as follows:

1. Increase the number of wall signs from 2 to 3 (1 name sign and 2 arch signs).
2. Increasing the maximum height of the north elevation "Arch" from 21" to 24".
3. Increasing the maximum length of the north elevation "McDonald's" from 14' to 16.4'.
4. Increasing the maximum height of the north elevation "McDonald's" from 21" to 24".
5. Increasing the maximum height of the west elevation "Arch" from 20" to 42".

Chairman Rouse turned the meeting over to the applicant to present their petition.

Mr. James said that he had no further comments.

Chairman Rouse turned the meeting over to the board for questions.

Board had none.

MOTION: TO APPROVE AS STATED SIGN WAIVER# SW 2-1-19 LOCATED AT 10260 GRIFFIN RD. MOTION MADE BY KELLY VANBUSKIRK AND SECONDED BY JEREMY KATZMAN. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

Chairman Rouse turned the item over to Mr. Wood and he proceeded to read the Staff report for item 4C Variance V#2-3-19 which is a petition seeking deviation from Section 23-68, PRD, Planned Residential Development District of the Municipal Code to increase the lot coverage established on the site plan from 30.89% to 36.92%. The applicant wants to add a bedroom and bathroom at the rear corner of the lot, which will exceed the established maximum lot coverage. The subject lot backs up to a parking lot for the HOA clubhouse facilities and has an additional separation from the house to the west side where the room addition will be located.

Chairman Rouse turned the meeting over to the applicant to present their petition.

Jamie Javorski introduced himself as the homeowner located at 10653 Zurich Street. He agreed with the staff report and said that what he is trying to do is square off the back portion of his house. He stated that it would look potentially how it should have originally looked. He stated that one thing he wanted to point out was that he never would have bought the house if he thought he would be standing here one day requesting for something like this, he apologized for wasting every ones time and said he would have just bought something else that would have never needed this kind of approval. Now that he's been going through the process he's realized how much goes into this and its more than just saying your neighbor has it you can do it to. He bought the property in September of 2017 and has put about \$140,000 into the house and so his initial thought was just to buy a new house but he is in too far to go somewhere else.

Chairman Rouse turned the meeting over to the board for questions.

Mr. Konhauzer said that what he is hearing is that a precedent is set and that from the beginning the developer has homes that are these square footages percentage wise to your lot that you are looking for is that correct? Are there homes in the community that meet the criteria that he is seeking already?

Mr. Wood said that yes, there are homes that have been built with the original builder that are the exact same model including the addition which he wants to build, that don't need a variance and are ok because as a Planned Unit Development, they established the maximum building coverage based on the build out of homes that were proposed with that site plan. That site plan established the maximum building coverage at the strange number of 30.89% and its not a typical 40% that you might see in some other districts. There is no need for the applicant to apologize because the average lay person would have never known that until you pull the plans and say oh this a planned unit development and you have to go to the site plan to get the maximum building coverage to see what that is. It is a common sense thought that there are other homes already built that didn't need the variance, I shouldn't either. Unfortunately since that is after the fact anything above that would require a variance.

Mr. Federici said that he is familiar with the house. He's got the sidewalk that is like a breezeway from the street to the park and it butts up to almost the racquet ball courts in Embassy. If you look at the diagram of what he wants to add, he is 100 percent right, it is almost squaring off the existing building. It is a no brainer. This is not an eye sore, there is no one that is going to have a problem that he can see and believes it's a great little addition.

Mr. Weisberg asked Mr. Javorski if he has ran everything by Atlantis Management or the board and do they have any objections?

Mr. Javorski said the first thing he did was talk to Vira and she said that as long as you can get approval at the City it wouldn't be an issue.

MOTION: TO APPROVE AS STATED THE VARIANCE# V 2-3-19 LOCATED AT 10653 ZURICH ST. MOTION MADE BY CRAIG KONHAUZER AND SECONDED BY JEREMY KATZMAN. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

Chairman Rouse turned the item over to Mr. Wood introduced item 5A Proposed Code Change to Swale Trees Chapter 25-48/49 and item 5B Tree Preservation Code Chapter 18. He stated that Jeanette Wofford from the City's Public Works Department and who is also the City Arborist is here this evening and turned the meeting over to her to present the code changes.

Mrs. Wofford said that section 25-48 speaks to landscaping. They wanted to update a lot of the language and there were some specific things that they were looking to address but when you go into an ordinance change, you really want to go in and fully review the code as it is your opportunity to update some of the references. The first thing that she did was in the hedge section, it is pretty hard to come up with a list of shrubbery that would be approved on a jobsite or home so she added to the code "species or other Florida-Friendly plant species recommended by the University of Florida/IFAS" as she believes they are going to be around for a long time. They used to use some references from the South Florida Water Management plant guide which is still around but at a certain point you can see where something like that might become outdated and so they are looking for something a little bit more up to date. New plants are coming online all the time and to have to update or change your ordinance every time you want to add another plant can get cumbersome with code changes when it gets down to the codification and the whole legal aspects with the review of the attorneys. Section 25-49 (d)(1) permitted swale trees and so she added a sentence that says "Adherence to Best Management Practices and FPL's Right Tree Right Place Program is required" because that is coming to the forefront to a lot of the power outages during storms and regular times when people do things like plant oak trees under a power line and we wanted to put that reference in there so we can fall back on that when someone does plant something inappropriate for the conditions in the swale. Next they updated the tree list and fixed the name on the Pink Tabebuia because in the old ordinance there was a typo and it was written as Pine Tabebuia. They added a few species and took out Red Bay because Red Bays are a dying breed. They added note number 11 "other tree species with approval of City Arborist" because again there are so many trees that could potentially work in specific swale situations and to disclude anything is not in our best interest. This gives us that ability to allow someone to plant something that might be unique that works for their situation. Next subsection (b) where they have the limited swale areas and overhead power lines where they have some smaller stature trees and again added the note "other tree species with approval of City Arborist". Unfortunately, every swale is different and sometimes we have those swales that run into the cul-de-sac where you just lose completely the width of that swale and people still want to cram a royal Poinciana in there so we just try and cover our bases. She was asked to make some recommendations to allow for palms in the swale so she went ahead and added subsection (c) with some verbiage in regards to the residents responsibility to maintain and added 7 palm species that she feels would be appropriate for the swale area. Under the Permitted, accent and interior trees sections and Permitted palm tree species sections she added the "or Florida-Friendly species recommended by the University of Florida/IFAS". If anyone has any questions regarding these changes she's here to answer them.

Mr. Goulet asked if next time she could bring some pictures of the trees because there are so many of them and he has no idea what they look like and how big they get.

Mrs. Wofford said ok.

Mr. Katzman asked that you crossed out in section (b)(2) the Cassia tree and was wondering that if someone already had that species would they be penalized now.

Mrs. Wofford said she can't actually think of one Cassia that is in the swale. The only reason why she took it off the list is that they start off ok but then they have the tendency to fall over in the swale area.

Mr. Katzman said he doesn't want anyone to be penalized now.

Mrs. Wofford she doesn't believe anyone would get penalized this is more of a moving forward kind of situation.

Mr. Sands said that he understands you want to add the verbiage "other tree species with approval of City Arborist", why that change in the language now. He knows the context of this debate is stemming from that big debate with the gentleman that planted the palms tree in the swale and yet when they drove through the neighborhood there were palms tree all over the place. Is this the norm that the arborist would be making this decision? What happened prior to this?

Mrs. Wofford said prior to this, unless there was a perceived problem for example someone planted a Royal Poinciana in a 6ft wide swale, they would go ahead and contact code enforcement because we know this is going to be a problem and this just shouldn't happen.

Mr. Sands asked if this would prevent code enforcement from going out by coming to you?

Mrs. Wofford said this opens up a lot of comprehensive questions but to come up with a list and say that is the only thing that people can plant in the swales and then we get a new tree species like bulnesia which is a relatively tree new species.

Mr. Konhauzer said aesthetically you also don't want to become so cookie cutter. This is Cooper City they only allow these certain species.

Mrs. Wofford said they are trying to think of the best way to come up with some flexibility for our residents and being that swales are all completely different as some swales are 8ft, 9ft, 10ft and we've got 35ft wide swales on 52nd street. Maybe there is a better way and they are open to suggestions but they can't think of a way of having an all-inclusive list without potentially preventing somebody of planting a desirable tree at a certain point without having to change our ordinance. This goes back again to the situation with the palms in the swale.

Mr. Sands said that this has been hit or miss anyway because he thinks that it goes back to someone getting mad at their neighbor and reporting it because when you drive through that neighborhood the palm trees are everywhere so he is just wondering how the situation will function now because it went to code before is going to come to you now how is that going to work.

Mrs. Wofford said that is a good question.

Mr. Sands said that is why he is asking it.

Chairman Rouse asked the Code Enforcement Officers to address regarding how a complaint gets to you and how it is evaluated and ramifications that can come from a complaint.

Mark Reale introduced himself as an inspector from the Broward Sheriff Office in Cooper City. The way residents can do complaints by either calling their office, email their office and there is a City sponsored digital format app and online system called "See Click Fix" where they can submit their complaints online.

Chairman Rouse asked if someone had an issue or concern about a code and they file that issue is it anonymous?

Inspector Reale said that if it is sent through an email that is public record, if it is over the phone then they can say that they want to remain anonymous but if it's something that we need to go on to their property let say they are complaining about something in the rear yard we have to get permission from them to go on their property and then we can view it from their property but they would have to be put down as the complainant because it is something not visible from the road way.

Chairman Rouse asked if there is a timeframe from when a complaint comes in to when it has to be evaluated?

Inspector Reale said that it depends on how many complaints they have in front of it and if it is something that is a life safety hazard then they try to respond immediately. They do have different complaints as they go out and try to prioritize the best they can.

Chairman Rouse asked if he has a rough idea what percentage of complaints are physically looked into.

Inspector Reale said that he doesn't have a number for that.

Mr. Goulet asked regarding all these species that we are allowed to plant or not plant, I am sure you guys don't know trees, if someone planted a tree in front of their home that was not on this list of approvals you wouldn't have any ideas.

Inspector Reale said no they are not arborists like Mrs. Wofford so if there is a specific species that is planted and they are not sure they would ask for her opinion on it.

Mrs. Wofford said that in the 18 years that she has been here the biggest problem that they had is the Royal Poinciana in swales. There really is not a swale big enough except for maybe the 25ft swale out there. They do have some in some smaller areas so when they see a new one go in then they try to address it right away. She is pretty much in and out of this City, she doesn't go up and down every single street but she gets around the City quite a bit.

Mr. Konhauzer said its really not just citizens then that are just complaining, it is actually the City going out looking as well for these issues.

Mrs. Wofford said they come across them they can't say they are looking for them but if they perceive a problem that can potentially become a financial burden for our tax payers then they like to try and address it. If somebody plants royal palms, I would say that is probably not appropriate for the swale areas. That is why they came up with the list of some of the palms that she feels are smaller stature palms that potentially won't create a big problem. Where we really fell into the issue with the palm trees was at a certain point, there are palm trees out there, you have all seen them but you could have potentially bought your house with a palm tree in there from a previous resident so nobody wanted to go out and start citing everyone who had palm trees in their swale and say they are not on the approved list you have to take those palm trees out. The decision years ago was to leave those be and anyone that planted palm trees more recently was notified that they were not on the approved list. It is definitely a touchy situation because if he's got it why can't I have it. She understands and this is part of what they are trying to address and she can't say that this is perfect, this is the first start so they are definitely open to any comments and suggestions.

Ms. Vanbuskirk asked for clarification on items (a)(b) numbers 11 and 6 in respectively the “other tree species with approval of City Arborist”. If an additional tree species is approved is that a standing approval going forward or is that a case by case basis?

Mrs. Wofford said it is a case by case basis because every swale is different. So where as a pigeon plum or any tree species that is not on there might work at your house it might not work at another house because it may have a more restricted rooting area.

Ms. Vanbuskirk asked if you can make those approvals retroactively if someone plants something that is not on the list and code receives a complaint your able to go out and make a determination if its not to be problematic.

Mrs. Wofford said yes and that is pretty much the way it has worked.

Ms. Vanbuskirk asked if Mrs. Wofford was relegating herself to this Florida Friendly Species from the University of Florida

Mrs. Wofford said yes.

Ms. Vanbuskirk asked if that is by choice correct not by any uniform code that your licensed under or anything like that.

Mrs. Wofford said yes that is correct.

Mr. Sands said that having grown up in the landscaping business and dealing with architects and landscape architects who make the decisions that these are going to be great trees. My father used to argue with these folks because what would happen is that they knew that in 10 or 12 years later those things would tear up sidewalks and all of that and he’s concerned with hard fast rules and also leaving this in the hands of one person. Right now they are going around fixing sidewalks because of the species of trees that are put in. This seems like this is going to be a little more complicated then just an arbitrary where someone will be able to come to you and make a decision. It seems to me that if somebody sees a tree that they don’t like these folks are going to come out, they are not going to know what it is, so then they have to call you. Is that correct? That is how all these code violations stuff happens. He feels that this is too arbitrary and he doesn’t know what the answer is yet but he thinks that it is too arbitrary.

Mrs. Wofford said that you could stick with a specific list and if it is not on the list then they can’t plant it. She didn’t think that is the direction that most were going in.

Mr. Konhauzer said it doesn’t leave room for improvements and it doesn’t leave room for if new things are found he feels that would be a very closed door.

Mr. Sands said that he doesn’t think they need to shut the door either.

Mrs. Wofford said if we could get developers to give us a 20ft wide swale then we wouldn’t have a lot of these problems.

Mr. Katzman asked what is the appeals process. Let say you make a decision, I disagree with your decision, is there an appeal process? Can I go to the City Commission?

Mrs. Wofford said that it has never been an issue before. If someone wanted to tie themselves to that Royal Poinciana in an 8ft swale, I think they could look at the growth habit of that tree and say no we have the

responsibility of fixing these sidewalks and that is something they we have chosen to do over all the years she has been here. If you want to change those decisions now then this is why we are all here. If you want to take oak trees off the list and never plant another oak tree in a 10ft wide swale that is your prerogative.

Mr. Federici asked if the gentleman that this all came about with, is the palm is that on the list?

Mrs. Wofford said no it is not on the list.

Mr. Federici said interesting why is it not on the list.

Mrs. Wofford said she can't recommend a palm tree that has 6 inch long thorns on it in the public right-of-way.

Mr. Federici said and that is what that would be.

Mrs. Wofford said she can't make the recommendation, somebody else can say that needs to be added to the list.

Mr. Federici said that driving around town he has noticed many homes without anything in the swale areas. Are they supposed to have anything in the swale areas?

Mrs. Wofford said some of the properties go back before there were landscape requirements. You'd have to actually find out when those homes were built what the requirements were if there were any requirements. There is a section in the ordinance that says prior to a certain date none of the requirements here apply. Many residents planted their own trees, the City had a program years ago where they offered trees, the City still offers trees to residents and they've lost a lot of trees due to hurricanes. Many people take advantage of hurricanes and "loose trees" because they don't like them. Unless someone makes a conservative effort and cites everyone who doesn't have trees, that is not a direction that they have been pushed in, in the past. Unfortunately, here in this eastern area of Cooper City that was designed for retirement couples when they had one car, that doesn't really work so well anymore. Even in some of the larger communities, when you have mom and dad each drive a car and three or four kids who all drive cars, a lot of those swale areas people would have no place to park if we had to put trees in the swale. She is not saying that is right she's just saying that's how we've morphed over the years with some of these situations.

Mr. Konhauzer said it is interesting time to bring up parking on or not parking on swales because that is one of the reasons that I'd ask for code enforcement to come in on. Is it legal to park on the swale? Is it legal or illegal to park in the street? Does it matter on the development or community?

Inspector Reale said that in some HOAs they have bylaws where you can't park in the swale. They don't enforce any HOA bylaws unless they are the same as the City ordinance. To answer your first question about parking in the street, if you have a swale you are not allowed to park in the street. If you have a property that has no swale then you are allowed to park in the street however you have to leave a 12ft clearance. To answer your second question it is not against the City ordinance to park on the swale. Mrs. Wofford had brought up a good point that in these older areas with the single car driveways they weren't aware that it already went to the Commission and had a first reading about people parking on their front lawns. They were told that they recommended and they did not recommend that because of the fact that for every action that they do there is going to be a reaction especially here in the older section of this City. Where people are not allowed to park in their front area they are going to park out on the street. If you block out that you can't park on the swale then there is no other place for them to go.

Mr. Konhauzer said that here is the mystery. We approved Monterra years ago and I brought up the fact of not enough parking and people parking in the street. God forbid a guy down the street is having a heart attack and you can't get services in there to help them but yet I am hearing pretty much a different rule than what we have discussed at past meetings. Secondly he lives in East Landings in Rock Creek, and how long have you been at your job inspector Reale?

Inspector Reale said he's on his 26th year.

Mr. Konhauzer said that he's pretty sure then that he sat down at a meeting with you at the Cooper City Police Department and this was brought up because the community specifically East Landing was telling people that they needed to park in the swales and not on their streets. It was brought up at that time unless there has been a change, that you were supposed to park in the street and not in your swale. That is what is circulated in his community therefore he's going to say that everyone that he knows in his community parks in the street because of that.

Inspector Reale asked if East Landing was private roads. He believes there was a meeting with Marvin Stoner, does that name ring a bell?

Mr. Konhauzer said yes.

Inspector Reale said that came up because it being private roads they don't enforce in private roads.

Mr. Konhauzer asked if Embassy Lakes is also private roads?

Mr. Federici said they have an agreement with BSO with the roads and they can tow you, give you tickets and do whatever they want now.

Mrs. Wofford said that maybe your HOA docs say you can't park in the swale but the City says you can.

Mr. Konhauzer said his biggest fear is that all these communities that we are approving and really don't have enough parking and they are all parking in the street what happens when emergency services can't get through.

Lynn Duval introduced herself as an inspector from the Broward Sheriff Office in Cooper City. She stated that you can't double park in the road way. That is state statute. You can be in the roadway facing the correct direction but as inspector Reale said you have to leave clearance for emergency vehicles and or any other vehicle to get by. There is an area off of Palm Ave in Countryside West, they don't have a swale, they are forced to park in the street. Unfortunately when you have two residents across from each other parking in the street they are going to have to stagger their parking.

Mrs. Wofford said that one is a lot tighter than most communities anywhere in the City.

Mr. Katzman asked if Inspector Duvall can address and confirm if Embassy and BSO have an agreement if its private streets or public?

Inspector Duvall said that they would have to look that up.

Mrs. Wofford said those are all private streets in there.

Mr. Katzman asked if code enforcement doesn't enforce anything in there?

Inspector Duvall said that they do go in there.

Inspector Reale said as Mr. Federici said there might be an agreement with BSO to due traffic enforcement in there and also parking on the roadways. But like he said earlier, the bylaws, if it prohibits parking on the swales they don't get involved with that part. If someone is blocking the road, he's not the inspector for that area but he knows the inspector for that area has gone out there for issues of blocking the roadways etc.

Mr. Katzman said that he sees it every day and he mentioned it at the last meeting as well.

Inspector Duvall said that is why you are seeing more of it in the roadway because they are not allowed to park in the swale.

Mr. Katzman asked Embassy doesn't allow people to park in the swale?

Inspector Duvall said no. It's the HOA.

Mr. Goulet asked if the City can't step in say HOA or not that is wrong?

Inspector Duvall said the HOA in Embassy doesn't allow you to park in the swale now we don't enforce that.

Mr. Katzman said doesn't the City supersede an HOA or it doesn't work that way.

Inspector Duvall said no it doesn't work that way when it comes to code enforcement. So if you call and said there was a vehicle parked in the roadway to the discretion of the deputy or the code enforcement officer we can either cite or warn them not to park in the roadway but we cannot make them park in the swale.

Mr. Katzman asked if the City Commission can not make an ordinance for the entire city saying HOA's are prohibited from allowing the residents to park in the streets.

Inspector Duvall said you asking us the wrong questions.

Mr. Katzman said he is speaking to any Commissioners who are in the room who might think it is important but he believes they should supersede an HOA.

Mr. Wood said that the HOA can always be more restrictive than the City but that doesn't mean the City is going to enforce an HOA stipulation that is more restrictive than the City.

Mr. Katzman asked if an HOA contradict a City because this is what's happening based on what we've heard.

Mr. Wood said they can be more restrictive.

Mr. Katzman said they are not being more restrictive.

Mr. Chockley said that it is more restrictive in the sense that they won't let you park in the swale. Per the City you can park in the swale. The HOA are going above and beyond to make it more restrictive to say that their residence of Embassy cannot park in the swale.

Mr. Goulet said he suggest that you go before the Commission with this complaint and have them make a ruling on it.

Mrs. Wofford said we could point out to if the roadway was blocked where an emergency vehicle couldn't get through BSO would respond to that.

Mr. Wood said that is true there is the provision in the code that you are supposed to keep the 12ft clearance. That could be enforced.

Mr. Weisberg said it says here that the owner of the property maintains the responsibility for maintaining palms in their swales is that right?

Mrs. Wofford said yes.

Mr. Weisberg said if the palms in the swales causes damage to the sidewalk or the driveway is that not the responsibility of the owner.

Mrs. Wofford said yes that would be part of the maintenance. That is part of the reason why they are being very careful with the verbiage because palm trees take a completely different level of maintenance than a tree does as far as seeds droppings on the sidewalks, amount of fertilizer that the palm needs and the frequency of the trimming. This is why they have never been on the approved swale tree list in the first place. More often than not the palms she sees out there are suffering from nutrient deficiencies. Most people don't understand the levels of fertilization that they require. When you put them in the swale areas which is a little bit less conducive to their healthy growth as opposed to in the yard, they find that they pretty quickly decline and end up dying. Again this is another financial burden being pushed on to the tax payers unless we make it that if you want a palm then your required to maintain it. We can always add something in there as far as if it creates any kind of structural damage with the sidewalks or asphalt. She tried to be very selective in the listing of the palms because you do see palm roots lifting asphalt when they are in close proximity to it.

Chairman Rouse asked if this proposed language is this just for comments from this board or are we looking to eliminate language. How do you want us to proceed in making a decision since we have so much language that they have to consider here.

Mr. Wood said that it is up to the board but to simplify the response staff is looking for a recommendation from the board, recommending to approve, recommending to approve with changes or recommending to deny. They are not expecting anyone to wordsmith here but certainly if you have some suggested language that you want to consider they can throw that language into consideration as they move forward.

Chairman Rouse said that he has a couple questions as far as the language on item b. When your talking about trees that are permitted to be planted beneath existing overhead power lines, should we not consider removing the stipulation of the width of the swale saying this prevision is only referring to trees under power lines.

Mrs. Wofford said those go kind of hand and hand, the ones that are approved for underneath the power lines and you can see that it is a very limited list because they don't have a lot trees that will stay in that small size category that works with the reduce swale areas as well. This is just to keep from having to have another sub category.

Chairman Rouse said he looked up some of the trees that were on the U of F trees and power line trees list, and tree 3 and 4 were on the list of trees that they thought would be not conducive under power lines, but you did not strike through those.

Mrs. Wofford asked if ilex cassine is not on their list as it's a native evergreen tree?

Chairman Rouse said yes its on their list of trees that are not recommended to be planted under power lines.

Mrs. Wofford said that they cited FP&L right tree right place program.

Chairman Rouse said that is right but that you also cited something from the University of Florida.

Mrs. Wofford said that was for the shrubs.

Chairman Rouse said ok.

Mrs. Wofford said if you want to have two trees on that list that's fine. It is very subjective and she can find something wrong with every single tree out there and depending on the height of the power lines, they have power lines that go many different heights over the roadway.

Chairman Rouse said its great when people are concerned with the trees and the beautification of the City, but it is another thing when you have a hurricane that comes through and leaves branches for three months because they don't have the ability to remove the branches. Maybe we should be a little more restrictive when it comes to power lines versus just swales. You are dealing with people that maybe out of power for weeks or months because of a tree that was on a list that shouldn't be there but we didn't want to it off because we didn't want to be too restrictive.

Mrs. Wofford said she would double check that list from UF as far as the ilex. She can't imagine why they wouldn't have that on the list.

Chairman Rouse said that would be his only recommendation is to be a little more restrictive when you're dealing under power line versus swales in general. Yes we are dealing with sidewalks but when people are hurting in the middle of a hurricane it could be very difficult to justify why they allowed it.

Ms. Vanbuskirk said she thinks from what she's hearing is that everyone acknowledges the need for some flexibility and the interest in allowing folks the freedom to plant what they'd like to plant on their property within certain guidelines but are slightly uncomfortable with just the addition of a general approval of any variance by one individual in this case being the City Arborist because while you may change one day the code may not change so while your judgement is very trusted by staff and the board it may not always be your judgement that is being applied here. Perhaps an amendment just to pare down that discretion a bit with relegating it to approval from the City Arborist subject to FP&L safety standards and or the recommended Florida trees from the University of Florida, that would be your area of expertise you would probably be best to make a recommendation for those standards. Just to ensure that safety is being considered, hurricane safety is being considered, our environment health and safety is being considered in what is being planted being conducive to a thriving environment without having to completely restrict and make an exhaustive and numerated list which she doesn't think anyone wants to do and seems a bit inflexible.

Mrs. Wofford said that this clearly says here that some trees on this list are too large for planting near power lines, check detail of each trees before planting near wires. It doesn't say that these are not ok, it says some of them might not be but looking at a yellow tabebuia and she would never suggest putting a yellow tabebuia underneath the power lines. It does say to click here for more small trees possibly suited for planting near power lines. She'd have to look into that a little bit more. She's not defending any of this stuff here. If you want to make a list and present it to us, she'd be happy with that.

Chairman Rouse asked if the Florida right tree right place is that a program or just a diagram.

Mrs. Wofford said it is a program and a diagram it's a recommendation from FP&L based off exactly what your concerns are is trees being planted to close to power lines.

Mr. Federici said you mentioned the palms with the roots system messing up the sidewalks and the burden would go on the homeowner.

Mrs. Wofford said that is technically not in here but it does say that maintenance is included and they could add that to that list.

Mr. Federici said that he can't get over after driving around this time, seeing those oak trees and what they have been doing. If they have an oak tree and that is ok and they lift up the sidewalk the City is going to repair it but if they palm tree, how do we determine what is right or wrong with that.

Mr. Konhauzer said that he lives with oak trees in his front swale and they have lifted his sidewalks literally 3 to 4 inches. Hearing this about palms he's thinking the root systems is so much less than what would really be destructive from an oak or an olive tree.

Mrs. Wofford said she doesn't think you will find sidewalk lifting so much but you will find asphalt eruption because the asphalt is such a thin layer.

Mr. Konhauzer said that Mrs. Wofford has done an amazing job in this City for many years and he know that she has the best interest in the City and the community in what you do. He wants to warn the board that just because one entity states one thing it doesn't mean their view is correct and that there aren't other views. When you pointed out that there were differentials he would say don't go by just the guidelines that you saw, he feels that it was an amazing point but he also has a lot of faith in what you do to make sure it is all correct.

Chairman Rouse said that he thinks that if you cite a guideline in your ordinance you have to follow the guideline. He doesn't believe that you can really cite something but not really follow it.

Mrs. Wofford asked if they are going to vote on Chapter 25 individually and then vote on Chapter 18.

Mr. Wood said they are separate items and it is up to the board if they want to make a specific motion or if you just want to just leave us with comments on record. Ideally it would be a motion to approve or approve with conditions so it up to board if you just want to just leave us with your thoughts that is fine to.

Mr. Goulet said they have to table this because there is so much that they don't know and you are an expert on what is the right trees or the wrong trees. Maybe if we educate ourselves a little further than we could understand what is best for our community to not restrict or to restrict our citizens.

Mr. Katzman asked protocol wise could you take the feedback and then present the updated version to us next time.

Mrs. Wofford said as long as you give me clear direction because right now I have no clear direction.

Mr. Konhauzer said he believes the direction was for you to vet everything that you brought out.

Mrs. Wofford said sure, right now the UF reference is not on there for permitted swale trees it is the FP&L right tree right place. She can check those trees as far as the specifics for the right tree right place location. As far as she knows those trees have always been on their approved list. She's not sure when that was developed but she can take a look at that one. If you're not happy with the approval of the City Arborist you could have "or other City designee" or something like that. Do you as a board want to have people come to you and ask if they can plant this tree?

Mr. Konhauzer said no that is not our job that is your job.

Mr. Federici said you're getting paid the money to do that.

Mrs. Wofford said that she is comfortable making those decisions but if you all feel that it should be more comprehensive that is what we are here to discuss.

Mr. Katzman said the three things he would like to be consider are the point that Ms. Vanbuskirk said on (b)(6) maybe adding other tree species with approval of City Arborist in alignment with FP&L.

Mrs. Wofford said that is already in there. On the section of "permitted swale trees" number 1 "the following trees maybe used to satisfy the swale tree requirements of this article adherence to best management practices in FP&L right tree right place program is required.

Mr. Katzman said that really feels that there should be some sort of appeals process. He's not sure what that is but if someone is cited by code enforcement after the fact and they disagree there should be some sort of arbitration.

Mrs. Wofford said who would they appeal it to?

Mr. Katzman said maybe the City Commission.

Mrs. Wofford said they are just a board like you.

Mr. Katzman said they can review extenuating circumstances.

Mr. Konhauzer doesn't believe that the Commission wants to talk about trees. He thinks that it would come down to one of their boards and he doesn't feel qualified to speak on it as he thinks its up to the professional arborist in his opinion.

Mrs. Wofford said she is all for trees, she's for new trees, all for trees on this list which is why they have tried to make it more inclusive to allow for other things like that. What she would do if somebody planted a water chestnut that has the possibility of having a trunk span of 8ft feet in a 10ft swale I would say perhaps that might be a problem. We are not really looking to create more problems than what we have right now. She hears what your saying if you can come up with a way of addressing that.

Mr. Katzman said please don't take offence he respects you and you are probably the smartest tree person he has ever met in his life.

Mrs. Wofford said not at all.

Mr. Katzman said he's just thinking of a situation that hasn't happened yet or that could happen.

Mrs. Wofford if you appeal you can appeal it to Broward County court system that doesn't want to hear it any more than the Commission wants to hear or you guys want to hear it. If she had a suggestion she would offer it to you.

Mr. Weisberg said that like a few people said it would be nice to be able to see some photos of these trees because they don't know what they are talking about. Particularly the trees that we're talking about planting underneath power lines, not only photos but maybe some additional data in terms of how tall these trees are expected to grow.

Mrs. Wofford said that is why when you look at the FP&L list they will have the different size categories for that. If she showed you a picture of a dahoon holly would you say perfect that could go under a power line?

Mr. Weisberg said no but if you gave me data showing how tall it's expected to grow than he probably could.

Mrs. Wofford said "and no disrespect again I just want to make sure that if I come back to you it's going to be useful to you".

Mr. Weisberg said he thinks that if you provide what he just asked for it will be.

Mr. Weisberg said maybe we just need to do our own research and find out why these trees are not on the UF list. Why is it that they don't think they are appropriate to be under a power line. He'd like to know more about that.

Mrs. Wofford said she is kind of surprised too but she thinks its because it says that some trees on this list are too large for planting near power lines. Even though it says "Trees and Power Lines" they've come up with a list of trees.

Mr. Weisberg asked if it included the couple that are on our list here.

Mrs. Wofford said yes.

Mr. Sands said he is finding it difficult that there is not anything more uniform. We are getting more confused the more we talk about it this as far as how big these trees can be. You said something that he wanted clarification because a comment was made about whether going to the Commission and you said they were a board like us. Did somebody say that?

Mrs. Wofford said excuse her but that they are a group of folks like you with different backgrounds.

Mr. Sands said and while all that is true they are simply an advisory board but they are actually calling the shots. He's not defending them but he's saying that some of this stuff has come before you guys, am I not correct? Didn't this whole tree situation come up and anybody can bring this stuff up by coming and they saw it happen.

Mrs. Wofford said absolutely and she didn't mean any disrespect intended there but she just didn't think something that has been typically a staff level decision perhaps should go that route. If that is what you guys want to recommend she is fine with that.

Mr. Sands said that he is for clarity and not confusion on this but he thinks that they are getting more confused and it sounds like that as they are talking. Is there any uniform thing or something that other cities are doing. All he knows is that they pay a fee for Tree City USA don't we?

Mrs. Wofford said no we don't.

Mr. Sands asked if Tree City USA, do they give us any guidelines?

Mrs. Wofford said one of the best recommendations is looking at the FP&L right tree right place because they are the ones that truly have a vested interested in the trees underneath power lines.

Mr. Sands asked if other cities similar to us following that same thing.

Mrs. Wofford said sure.

Mr. Sands asked if we have actually looked at anything else. Can we get some of that provided? It just seems like they are getting more confused.

Chairman Rouse said that he feels it is a very detailed decision and detailed language to look at and the specifics of it that we may or may not be qualified to make. The danger is changing the language or adding language when we really don't know what we are doing. The rule is if you don't know what your doing don't do anything. Take the comments for what they were but he doesn't think he's going to be calling a vote tonight for approval on this one.

Board had no disagreement.

Chairman Rouse turned the item to Mrs. Wofford for Item 5B Code Changes – Tree Preservation Code Chapter 18.

Mrs. Wofford said that they went through the Tree Preservation ordinance and went through and tried to do more or less the same thing. One of the things in this tree preservation ordinance was something that was required years ago from the County for the City to come into compliance with County regulations in regards to trying to preserve the tree canopy that they have out there and not allow for people to cut down trees because they drop leaves, or they are messy and don't like the look. This was developed before her time. If you look at the back of the ordinance they take every tree and it is a very comprehensive list and they grade it as to either an "A" "B" "C" tree and the valuations go accordingly. Basically it takes our native shade trees and it makes it an "A" quality tree, ficus are "C" and there are a range of trees in between that are still good trees but they are just not native trees. At that time they said the only swale tree that could be applied for to be removed from the swale was a "C" grade tree. We don't think that is pretty practical any longer because our trees are a lot bigger and there are some trees obviously if it's dead or if it's diseased or if there is certain criteria they should be allowed to apply for a permit for those trees. She added to swale trees under 18-4(d) "or trees that meet one or more of the criteria listed in section 18-4(b)". There is a whole list of whether a proposed development cannot be located on the site without tree removal, whether the applicant has made every reasonable effort to incorporate existing trees, tree is poor condition, poor quality, obstructing safe vehicular cross visibility and there is a whole list of criteria there that if they meet that criteria they should be able to apply for a permit if it an "A" or "B" grade tree. The replacement tree requirement was 12ft and anyone in the landscape industry recently 12ft tree have become very expensive so we reduced the height of the tree to 8 –10ft and reduced the spread on that tree again to just make it a little bit more user friendly for our residents who are burden with removal cost and now have to put a replacement in there so this makes it a little easier for them to do that. Added that adherence to best management practice and FP&L Right tree right place program. What she was trying to do is have the two ordinances more or less match each other with the list of the approved swale trees. We will have to take a look at that. The two plant lists are supposed to match from section 25 and section 18, that is the intent on that one there so that both list mirror each other. She took out some references to planning and zoning board and the whole next section because apparently years ago when this ordinance was written, they felt that it was a good idea to relocate black olive trees. Section 3 (a) – (h) which all speaks to relocating black olive trees and she took that out completely because she doesn't know anyone that willing to spend a dime to relocate a black olive tree other than to the dump as well as the replacement of that there. It looks like a lot of elimination but it is really all in regards to relocating black olives. As it currently stands and I don't know if all you were on the board at the time when the townhouse community came here to do their petition to remove all of the trees that were creating tremendous amount of damage in that community, the way it was written was a little convoluted so she cleaned it up and it now reads the "planning and zoning board shall review proposed development plans and shall recommend approval or denial to the City Commission" it use to be to the City Manager or City Manager designee. She already sees it before you guys it so she made it what the current process actually is. She did it again for tree

relocation because if a developer came in here and wanted to relocate trees on site if it was conducive to his development plan, you would see it and either approve the site plan submittal and pass that along to Commission for their approval. The only other thing she took out was some references to ANSI A300 standards and again that use to be a book where you could have copies of it here and if you wanted to see that you can come that here and review that in the City's Clerks office and where as now you can just go online and pull that up on your computer and look at those standards there.

Chairman Rouse turned it over to the board for questions.

Mr. Konhauzer asked to see what are they voting on because the language mirrors the same list of trees that were on the other one and I don't want it to be an oxymoron to not vote on the first item and vote on this.

Chairman Rouse said this is a different agenda item that we are voting on.

Mr. Konhauzer said but a lot of the trees are the same that we questioned am I wrong?

Chairman Rouse said that the gist of this is more strikethrough language that is already existing that we are eliminating versus trying to add proposed language in his opinion.

Mrs. Wofford ask for clarification if they come back with fact sheets on the different trees on the list with some pictures.

Mr. Goulet said if we have a tree that the trunk is going to be 15 inches and the growth to be 12ft high they would want to know that as opposed to something that could grow to 30ft high.

Mr. Katzman said they get packets with all of the other application with pictures if you could help on that end that way we are all getting the same information. We can see what they look like we see the heights the diameters that would be really helpful.

Mr. Federici said if you can email the information to them that you don't have to print it out.

Mrs. Wofford said University of Florida has a really great site she can provide that site to you where you can go on and look at each individual tree. You have to keep in mind that if an oak tree or let's say a maple tree out in the everglades in the most perfect conditions manage to grow 80ft tall there going to say that tree has the potential to grow 80ft tall where as it might not necessarily grow that tall in the swale.

Mr. Goulet said that is like the big pot and small pot right.

Mrs. Wofford said exactly. None of them are going to tell you how big the caliper is going to get. You drive down the street you see one oak tree that is smaller causing more damage than the one that is big right next to it.

Chairman Rouse said he's not sure we can email because of sunshine law.

Mrs. Wofford said that they provide that site to you and you have the list of the trees you guys can go on.

Chairman Rouse said as long as we don't have discussion back and forth he thinks that will be alright.

Ms. Vanbuskirk said she has a suggestion on the language that might clean up the issue of having some unresolved issues on section 25. If this language in section 18 -4(d)(1) was just amended to read those trees referred to in section 25 to mirror more of state statute structure where this is just simply making reference to

this alternate section within the ordinance or code than any changes made here will automatically be picked up.

Mrs. Wofford said your saying to remove this list and just keep the reference to section 25-4(9)(1) (a) – (b).

Ms. Vanbuskirk said correct that way any changes made at a later date here will just automatically be picked up and we are not having to piece mill this sections. It is entirely up to the board it just seems like a cleaner way to do it.

Mrs. Wofford said she is fine with that. If she supplys you guys with the University of Florida website where you can go in and look at the trees that are listed in section 25 you'll see pictures, you'll see description, you'll see hopefully everything that you need will that work?

Mr. Weisberg said were going to have to go through and search for each tree?

Mrs. Wofford that is all that is on that website are trees. It is more interactive than me just coming with a sheet and saying here you go.

Mr. Sands said the point was made just like in everything else, we get extensive stuff that is provided. So for us to have go through and have to search these things and go through each one of them because he would like to know and have a little bit more detail on it and he thinks that's what they are going back to.

Mrs. Wofford said she has no problem if you want me to give you a fact sheet on each one of these.

Mr. Katzman said he wants to add on to Mr. Sands point that they could look at it at home but and maybe he does his homework on Saturday and its Monday night, in his head he's not going to remember which one was the lysiloma tree. He feels that they need to have a visual reference even if it is one copy that you have on poster boards.

Mrs. Wofford said she has no problem with that.

MOTION: TO APPROVE THE LANGUAGE AS REVISED EXCEPT FOR THE LIST OF TREES THAT NEED TO CORRESPOND WITH CHAPTER 25 FOR PROPOSED CODE CHANGES RELATED TO TREE PRESERVATION CODE – CHAPTER 18 MADE BY ALEX WEISBERG AND SECONDED BY JIMMY GOULET. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.

Mrs. Wofford asked if in the next meeting are you guys going to want to discuss each individual tree at that point?

Mr. Goulet said that if they look at everything whatever stands out to what we believe is in an issue then possibly yes but he doesn't believe it will be anything that major.

Mr. Wood said it sounds like the board would like the information provided to them as back up material so that they could have it in advance to the meeting and at the meeting. Whether that is in hard copy or posters boards here at the meetings they just want to be able to see what the different species are.

Mrs. Wofford said sure.

6. GROWTH MANAGEMENT DIRECTOR'S REPORT:

Mr. Wood turned this item over to Jason Chockley to provide an update on upcoming petitions.

Mr. Chockley said they have a few petitions still at DRC but nothing that has a predetermined P&Z date. His best guess would be that the next meeting would probably be the first in June with code change based right now as he doubts that there would be any petitions ready to meet the first meeting in June.

7. BOARD MEMBER CONCERNS:

None.

8. ADJOURNMENT:

The Meeting adjourned at 8:22 p.m.