

## PORT ST. JOHN DEPENDENT SPECIAL DISTRICT BOARD MINUTES

The Port St. John Dependent Special District Board met in regular session on Wednesday, November 6, 2013, at 6:00 p.m., at the Port St. John Library, 6500 Carole Ave., Port St. John, Florida.

**Board members present were:** Maureen Rupe; Carmella Chinaris; Vaughan Kimberling; Wendy Porter; Greg Messer; and Randy Rodriguez.

**Staff members present were:** Cindy Fox, Planning and Enforcement Manager; and Jennifer Jones, Special Projects Coordinator II.

The meeting was called to order by the Chairman, Vaughan Kimberling, at 6:00 p.m.

Vaughan Kimberling – Good evening, thank you for coming to tonight's Port St. John Dependent Special District Advisory Board. This is the annual meeting of the board and we have two items on the agenda for tonight. The first item on the agenda is the open nominations for Chairperson and Vice Chair. Those will be followed by a show of hands and majority rule. The second item on the agenda will be the hearing to request the removal of an existing Binding Development Plan in a BU-1-A zoning classification. So, we'll go with item No. 1 on the agenda. Are there nominations for Chairperson.

Randy Rodriguez – Mr. Chairman, I nominate Vaughan Kimberling.

Carmella Chinaris – I second.

Vaughan Kimberling – I accept.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Vaughan Kimberling – Are there nominations for Vice Chairperson? I nominate Carmella.

Maureen Rupe – I second.

Carmella Chinaris – I accept the nomination.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Vaughan Kimberling – Recording Secretary is an appointment, and I would like to reappoint you to be our Secretary, Jennifer. Moving on, before we get into Item No. 2 is the minutes from the last meeting, which was actually year ago in September. Is there a motion?

Maureen Rupe – Can I just ask a question about this, just for my own.....

Vaughan Kimberling – Please state your name for the record.

Maureen Rupe – Maureen Rupe. I was reading the minutes of the last board meeting and could anyone answer the question for me, why they put septic on the east side of Port St. John, in this building that they're doing. Is it real estate? It didn't actually say.

Randy Rodriguez – It is.

Maureen Rupe – Why are they putting in a septic system there? There's sewer on the east side, right? I mean, surely CVS and the others are on sewer, are they not? Does anybody know?

Randy Rodriguez – The commercial buildings.....I don't actually know if there's a pipe on that street, that's some of the original homes in Port St. John, and some of the originals were built to have the Port St. John Sewer Plant. So, it's not a good answer, but I'm not sure where the pipe is.

Greg Messer – There's no sewer available on Alvin, Hibiscus, and Barclay, is what I was told. I've got a property over there we're working on and was told that sewer wasn't available and it wasn't located in those areas.

Maureen Rupe – I know that the plant won't take any more sewer, you know, not enough to do any more than that east side, but I just wondered why they'd gone to septic. Is it one of the anaerobic septic systems that they're putting in?

Cindy Fox – What I can tell you is that the previous request to RP.....RP is still considered a residential zoning classification, so they may still.....even though it's operating as an office, they may have some sort of special exception and not have to hook up to sewer, but it's a State agency.....

Maureen Rupe – I just wondered if it had been discussed, because I didn't see anything in there. Okay, thank you.

Carmella Chinaris – I move that the minutes be accepted as written.

Wendy Porter – Second.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

**V.B.3. (13PZ-00084) – CARMINE FERRARO, TRUSTEE** – requests removal of an existing BDP in a BU-1-A zoning classification, on 2.59 acres, located on the southeast corner of Fay Blvd. and Adams Pl. (4735 Fay Blvd., Port St. John)

**PSJ Recommendation: Rodriguez/Chinaris – Denied. Vote was unanimous.**

Carmine Ferraro – Just quickly, when you were just referring to the RP zoning, was that the action last year, where it was a house on the corner? I'm also the project manager for that, can I speak to that very quickly before we do this? They withdrew the plan.

Maureen Rupe – Oh, they withdrew that plan? Okay.

Carmine Ferraro – They were about 95% there and the costs were prohibitive for them to go forward and they just withdrew the project.

Maureen Rupe – Which worried me because I didn't know what people know or not, but the State and the County are coming down on septics. Palm Bay will be the first, but we're not going to be able have them cleaned out every five years.

Carmine Ferraro – Thank you for granting me that. My name is Carmine Ferraro, Carmel Development LLC, I'm here tonight on behalf of the owner. The request before you is a request to file an action to remove a Binding Development Plan at the corner of Adams and Fay Boulevard. What I'd like to do very briefly, because there have been some people who have contacted me and some people I've called, and there's been some mis-information that may be going around, so for the record I would just like to do a quick, short, history of how we got here today. Basically, back in 2007 we acquired the property from the Lutheran Church. We filed for a zoning action to have the zoning changed to BU-1-A so that we could pursue what was the intent at the time, possibly a Walgreens or a large box retail for the 2.5 acre corner with the traffic light, which met their criteria. We had, in fact, been contacted by Walgreens, but they made no firm commitment or anything, they just contacted us and asked what our intentions were on the property. Through the course of that hearing, if you all recall, and most of you were there, some of you were not, we voluntarily restricted the property from any type

of adult entertainment, adult facilities, gaming.....what I call the 'dirty uses' out there. It's a personal conviction of mine that any property that I'm involved in that goes through a title chain that I'm involved in, I restrict those properties for ever and ever that they can no longer be used for that, even if we don't own the property in the future. In addition to that, I believe Carmella brought up some very good points about other potential uses within BU-1 and we worked through that in about 15-20 minutes, and I looked at some of the notes here and it said 'yes, no, no, yes', and we looked at each use to come up with approved uses that the board felt comfortable with and later on the County approved under the change of zoning. The Binding Development Plan was offered, one, to make sure that those use restrictions were in place with the deed and they would run with the land; and two, we had some concerns from Carmella and some of the other board members about access with the school being located there, and traffic, and we agreed to limit the access onto Adams. At the time, we had no idea what we were going to do there. It was our intent, at some point in the future, to come back when we had an actual user and discuss what we needed to do to go ahead and have the user be able to use the property, not knowing whether it was going to be a Walgreens.....if it was going to be a bunch of doctors' offices, it seemed kind of moot to try to address access when we didn't know what was going on. So, we agreed to that, we signed off on that, and here we sit in 2013. We were contacted by a developer about six months ago who is a national developer for Family Dollar stores. I have to admit that initially we were very hesitant about the whole thing. We kind of vetted them, they vetted us. We went through the process and entered into a contract with them. They've gone and met with the County staff and done a preliminary site plan so they can address all their issues, parking, drainage, access, everything. We, because of the way this property lays out, we have to co-exist together, so the balance of the property is going to remain the way it is, it's a church – which as I mentioned to one of the members of the public, we lease to church facility, both will be there for a long time, but we had to address some cross access, cross drainage, and retention if we're going to live comfortably together because they're basically going to buy their portion and then we're going to own the balance of the property. So, in order to do that today, having met with Zoning, we looked at what was required of us and there were two choices. One was to revise the Binding Development Plan, or to remove the Binding Development Plan. I'm here to say tonight that I would prefer that the Binding Development Plan stay in place, okay? I'm not saying there has to be the removal of the Binding Development Plan, in fact, in case the board decides they're okay if we work through these issues of access, and the Binding Development Plan is removed, I got Family Dollar to agree, in writing – and I'm going to go ahead and hand these out to you – these are the pages that run with.....these are the common access agreement, the use agreement, that will, basically....

Maureen Rupe – How many pages, Carmine, two?

Carmine Ferraro – Two pages, I thought I had seven of them. Hold on a second. I apologize, can you guys share?

Maureen Rupe – Sure.

Carmine Ferraro – Here they are, nevermind. If you go to No. 8, under Restricted Uses, the party of the first part tract and the party of the second part tract – I believe we're first party, they're second party – talks about what uses are lawful and then it talks, "Neither all nor any portion of the tracts may be used directly or indirectly for other business, selling, renting, or displaying X-rated or adult-only books, films, magazines, or other merchandise, massage parlor establishment featuring adult-only or X-rated material". They additionally had some further restrictions that they wanted us to agree to because they don't want competitors, so they restricted just about every type of dollar store that you can think of, there's about 50 of them, I had no idea there were so many dollar-type stores out there. They restricted price point, where the stores strictly do everything at \$1.00, and they restricted anybody that's like a dollar store that does multiple price points and department store items, which we agreed to. If you decide tonight that's it's okay to remove the Binding Development Plan this will run with the property, this is the common use restrictions agreement that will be recorded with the closing of the property. The second item we put in the Binding Development Plan was the access. So, what I want to speak to is what we have here today. [refers to preliminary site plan] Basically, we

have an access road on Fay Boulevard, we have an access road back here on Adams, this is currently limited to no exit only entrance. What we're proposing is that we go ahead and give access to Family Dollar from Adams over here, lining the access up with the adjoining property across the street to create a balanced access. We also then are going to open a spot over here so that we have the ability for traffic from our side of the property here. Basically, when trucks make deliveries what will probably happen is trucks will come in like this, they will deliver, and they will go out this way. They looked at truck traffic coming in this way and they just weren't able to make the turns and make the access over here, so part of why they want the full access here is they want to be able to take care of their deliveries. They also wanted access to line up with adjoining commercial properties so as to maximize the ability for people to get in and out. One of the things that I'm going to do tonight, because I just feel it's the right thing to do, is, based on the fact that we're asking for this access, I'm voluntarily going to close this access point, it is not needed, it just creates another access for traffic and we don't need it. Since there was a concern here about the potential traffic close to the daycare and closer to a school, we will go ahead, whether through a Binding Development Plan or through whatever action we need to by the time we go to County hearing, whatever we need to do we will go ahead and close that. So, the only two access points will be along Adams and along Fay Boulevard here. Again, the way this plan is laid out, it's such that we have to share some access, we share some parking, and we share some retention. In order to get an 8,000 square-foot Family Dollar store, that's what's needed to be done. The parking right now stands on its own. Only the cross access agreement grants access. We have asked them to restrict parking where we will not park on their side and they will not park on our side. There's an enforcement issue there, and I don't know how relevant it is, but it's going to make its way into the agreement.

Audience Member – (Inaudible)

Vaughan Kimberling – Please hold your questions until after Mr. Ferraro has had a chance to present. When you ask a question, you will be asked to identify yourself for the record.

Carmine Ferraro – So, we'll agree to close that southerly ingress/egress point. The other thing I want to point out is as they continue to go through the site plan process – and they've started that process, so they've made a commitment to do it – they will continue to have to address all of the Code requirements and development requirements for access for crosswalks and all of the different things that they need to do. Family Dollar has told me that they are – when I say Family Dollar, I mean the developer that's developing for Family Dollar – told me they are in agreement to be open to additional things that they may need to do in terms of.....in other words, if there is a requirement for hatching here, they are willing to go ahead and do the hatching, if their signage is not required then they're willing to go ahead and do the signage to help direct traffic. The last thing I want to do is just go over the Zoning Review Worksheet, and basically, because this is just a request, technically, to remove the Binding Development Plan and/or alter it as I'm saying I would consider doing tonight, really wasn't much change to anything, but I do want to point out that when you look at the calculations on Page 9 under Staff Comments and you look at the calculation for what kind of impact will an 8,320 square-foot discount retail store bring, it shows that the impact is minimal. It's going to add about 45 trips, and the current maximum volume is 33,900, and the volume with the proposed development is 12,844, and it doesn't change any kind of level of service. Of course, everything else was answered 'yes' in terms of being consistent when everything.....we're not changing zoning and we're not asking you for any zoning because they do have the right to access the property and use the property under the zoning classification. The other comment I would make is that one of the summary comments of staff was, given the approved BDP the board may wish to amend the existing BDP to continue to limit the uses as previously stipulated and grant and allow the access from Adams Place as desired by the applicants. So, that's where I got the idea that if they were open to that, then we were definitely open to having the Binding Development Plan stay in effect. I'm going to go ahead and reserve any time I can come back to answer any questions that the public has, or answer any of your questions. Does anybody have any questions for me right now?

Vaughan Kimberling – Thank you for your presentation. A big concern of mine is the school. There is a sidewalk on the east side of the Adams Place, which is where you want to put your driveway, the access road.

According to your plans, the access road is 40 feet wide, so it is actually wider than the Kangaroo gas station one, and I know why, so you can get your semi-truck in there to do the deliveries. So, I've actually gone out there and looked at the amount of traffic from the school – pedestrian traffic in particular – to understand how many kids are using this sidewalk, how many adults are with them.....and I know where the crossing guards are, there's one at Fay and Adams, and there's one back there on Adams right there by the school. So, my concern is, because the students don't use the sidewalk that's on the west side of the road, essentially, and that's because of the traffic going into the Kangaroo gas station, and it's the traffic going into the Dominos Pizza shopping center area. So, the school actually encourages the kids to use the east side, which is the non-busy side. If the store is put in place there and an access to it is put right there – its 40 feet wide – my concern is with the students trying to get across there because there is no crossing guard. Even if Family Dollar comes back and says they won't have deliveries during the two times that we expect those kids to be crossing through there, how can Family Dollar help alleviate the safety concern for those students that have to cross that driveway?

Carmine Ferraro – Outside of the fact that whatever is going to be required for the site plan, in terms of the standard development regulations for that, and proximity to schools, and all that type of stuff, I'm here to tell you – again, the fact that we're the owner of the land and we're selling it, eventually the end user is Family Dollar – they have expressed their willingness to do anything reasonable. Absolutely, I think restricting deliveries to certain times. I think some type of sign or flashing light or something, maybe another crossing guard, I mean, I don't know because I don't, logistically don't know what happens in terms of that, but I think yes, if you have any suggestions they are open to any of those suggestions.

Vaughan Kimberling – Okay, so they have not come forward and said, "We might be able to do this if we can get this access", such as a crossing guard or something to that effect.

Carmine Ferraro – Not knowing what they need to do at this point.....let me say this to you, if we need to have that answer by the time we go to County, we will, and if that's your concern then that's what we will address. Not knowing what to address, I'm just basically saying there's an open willingness to consider whatever we need to do to make it as safe as possible and allow the owner of that property to use that property in a safe way in terms of being able to do to the access.

Carmella Chinaris – Can you repeat what you said about the.....I'm not seeing a traffic study, is that what I'm looking at on Page.....

Carmine Ferraro – Yes, looking at Page 9 on the bottom, I was just.....

Carmella Chinaris – 9 or 19?

Carmine Ferraro – Oh, my paper clip was over it, I'm sorry.

Carmella Chinaris – So, on Page 19, tell me again what I'm looking at here, because it looks like an increase, it says.....increased volume from 1,126 to 12,379. Tell me what I'm looking at here as far as why you think that that affect would be negligible.

Carmine Ferraro – The current volume is 12,379, the way I read the table. Am I reading that table correctly? The proposed increase to that volume is 1,126 trips, and the maximum volume – acceptable volume – is 33,900, so it's well within the range of acceptable volume is the point I was making. In other words, it doesn't trip anything that would require roads to be approved or to create on the level of service that exists on the road.

Carmella Chinaris – But there's an 1,100 use increase for that.....traffic increase.....

Carmine Ferraro – Based on the square footage I think they're proposing that there would be that many additional trips.

Carmella Chinaris – When we met about the same property in 2007, going back to the minutes of that, I think that our major concern was the access from Adams because of the school. At that time we were very adamant that the children walking to and from school down Adams shouldn't be fighting with commercial traffic in their path, and I'm wondering what has changed between then and now that makes it any safer.

Carmine Ferraro – Again, this is the only thing I can speak to, Carmella, you guys asked for that and we agreed to it under the Binding Development Plan. I will say to you, in the real world we have not been able to enforce that. We can't have somebody stand there and see every car that goes in and out, and I have witnessed cars going in and out of there constantly. Nobody pays any attention to the fact.....I actually have a property on Curtis Boulevard where we put in signs and arrows, and people just go right against the arrows, they just go any way they want to go because it's quicker to get to the mailbox this way than to go that way. I mean, I can't speak to that other than to say that yes, I understand your concern, so what I'm here to do tonight is figure out how we can work together to partner and come up with a way that it addresses your concerns, but at the same time the owners of this property can go ahead and sell it to Family Dollar, which the intent initially in 2007 when I was before this board was to tell you that we intended to sell it or develop the property, and that's why we asked for the commercial zoning. When you look at it and you look at the way the property lays out, the only way, logistically, to this would be to have that access. Now, granted, could they turn around and design this with access down Fay? It would probably require them to go in and change the entrance over here in terms of getting into D.O.T. and all that stuff, and I don't believe that's an option. I think they considered access on Fay and this existing access point to see if they could create a go-around, and they weren't able to do that, so they had their engineers work on it and they weren't able to come up with it. I'm not going to stand here before you and say that I don't have the same concerns, I do. I don't have any children in that school, but I believe in responsible development, so I do have those concerns, but what I'm hoping we can do is come up with a way to make it work. Reality is that something is going to go there, and at some point we'd like to figure out.....and by us volunteering to agree to get rid of this, I think that helps because this is closer to the daycare and school, and we're getting rid of that. I think it makes more sense to line the access up with the existing gas station. Did I answer your question?

Carmella Chinaris – The answer is it isn't any safer in 2013, that is the answer.

Wendy Porter – I went down today and measured, it's 2.5 miles – I can ride my bike many more times than that – 2.5 miles from that proposed site is another Family Dollar. Why do we need another?

Carmine Ferraro – I have no idea. I can only tell you this, that we didn't even want to talk to the developer because that Family Dollar was there, and we felt like we were being played, quite honestly, we thought they were after something, to tie up our land or something. This is what I was told by the real estate company out of Tampa, "Family Dollar approved the site". They're not telling us, nor are they probably sharing with him what their corporate strategies are, so I'm assuming they're either moving that store, relocating that store.....because yes, why in the world would they want one here and then 2.5 miles on U.S. 1 have another one?

Carmella Chinaris – The bigger question is why does the community want a Family Dollar there? And do they?

Vaughan Kimberling – Are there any more questions from the board?

Wendy Porter – I think we seem to agree that any increase of traffic on Adams Place is a negative with the children. You not only have the school, but then you have the daycare. So, in my opinion, any increase in traffic – and you say 1,126 – that's a lot. Also, we have so little property left in Port St. John that is habitat for any kind of animals, and it tells us on Page 22, the site is mapped scrub jay habitat occupancy, and other

species, gopher tortoises, may be present on the property. That may seem like a small thing, but having lived here as long as I have, we're getting less and less areas for these creatures. So, with increased traffic, which is a danger to the schools, it's taking over a habitat that is designated scrub jay habitat, and do we need it? Do we need it?

Carmine Ferraro – One of the issues for the development is the scrub jays. When we bought the property we knew we had one family living there, but some families also shopping there, so it was kind of like the grocery store for other scrub jay families. Nature has a funny way of doing things, because when they went out there recently and they had to do their scrub mitigation report, they hired an environmental firm to go out there, what they found is they have families of feral cats, and the feral cats have either eaten or scared away the scrub jays. So, quite honestly, it was the intent of the developer to mitigate it under one acre since he's purchasing less than an acre, and do it as an incidental take because it's really not a viable habitat, it's not a connected habitat, it doesn't have the polygon connections. It's something that you would think the money would be better served to preserve the existing habitat and put the dollars – because I am 100% for developers chipping in and paying for responsible development, but when you look at what's existing there, what the environmental said – and I'd be happy to get you a copy of the report – that they don't even know if it's a scrub habitat anymore because the feral cats.....

Maureen Rupe – No gophers?

Carmine Ferraro – They did not address any gophers; however, they said at the time they do their final they would go ahead and do that, but they didn't mention anything about gophers or endangered foliage or snakes or anything like that. The thing that was on the radar was the scrub jays.

Maureen Rupe – Would I be trespassing if I go in there?

Carmine Ferraro – You can help yourself.

Maureen Rupe – Thank you.

Carmine Ferraro – There's a lot of cats in there.

Maureen Rupe – Yes, the County should be addressing that.

Carmine Ferraro – That's a whole other issue, we won't get into that tonight, but there is a feral cat issue in Port St. John. That is something that was taken into consideration. I will say, in all respect, Wendy, it's always been the intention for us to develop that, and we knew that we would then have to mitigate that land, and that mitigation dollar will go toward the preservation of other scrub habitat.

Maureen Rupe – They don't relocate well. If you find them in there, Carmine, scrub jays don't relocate well.

Carmine Ferraro – I don't want to belabor it, but on the 40 acres on Curtis, what we found after mitigating that entire property with the Army Corps of Engineers at a 4:1 ratio, we found that the majority of scrub jays still live there and they're getting along just fine with us, and we're getting along just fine with them. We were happy to contribute because that's what we were required to do.

Vaughan Kimberling – I have a question on the scrub jay habitat, because I did read that in your minutes. Was an official determination ever made that that was a scrub jay habitat, or is that just from somebody who saw some scrub jays?

Carmine Ferraro – It was never designated as a core habitat. There was.....because when the original church, the Messiah Lutheran Church, bought the property and put their church facility on there, what they did back then was kind of a survey, and somebody noticed there were scrub jays on the property.

Vaughan Kimberling – So, to your knowledge, the Natural Resources Management Office has not been contacted regarding the scrub jays?

Carmine Ferraro – We contacted them when we bought the property and we did a survey, and what they typically do now is they tell you to contact U.S. Fish and Wildlife. So, we contacted Environmental Services, Inc., a very well respected environmental company, and in 2007 we got that report, and basically that's what the report said, that there was one scrub jay family and other scrub jays using it as a shopping center – a grocery store – to eat.

Carmella Chinaris – What are the repercussions for this, “the parcel contains mapped aquifer recharge soils”, what does that mean?

Carmine Ferraro – Again, part of the development process, you take soil samples of the property to determine whether these are primary or secondary aquifer recharge zones. A primary aquifer recharge zone would be something that is making a significant contribution to recharge the Florida Aquifer. Secondary and lesser zones are going to be less impactful, and what determines that is how quickly the water percolates back into the soil, if it percolates at 60 inches per hour, 30 inches per hour.....what you're going to find in this part of Port St. John – because I've done a lot of digging around here – is that it's predominantly sandy shell, coquina-type soil and it's got some aquifer recharge capacity to it. So, whereby the County couldn't turn around and say that they were going to preclude development because they had to come up with some kind of compromise in terms of how to do it. Basically, there is a requirement of making sure that you're an impervious area, the area that will no longer recharge when (inaudible – interruption) you replenish it in an area where the recharge rate is higher.

Carmella Chinaris – Is that allowable with this amount of land?

Carmine Ferraro – They actually haven't gone through.....as part of the site plan process and the engineering documents that will be submitted to County, they will address that.

Cindy Fox – That is all fully vetted through the site plan process. And just as a reminder, this property already has commercial zoning, so you're really here just discussing the Binding Development Plan.

Carmine Ferraro – I don't mind answering your questions, I'm happy to do it.

Greg Messer – Most of that stuff....the scrub jays and gopher tortoises and all that stuff can be mitigated, that's not really an issue that we can say whatever we want to do, and they can take care of that and they can mitigate that issue. The real thing here is the access out onto Adams Place. I was looking through the 2007 minutes and about half of that meeting was strictly about that access and making sure that was in the Binding Development Plan, that they were not allowed access on that road – or egress, on that road. I don't know who was here and who wasn't, at that meeting, but primarily that was the biggest concern. The point of this is the egress at Adams, because the rest of it, if approved, they can do - within legal limits – they can do whatever they want to do with the scrub jay mitigation and gopher tortoises.

Vaughan Kimberling – Any more questions from the board? Okay, I'll open the floor up to members of the audience. When you are selected, please state your name clearly for the record and speak loudly so we can hear.



Maureen Rupe – Could I just bring up a point of order? I didn't say anything, but the State has changed the rules and in the right-to-speak that came out on October 1<sup>st</sup>, has the County not told you about.....that the public must speak before decisions, before.....

Vaughan Kimberling – That's what we're doing.

Maureen Rupe – Before discussion, sorry, discussion. Just please go back and ask, because that's now the law.

Vaughan Kimberling – Sir, step forward and state your name clearly.

James Hyde – My name is James Hyde and I live right here in Port St. John. I don't see what we need another store for, especially since they're 2.7 miles, are they going to move from there to here to get more business? I don't think so. That's all I've got to say.

Pastor at Community Alliance Church - I'm new to the community, but I am concerned about the children and our church is right there, and I thank our friend here for all the work that he has done, I commend what you have done, but I am very much concerned about the access, the traffic there, and I think (inaudible) pray that someone else would find another use for that there, like a doctor's office, something (inaudible), but because of the children, I'm quite concerned about the traffic in and out, and not just during the school hours, but being children they will come (inaudible) over there. So, I'm concerned about that, and my feeling is against the (inaudible). Thank you.

Hector Belloso – Hector Belloso, 6360 Pleasant Avenue. I moved to Port St. John in 2000, and I'm so happy because it's quiet and beautiful, but for the past few years you can see so many businesses making the rounds, but I don't know if you have children, but what business was he talking about? It's close to the school, our children, more traffic. It doesn't matter what he says he going to do, the traffic is traffic. We need more security, it will require more police here. (inaudible) Where is the money? We are disabled, we don't get an increase. The taxes go up because they need the money. More business, more problems. (inaudible) It will require more security and more police. I wake up at 3:00 in the morning, I see people walking in front of my house to go to the gas station to buy beer or buy whatever they want. We try to keep safe our family. The more business you put in here, the more problems you are bringing. Big business is a problem. This is a residential area. Why did we fight a couple of years ago when they wanted a city? We fight it because we don't want a city, because in a city they want to do whatever they want. We want to keep Port St. John residential, and we want to keep our children safe. (inaudible) Now we have so much problems with the gas station, and everybody knows. You want more problems? We've got enough. I'm sorry if I'm a little bit upset, but I'm thinking about old people and children in Port St. John.

Vaughan Kimberling – Are there any other comments from the audience?

Carmen (last name inaudible. Did not give address) – I've been here since '89 and I have three kids. Carmine, you're saying they have not sold the property yet?

Carmine Ferraro – The property is under contract and due to close.

Carmen – Right, but it's not sold yet?

Carmine Ferraro – It is not closed, no. It's not a condition of the (inaudible)

Carmen – Is there a turn lane into there, from the other side?

Carmine Ferraro – No, there is not.

Carmen – If they did open up that opening, are they worried that their trucks would be forced to make too long a round trip to try to get in there if they did open that up?

Carmine Ferraro – The only word I got on that was that their engineers looked at it for safety purposes and everything – turnaround ratios – and that was the only way they could do it.

Carmen – So, they could fix it and make it work.....obviously, you can move anything you want out, right?

Carmine Ferraro – No, we couldn't touch the median, that's Florida.....

Carmen – No, I mean you could fix whatever is over there on this side.

Carmine Ferraro – I'm not understanding you.

Vaughan Kimberling – For the record, the audience member is showing the driveway off of Fay Boulevard not Adams. She's questioning the access there.

Carmine Ferraro – That's a driveway permit and/or FDOT right-of-way, so I don't know what would be involved in offering that.

Carmen – If you can do it in one place, why can't you do it in the other place?

Carmine Ferraro – I can't speak to that. All I can tell you is that their engineers looked at it, because initially we instructed them that it was limited access with no egress from Adams. We gave that to them (Mr. Ferraro was interrupted; therefore, the rest of his comments were inaudible)

Carmen – I like no egress because I don't see any kids surviving going through there because there's a park on the other side and they travel 24/7, it's not just during school.

Carmine Ferraro – Currently, cars are allowed to do this, they are not allowed to do this. [referring to the preliminary site plan]

Carmen – Right, but I'm saying you don't now have motivation, you're about to have a whole mess of motivation, and on top of it I see it as a distraction with the other direction. Let's put a light there because there's about 50 things to pay attention to.

Greg Messer – There is quite a bit of conflict coming out of that Kangaroo gas station.

Carmen – Yes, just the tanks and the way they are positioned and next to that exit.

Greg Messer – I've witnessed two accidents.

Carmen – I personally know someone who died there.

Several speakers at once; therefore, the comments were not audible for the record.

Carmen – So, the park is also used at night and the store is open at night. I didn't even come here to argue it, now I'm like no, no, no, no. Also, the other existing Family Dollar, it has a horrible position, it's a physically horrible situation for them, and I'm sure that's their motivation, but do they have a restriction on any other dollar store coming in now?

Carmine Ferraro – I don't have any knowledge of that.

Carmen – (Inaudible) If there's really a lot of business coming into this part of town, then we can afford to be choosy. That would be my biggest argument. We don't need it, especially with the kid thing. As far as it being a retail business and everything, I still think that if they were savvy they would go down to the Curtis area, even though you say they want a corner.

Carmine Ferraro – Their criteria is a corner with a traffic light.

Carmen – Well, they can attack the corners down there because there's still some corners over there.

Vaughan Kimberling – Thank you. Any more comments from the audience? Please state your name for the record.

Sally Hampton – My name is Sally Hampton, and I guess I'll address the 'me' factor. I live on Fay, just past Grissom and I have a huge concern that my resale value will plummet with a For Sale sign out front a few properties down from a Family Dollar. I'm still reeling from buying it at the bottom end of the market and I'm about half-way upside down right now. I'm trying to see a day in the future where I can actually sell and maybe move into something else not on Fay. I'm just afraid if this goes up then that day is not going to be there until it's all commercial right up next to mine and then I sell it as commercial, which may be great but it's miserable in the meantime. So, that's my concern. Thank you.

Ron Parker – My name is Ron Parker, I live at 4890 Fay Boulevard, which is the corner of Fay and Stillwater. I'm concerned about what can be on the property later. I'm always concerned about what goes in my neighborhood. So, I wouldn't be in favor of the Binding Development Plan being taken off of this property. I also have concerns about the access.

Vaughan Kimberling – Thank you. Any more comments from the audience?

Carmen – I didn't tell anybody, I was going to facebook it and send emails because I have homeschool groups from Port St. John, Merritt Island, and North Titusville, so I have a lot of contacts. I did not email them about this meeting, I was just about to when I talked to Carmine. So, I'm not saying anything against Carmine, but I do want to say that if you guys can have another meeting where we can get more representation from the community I can do that and I'd be glad to help with that.

Vaughan Kimberling – Unfortunately, the way the process works at this point is this is public hearing and from here a vote will be made by this board and forwarded to the County Commission, which it goes to that meeting on December 5<sup>th</sup>.

Maureen Rupe – It's also a public hearing.

Carmen – Okay. I still hold all my other opinions.

Vaughan Kimberling – So, with no other comments or questions from the audience, the request is to remove the existing.....

Carmine Ferraro – Can I make quick rebuttal comments to that before you go into discussion? And if you want to call me up after the discussion that's at your discretion. I just want to remind the board that in 2007 the zoning was changed to commercial. I also want to remind the board that I know the access is restricted, okay? We have always tried to be responsible developers in Port St. John and I'm asking to see if there's a way we will work this out that will satisfy you, satisfy the concerns of the public, and allow us to do this. I will say this, just looking at it logistically, I know that when I'm on Fay Boulevard and I'm looking to go down Fay Boulevard at 35 mph – which not a lot of people do – and someone stops to go into a driveway there's potential for accidents, and I think one of the reasons that this would not fly with this being the only access is you are then

asking a secondary arterial to slow traffic down, and any time you slow traffic down – and I was told this by the traffic engineer many, many years ago – that’s when accidents happen. When traffic is moving accidents don’t happen, it’s only when you slow it down. So, what I would like to do is see what we could do here. Understand that we don’t have the right to do that now. I’m also willing to suggest some things and maybe you guys could talk about it during discussion. Keep this in mind, the concern is that when the children are coming out of school, that’s a prime period of time. We can go ahead and write it directly into the deed restrictions of the property that there will be no access to this property during those times. In terms of putting cones out or whatever we need to do to stop traffic. Understand that we’re trying to penalize an entire property for the remaining course of time in a 24-hour day when the school is closed or it is not functioning. Understand that if we can do it in a way that is safe for the children and we can still get that access, that’s the kind of discourse I want to have with you tonight. If it’s another traffic crosswalk person and there’s a fee involved in that, I want to bring that up for discussion. How is there a way to safely bring children across the way they need to.....if it’s a flashing sign with a yellow light. There are different types of things that can be done. You can’t build a bridge like they did on U.S. 1, but there are ways to get children through busier traffic areas. I think if we’re forced to go back to this scenario, I think everybody is going to be unhappy with it in the future. I think we have to have access to use this side of the property. So, I’m kind of playing my whole hand open here, I’m not trying to hide anything from you guys. So, during your discussion I hope you will consider some of that.....the idea of early in the morning if the school is closed the trucks can do their deliveries, if the school needs to be from 2:00 p.m. to 4:00p.m., then that access road is closed from 2:00 p.m. to 4:00 p.m. with some type of barricade or something and additional crossing guards, or lighting devices. Other than that, we really shouldn’t be considering.....although I wanted to answer all of the public’s questions. Everything else is approved. In fact, if you decide that you, for whatever reason don’t want to grant that access in, and for some reason Family Dollar changes their mind and they wanted to still do it, they could build on there tomorrow. They can do that because the zoning is in place. Personally, I would like to see the access work because I think it is the safest and most responsible way to bring Family Dollar here.

Carmella Chinaris – I’d like to open the discussion if it’s time for that. I think that back in 2007 when we placed the restrictions on this piece of property it was because not only were we very concerned about a high-traffic situation on that street with the school, and the daycare, and the ball park, and all the kids that are there. Not only was that our major concern, but we also wanted some voice in what kind of commercial enterprise went on that piece of property. What I’m hearing from some of the comments from the community here tonight is that a Family Dollar store, with its very high volume of traffic in and out, is not what is wanted, needed, or works well with this particular location. I am completely opposed to changing anything that would allow the access from Adams Place, because the reason we put those restrictions there was the safety of the kids, and that has not changed. The secondary reason we put those restrictions there is because we wanted a little bit more of a voice about what commercial enterprise went on this piece of property, and I think our community here still wants that voice, and we’ve heard that that’s not a Family Dollar location. So, that is my opinion.

Vaughan Kimberling – I would like to add some comments onto that, kind of echoing what Carmine said. This is already zoned a business classification, and if you go into the County Zoning notes and what’s allowed and everything, this store is allowed to be brought in. We cannot stop that tonight. This meeting here tonight is not to determine what kind of store goes in, or do we approve of this store. What this meeting is about is the binding development, which in particular is the access to the property. Now, like Carmine said, I will vouch for that because I did do my research in the last two weeks, and I know that you’re absolutely right, if Family Dollar wants to come in tomorrow and we say there’s no access on that road, they can do that. We cannot stop them. This board cannot stop them, that’s already been approved. So, what we have to address tonight is how do we control the access into that property? We already know they want the access, now we need to come up with a way to make it safe for the kids. We can’t control what’s going on the property, that was done in 2007. What we can do today is determine how to make it safe for the kids and the community that are walking past there every day. I will table a suggestion, which I made a comment about earlier, and that would be that I think you’re going to find out that you have to have two access points into this property because it’s a retail establishment; for emergency situations you can’t put a barricade up that fire trucks can’t get through, or

police; you can put cones up, but any other barricade that's considered semi-permanent, I think you're going to find you won't be able to do that. To me, I made a comment earlier about a crossing guard. I do not believe the County should pay for a crossing guard to go and patrol that area. If a crossing guard is what we decide we would like to have there, then I believe that whomever comes into that property and develops it should pay for that crossing guard; and that would be twice a day on every school day. That would help make it safe during those two timeframes of the day – the early morning and mid-afternoon – when those kids are going back and forth. That's my recommendation. I'll open it up for discussion.

Randy Rodriguez – I didn't think it was possible to disagree with a whole room, but we might be on it today. A handful of things, and the good reverend mentioned one of them. What we're voting on tonight.....it's not merely that sign that currently reads Family Dollar. That may never even be a Family Dollar, but the parcel of land affected by this agreement includes the church, so we're actually voting on the parcel that covers the whole thing. That Binding Development Plan has other things besides that access on Adams Place, which already is a moot point because there's access no matter what the sign says in both directions now. We're living with that. There are a whole bunch of businesses we restricted out, and that gets removed when we remove that development agreement, so I'm not in favor of that part. I think the children – and for anyone that doesn't know, that's an elementary school behind it, so the students are 4 to 12 years old, and I'd like to think that the youngest of them are holding somebody's hand, but sometimes that's a 12-year old with other things on his mind. Still, I think they are safer traffic at the speed they can accelerate from Fay Blvd. to that driveway, rather than the speed they can go down Fay Blvd trying to use an access there, and if they're walking by that property on Adams, they're going Fay Blvd, and that's just the way it is, they've either passed it or they are going to it, so we're not protecting anything by denying that access there, as much as we'd like to think so. If they were going to get hit where that driveway is, they're probably going to get hit where the driveway is now. The vehicles it seems like the engineering is set for are the semis. Cars can get in and out, they re-make my point about the speed they're going on Fay as opposed to the speed on Adams, but a tractor pulling a 53 to 60-foot trailer behind it is going to wipe out a lot of things in that driveway if they have to come in and out of Fay. That may be a thing for the owner, or potential owner, to consider, that that just might not be the place to go. That's their decision. The property is commercial, we can't stop everything from going there, but the current development plan stops a lot of things we don't want near our kids from going in there, and that has a lot more to do with it. You might approve removal of this because it's Family Dollar, and whatever we think about their sales status in the world, it's certainly no Lord & Taylor, but we think of them as a fairly reputable, clean, company, not something that we would be afraid for our children to go in and out of, but they're not necessarily going to be the store that's there. And the parcel next to it, who knows what that's going to be. There are a lot of things that can't be there right now with that development agreement, so I'm pretty happy to leave it where it is, and if that access needs to be an issue, that can be brought up on its singular basis, it is a simple paragraph in that development agreement. It doesn't all have to hit the trash for that.

Unknown speaker – You mean what's on that page?

Randy Rodriguez – No, that page is imaginary at the moment. It's a proposal, it doesn't exist, it may never exist. All of that, except the businesses that are somewhere else, that may not be a Family Dollar when it gets to be there. Without the plan that's there, there are a handful of things that can go in BU-1-A that you'd be a whole lot less happy with than Family Dollar, and most of those are currently knocked out by the development plan. So, for my part, I'd much rather leave it in tact and maybe if we need to argue over an access to Adams Place, we already have one and it would be much harder to see than it would be right there across from that open driveway at the Kangaroo. I would be okay with that trade. I may not be happy with it, but I would consider it a better trade.

Unknown speaker – Inaudible.

Randy Rodriguez – Volume change is going to happen with whatever goes in there, and that's already BU-1-A. Somebody at some time is going to come in there. If they dropped in a Dairy Queen or a fast food, that's going

to make that.....we will wish for Family Dollar to come back. There's a bigger difference between.....anybody been to McDonalds? Not my favorite place, but I get to the store there, they're running 14 – 15 cars every five minutes, and Family Dollar might do that in an hour. I don't know if it's fortunately, or unfortunately, because I remember Fay Boulevard as it was when I got here, so I really like it better now, but it has the capacity to hold enough volume to put a McDonalds or Burger King, or something like that there.

Unknown speaker – Inaudible.

Randy Rodriguez – Only the part they can afford. If they have the big semis coming in and out to deliver to them, too.

Unknown speaker – Inaudible.

Randy Rodriguez – You'd have a whole lot of traffic going in and out with something like that.

Carmella Chinaris – That's an even more imaginary scenario, Randy.

Randy Rodriguez – Today it is, but I can tell you a Dairy Queen in there would make a fortune and the traffic volume would be crazy compared to that. So, I'm opposed to removing the plan, but for entirely different reasons than most of the room.

Wendy Porter – I see another issue that hasn't been raised. Again, as long as we're dealing with possibilities, but sticking a Family Dollar – that's the one that wants to go in – say Family Dollar goes in there and what happens if it negatively impacts the one that's already down on Route 1 and that one does not remain open, then we double all of a sudden the traffic that's coming because now this is the only one in the area, and it's a possibility. It could take just enough away – it doesn't take much in this economy to affect a business.

Randy Rodriguez – I would agree, but I've seen the traffic up at that Family Dollar and doesn't really bother me. Dominos has 10 times the traffic they have.

James Hyde – I can't see bringing a 40-foot box truck in that hole coming off of Fay Boulevard.

Randy Rodriguez – They get the 60-foot box up into Dominos on a narrower driveway right across the street, so they'll get it.

Vaughan Kimberling – They have to back in, they have to pull up Adams Place and then back in to their.....they can't make the turns. They won't be able the turn going out of that parking lot. I don't know how they're going to do it with all the traffic that comes in and out of the Kangaroo. Those two driveways abutting each other is going to be a large nightmare.

Randy Rodriguez – Interesting.

Vaughan Kimberling – I know when the Dominos truck comes around they have to come down Balfern and come up Adams and then back into the parking lot.

Carmine Ferraro – Just a point of clarification, people are making comments. It has to be approved engineering-wise. If they can't manage the turn they won't approve it. There are tables and arc tables they use, and if it's not safe the County won't allow it if they can't reasonably make the turns.

Maureen Rupe – It's been many years since I've been on this board and I'm sure that people like Wendy, and Randy, and you, Carmine, you weren't with us in the days of the homeowners association, and in those days – I'm talking 25 years ago now – what the community wanted was not so much commercial, just a little bit, but

the times that we have fought down at County Commission, you know, on zonings like this.....I've been thinking to myself within the last few years, we're unique – I honestly think we are in Port St. John – and I wondered if things have changed, I wondered if people think, "Oh, can I go to the corner shop", and drive a few miles, but I tell you what, with the public that have come tonight I don't think we've changed at all. I don't think we want something that is going to affect our quality of life and our children, and all these other issues. I honestly don't think it's changed.

Greg Messer – The school is the primary traffic on that road, without a doubt, and then probably the Kangaroo is the second most traffic to go there. The school having a crossing guard is great for two times a day, in the morning and afternoon, but that school provides day-aftercare and there's no time limit on that, it's constant from the time that school lets out until 6:00 p.m., so there would have to be a crossing guard there from the time the school lets out until probably 6:00 p.m. in the evening to ensure safe passage for all the kids that come in and out of that place.

Carmella Chinaris – Is that school still on a year-round schedule?

Wendy Porter –No.

Randy Rodriguez – Yes.

Wendy Porter – No, it started back in September. It started with the regular schedules that the other schools have. They went off the year-round calendar this year for the first time.

Randy Rodriguez – Mr. Chairman, I move that we deny the request for removal of the existing Binding Development Plan.

Carmella Chinaris – Second.

Vaughan Kimberling called for a vote on the motion as stated, and it passed unanimously.

Carmine Ferraro – Is the board interested in entertaining any kind of a motion to keep the existing Binding Development Plan with the suggestions that were made for the crossing guard or closing the access route during certain times of the day.

Carmella Chinaris – I am opposed to that.

Carmine Ferraro – Anybody else?

Wendy Porter – I'm opposed.

Carmine Ferraro – If they want to go, they're going to go this way, and the semis are going to go that way. They can still go there, this access is allowed.

Vaughan Kimberling – I would be willing to listen to see what they would say, but at this point.....

Cindy Fox – You have a motion that's been approved.

Carmine Ferraro – It just seems more responsible to come up with something that could work on Adams.

Randy Rodriguez – I'll make a motion.....

Maureen Rupe – We just made a motion to deny.....

Cindy Fox – What the board can do is, you can make a motion and offer up some recommendations to the applicant to present to the Board of County Commissioners.

Greg Messer – Was that Binding Development Plan for the whole parcel, or is it just for this other area, because if the whole parcel is under that Binding Development Plan then they wouldn't be allowed to out that back road.

Carmine Ferraro – That's a good point, and we've not wanted to get legal involved in that at this point, but there is a question as to whether that is binding to the entire property now.

Carmella Chinaris – It was my understanding that it should be binding to the entire parcel.

Carmine Ferraro – I believe with the way the binding development agreement is written, and based on review, one attorney.....and they haven't gone back to the County Attorney because at this point we're just trying to see if we can work something out. I don't know whether it's binding to the entire parcel.

Carmella Chinaris – I personally would like to see you come back to this board with some specific workable solutions to the access problems, but at this point I am opposed to lifting any of the restrictions or discussing that access from Adams.

Carmine Ferraro – Can I bring up now.....because keep in mind if we start this process again we're five months down the road, and based on the fact that business is business, and businesses have goals that they have, I would say this.....if the board would consider tonight to make a proposal to allow the access on Adams with an understanding that during the times the school is open, lets out, the children are going to school in that period of time of children leaving school, that that access would be closed and that there would be an additional – if the County wants – an additional crossing guard there and the cost of that would not be borne by the County. Also, to limit the deliveries to certain times, and maybe that's another way to do this, is limit deliveries to evenings and early mornings when it is absolutely sure that the school is not open.

Several speakers at once; therefore, the comments were not audible for the record.

Greg Messer – Deliveries are supposed to be at certain times anyway, and trucks show up whenever they want to.

Carmine Ferraro – If it runs with the deed then it can be (inaudible – several speakers at once)

Carmella Chinaris – If you have somebody who is going to stand there and enforce it. I am opposed to lifting that and discussing that access at that time.

Wendy Porter – You still have the increase of 1,126, nevermind the trucks, you still have increased access in that area. I'm against any access on Adams.

Carmine Ferraro – I appreciate your time.

Unidentified Speaker – I'd like to see some kind of access on Fay where they already have the traffic counts that can handle it, that keeps it more away from the kids, but any access on Adams is tough for any of us to swallow, and the public has the same sentiment.

Cindy Fox – At this point, the board has made a motion of denial. You can offer up all the suggestions to the County Commission.

Several speakers at once; therefore, the comments were not audible for the record.



Carmine Ferraro – We're prepared to do that.

Cindy Fox – You may also ask the County to send you back here to this board if you would like.

Carmine Ferraro – They can do that?

Cindy Fox – Yes. So, you have some options.

Carmine Ferraro – Again, I appreciate your time.

Vaughan Kimberling – We have one question from the audience.

Hector Belloso – Why don't you send a letter to everyone in Port St. John?

Carmella Chinaris – How are these meetings announced to the public?

Cindy Fox – Property owners within 500 feet of the radius of the property are notified through a courtesy notice that is put out before the first meeting notifying them of this meeting and the County's meeting. The property is posted with a sign and there's a legal advertisement in the newspaper.

Carmella Chinaris – So, those are the steps that happen.

Hector Belloso – If somebody starts to build something no one knows what they are building. The gentleman talks nice and he said he's going to do this and that, but we don't (inaudible) I cannot see.....90% of people in Port St. John do not agree with something like that. (inaudible) People stop at my house and knock on my door and ask what is being built, but I don't know. It is up to your four to tell the people in Port St. John what is happening because we have a right to know. Today, he wants a dollar store, but tomorrow comes Home Depot or Walmart. How many accidents do we have at the gas station and hardware store? There's so many accidents. (inaudible)

Vaughan Kimberling – We understand and we appreciate your comments.

Carmella Chinaris – I'd like to comment on that. This board met because – and this is off this topic, so I don't know if I'm out of order, let me know if I'm out of order, but this board met and discussed the piece of property where the doctor's office is being built, and at no time was there mention of razing that house. In fact, the argument was made at that time in front of this board that the house was being neglected and allowing the zoning change in order to allow that to be a doctor's office would take a piece of a property that was being neglected and make some improvements. The promise was made to make the driveway behind, et cetera, but at no time was it stated that they were going to knock that house to the ground and build a brand new doctor's office on that corner. So, I would like to know, were we not asking the right questions, or is there no recourse when somebody comes in front of this board and says they're going to do something and then they do something else?

Greg Messer – On that instance, at the time that it was approved, there was no plan either way. He was just applying for a zoning change to allow a building to go there. Messer Construction is doing the building there, and at the time when we were working with the doctor about doing that, the plan was to use the existing house.

Carmella Chinaris – That was the plan that was presented to this board.

Cindy Fox – They did not know at the time of the rezoning.....

Greg Messer – It was up in the air at that time.

Cindy Fox – The board discussed it at their meeting and there were several board members that were very concerned that they would have trouble developing this site.

Carmella Chinaris – Well, I was one of them. I will say that it makes me doubly hesitant to accept at face-value a vision that is not concrete and to make zoning changes on that. I will say that it makes me very hesitant to do so in the future.

Randy Rodriguez – You're catching on.

Several speakers at once; therefore, the comments were not audible for the record.

Greg Messer – It's like this property, regardless of what goes there it's zoned to have (Mr. Messer was interrupted; therefore, the rest of his comments were inaudible)

Carmella Chinaris – It is indeed.

Greg Messer – And it's not our decision to make.....that was the County Planning Department that made that decision. This board allowed the zoning change.

Carmella Chinaris – This board allowed the zoning change with those binding.....

Several speakers at once; therefore, the comments were not audible for the record.

Vaughan Kimberling – Tonight's hearing was for the Binding Development Plan, and we have voted and it's been recorded, so that concludes the official business of this board.

The meeting was adjourned at 7:17 p.m.