

City of
Neptune Beach

116 First Street • Neptune Beach, Florida 32266-6140
(904) 270-2400 • FAX (904) 270-2432



MEMORANDUM

TO: Planning Development Review Board
FROM: Amanda L. Askew, Community Development Director
DATE: November 12, 2009
SUBJECT: V09-13/ Penman Plaza Associates – Variance Request

Location: 1209, 1223 & 1301 Atlantic Boulevard
Legal Description: Part of Castro y. Ferrer Grant, Section 38 Township 2, Range 29
Property Owner: Penman Plaza Associates, Ltd.
Application: Same
Existing Use: Retail
Proposed Use: Retail expansion
Zoning: C-3

Variance Request by Applicant:

1. Section 27-229-1 variance to increase the maximum lot coverage by 4.6% creating 79.6% in lieu of the 75% maximum lot coverage.
2. Section 27-455 (b) variance to reduce the gross landscape area by 2.7% creating 17.3% in lieu of the required 20%.
3. Section 27-457 (2) (a) (1) variance to reduce the perimeter landscape area by 6 feet leaving 3 feet in lieu of the required 9 feet.
4. Section 27-584 (2) variance to allow an additional monument sign.
5. Section 27-540 (c) variance to increase the maximum number of parking spaces to 56 spaces over the minimum requirement in lieu of 30 spaces over the minimum requirement.

(The gray areas above are variances that have previously been granted however; a change to the parking lot and landscape area trigger new variances.)

Background/History

The subject property is located on the south side of Atlantic Boulevard and on the west side of Penman Road in the Penman Plaza shopping center. This property is zoned C-3.

The surrounding land uses and zoning consist of R-2 zoning on the south developed with a church, C-3 zoning and the west developed as a hotel, C-3 zoning on the east developed a fast food restaurant and the property to the north is in Atlantic Beach but developed as retail.

The original shopping center (grocery store and retail space) was developed in 1994. The applicant submitted a proposed expansion of the shopping center in 2007. The proposed development order, plat and variances came before the Planning Development Review Board in November 2007. The PDRB approved two of the original variance request. In January 2008, city council upheld the PDRB recommendations for the variance request and asked the applicant to revise the site plan to come back through the process again. The plat was approved at the time. The purpose of the plat was to combine multiple lots into one lot

In February 2008, the applicant submitted a revised variance request and development order, per city council's request. Council approved the plans in April of 2008 (see meeting minutes). In October 2009, a replat was approved that subdivided the property into four lots. Basically the subdivision allowed each free standing building to be on an individual lot.

The proposed variances are required because the applicant is seeking changes to the parking lot and landscape area. **There are no proposed changes to the building size or façade.** It is important to note that an active building permit is issued based on the April 2008 development order however; since changes are being sought a revised variance request and revised development order are needed. If approved a revision will be need to the building permit as well.

This variance application is also in conjunction with preliminary development order (PDRB 09-18) for the revised development order. The proposed buildings locations and sizes are not being changed. The previously approved development order and current building permit show 38,500 sf of new retail space and 8,000 sf of office space on the second floor for a total combined shopping center size of 101,600 sf (45,500 existing grocery + 9,600 existing retail + 38,500 proposed retail + 8,000 proposed office = 101,600). The property owners also control the Tire Kingdom, Sonic and Bono's site along Atlantic Blvd. however; these are not part of the redevelopment plans.

Policy Analysis

In order for the applicant to obtain a revised development order changing the parking a few variances are necessary. It is important to note that four of the five variance request were previously approved (they are shown highlighted in gray on the first page). Since modifications to the parking lot area are request, the previously approved variances need to be revised.

Several non-conforming conditions currently exist however, with the previously approved development order and variances they were either modified or approved. Please also see the attached email from the applicant explaining lot coverage and gross landscape area calculation errors from the 2008 submission.

1. Section 27-229-1, LOT COVERAGE: This is a modification of a previously granted variance. It was increase from the required 75% to 80.9%. The applicant is now requesting a variance to exceed the maximum lot coverage by 4.6%. This variance request was previously granted however since changes are made to the parking lot it effects the lot coverage. The Unified Land Development Code (ULDC) allows up to 75% lot coverage in the C-3 zoning district. The applicant has requested a variance to increase it from 75% to 79.6%. The lot coverage is the total amount of imperious surface area. One of the main purposes for maximum lot coverage is to have enough area for drainage and space for landscaping. The applicant has approval from Saint Johns River Water Management District (SJRWMD) for the drainage plan. They also submitted revised drainage plans and calculations and were able to get a modification to the existing SJRWMD permit.

2. Section 27-455(b), GROSS LANDSCAPE AREA: This is a modification of a previously granted variance. It was a reduction from the required 20% to 16.4%. The applicant is now requesting a variance to reduce required gross area of the landscaping from the required 20% to 17.3%. This variance request was previously granted however, since changes are made to the parking lot it effects the gross landscape area. The city requires a total of 20% landscape area to help soften and improve the look of buildings and provide landscape buffers to enhance transportation corridors.

3. Section 27-457(2)(a)(1), LANDSCAPE PERIMETER: This is a modification of a previously granted variance. It was a reduction from the required 9 to 6 feet. The applicant is now requesting to reduce the required 9 foot landscape buffer down to 3 feet. The site currently has 3 feet between Atlantic Blvd and the parking lot. The applicant is requesting to keep this area as is. The Tire Kingdom and Sonic site have the required landscape buffer so the variance request is just for the area in front of Bono's and the front drive area off of Atlantic Blvd.

4. Section 27-584(2), SIGNS: The applicant is requesting a variance to allow an additional monument sign. Our code allows only one monument sign per development. The shopping center has an existing non-conforming sign along Atlantic Blvd. It is non-conforming due to the size and height. In addition, there is another non-conforming sign

for this development along Penman Road. It does not meet our height requirement and it constitutes the second sign for the development.

5. Section 27-540(c), MAXIMUM NUMBER OF PARKING SPACES FOR SHOPPING CENTER: This is a modification of a previously granted variance. It was an increase to 40 spaces over the minimum requirement. The applicant is requesting an increase in the maximum allowable parking spaces for a shopping center. Our code restricts the maximum number of parking spaces for a shopping center to no more than 25% above the required minimum or 30 spaces whichever is less. The applicant requesting 56 spaces more than the minimum requirement.

Amanda Askew

From: Timothy McClain [TimothyMcClain@flaglergroup.com]

Sent: Thursday, November 12, 2009 3:45 PM

To: aaskew@neptune-beach.com

Subject: Lot Coverage Variance

Amanda, in regards to the lot coverage percentage used in the approved April 2008 development order, the only thing that I can think of is that we were receiving numbers from the architect, civil engineer, landscaper, and the city and we apparently used a wrong number. We have triple checked our numbers for the present variance and they are correct. Sorry for the confusion.

Timothy

Timothy G. McClain
Project Manager
The Flagler Group, Inc.
3715 Northside Parkway, NW
Bldg. 300, Suite 105
Atlanta, Georgia 30327
(404) 261-3271 Ext. 223
(404) 261-5131 (fax)
timothymcclain@flaglergroup.com

APPLICATION FOR ZONING VARIANCE

THIS APPLICATION MUST BE TYPED OR PRINTED IN BLUE OR BLACK INK AND SUBMITTED
TO THE CITY OF NEPTUNE BEACH BUILDING DEPARTMENT
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266-6140
PH: 270-2400 ext 4 FAX: 270-2432

IMPORTANT NOTE: THE BOARD OF APPEALS/PLANNING AND DEVELOPMENT REVIEW BOARD, IN CONSIDERING YOUR PETITION, IS ACTING IN A QUASI-JUDICIAL CAPACITY AND ANY DISCUSSION WITH MEMBERS, OTHER THAN AT A PUBLIC MEETING IS PROHIBITED AND ANY SUCH CONTACT MAY VOID YOUR PETITION.

Date Filed: November 6, 2009	Zoning District: C3	Real Estate Parcel Number: 177653155
Name & Address of Owner of Record: Penman Plaza Associates, LTD 3715 Northside Parkway, Building 300, Suite 105 Atlanta, Georgia 30327 HM # N/A Daytime Telephone # (404) 261-3271 e-mail address		Property Address: 1229 Atlantic Boulevard Neptune Beach, Florida 32266 Number of units on property N/A Have any previous applications for variance been filed concerning this property? Yes If Yes, Give Date: February 11, 2008
Section 27-15 of the Unified Land Development Code (ULDC) defines a variance as follows: <i>Grant of relief authorized by the board of appeals, or the city council upon recommendation by the planning and development review board, that relaxes specified provisions of the Code which will not be contrary to the public interest and that meets the requirements set forth in article III, division 8 of this Code.</i>		
1. Explain the proposed relief being sought from the code(s): <ol style="list-style-type: none"> 1. 27-229-1 – A variance to increase the maximum lot coverage by 4.6% creating 79.6% of lot coverage in lieu of the 75% maximum lot coverage. 2. 27-445(B) – A variance to reduce the gross landscape area by 2.7% creating 17.3% of landscape area in lieu of the required 20% 3. 27-457(2) (a) (1) – A variance to reduce 2 areas of the perimeter landscape area by 6 feet leaving 3 feet in lieu of the required 9 feet. 4. 27-584(2) - A variance to allow an additional ground mounted sign for a total of two signs along Atlantic Boulevard 5. 27-540 (c) – A variance to increase the maximum number of parking spaces to 66 spaces over the minimum requirement of 30 spaces. 		
2. Explain the purpose of the variance (if granted)? <ol style="list-style-type: none"> 1. To allow for the proper expansion and redevelopment of Penman Plaza Shopping Center. 2. To allow for the proper expansion and redevelopment of Penman Plaza Shopping Center. 3. To allow the current landscape buffer, at three (3) feet, to remain in lieu of the required nine feet and not have to cut out existing good pavement. 4. To allow an additional ground mounted sign in order to provide sufficient area of signage to attract quality tenants to the center with proper exposure on Atlantic Boulevard. 5. To allow an increase in the number of parking spaces at Penman Plaza in order to provide the required number of spaces for existing and future tenant commitments. 		
3. Based on the required findings needed to issue a variance in Section 27-147 explain the following (attach additional sheets as necessary):		
A. How does your property have unique and peculiar circumstances, which create an exceptional and unique		

hardship?

1. The current impervious surface at Penman Plaza is already above the required 75% max lot coverage requirement. The requirement for 75% max lot coverage would make it very difficult to build the required square footage and corresponding parking to make this a successful development.
2. The demolition of the existing parking areas to create landscaped islands would disrupt business for the current tenants, the centers patrons, take away parking spaces, and possibly cause damage to utilities.
3. By keeping the three-foot buffer in lieu of the required nine feet will allow for the continued use of the adjacent driveway. An existing island with mature trees would have to be moved to gain the required nine-foot buffer.
4. Without additional signage and the reduction of the main pylon sign in the future, it will be impossible to attract quality tenants.
5. The number of parking spaces currently at Penman Plaza Shopping Center allows for a parking ratio of 4 spaces per 1,000 square feet. If the variance is not granted, we believe that a parking ratio of 3 spaces per 1,000 square feet will not allow enough parking to operate a successful Shopping Center. We have existing leases that require us to provide 5 spaces per 1,000 square feet.

B. How is the proposed variance the minimum necessary to allow reasonable use of the property?

1. In order to develop the vacant land and make Penman Plaza a viable project, we need to put 30,000 plus square feet, with its associated parking. When these are added, the project results in 85% lot coverage.
2. There is no way that Penman Plaza can reach the required 20% landscaped area due to the large amount of existing impervious area on the site that dates back to the 1960's.
3. The variance will allow for tenant visibility, parking commitments, landscape balance, and creativity to provide an aesthetically pleasing center.
4. Prospective tenants will require signage for name exposure on Atlantic Boulevard.
5. The variance will allow for a 4 to 1,000 parking ratio as opposed to a less than standard 3 to 1,000 if the variance is not granted. Our past experience in operating similar retail developments has shown that a minimum of a 4 space to 1,000 square feet ratio is necessary to operate a successful development.

C. Indicate how the proposed variance will not adversely affect adjacent or nearby properties or the public in general.

1. An increase in the lot coverage requirement will have no adverse affect on the adjacent property or the public.
2. By having this variance approved, there would be no adverse affect on the nearby properties.
3. The proposed variance is requesting to leave the existing parking lot as is, so as not to adversely affect the tenant's business, utilities, and customer parking.
4. By having this variance approved, there would be no adverse affect on the nearby properties.
5. The existing number of parking spaces, at a rate of over 4 per thousand has never shown any adverse affect.

D. Indicate how the proposed variance will not diminish property values nor alter the character of the area.

- 1-5 The proposed variances are seeking the ability to develop a center that will raise property values and greatly improve the character of the area. The ability to do this would be greatly diminished if

<p>the variances were not granted.</p>
<p>E. Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.</p> <p>1-5 The proposed variances will allow for a shopping center that will provide valuable retail and services to the community in a open, pedestrian friendly, and aesthetically pleasing environment.</p>
<p>F. Explain how the need for the proposed variance has not been created by you or the developer?</p> <p>1-5 All of the variances are for matters that have existed at Penman Plaza Shopping Center for many years.</p>
<p>G. Indicate how granting of the proposed variance will not confer upon you any special privileges that is denied by the code to other lands, buildings or structures in the same zoning district.</p> <p>1-5 The proposed variances for Penman Plaza Shopping Center will not be granting any special privileges due to the fact that the variances being sought are in line with the existing center and infrastructure that have been in place for many years.</p>
<p>4. Required Attachments-Applicant must include the following: <u>(INCOMPLETE PACKAGES WILL BE RETURNED)</u></p>
<p>A. 8 1/2" by 11" overhead site plan drawn to an appropriate scale showing the location of all existing and proposed improvements to the property and including all setback measurements from property lines. WHICH HAS NOT BEEN REDUCED.</p>
<p>B. Survey of the property certified by licensed surveyor dated within one year of application date. WHICH HAS NOT BEEN REDUCED.</p>
<p>C. Copy of Deed</p>
<p>D. Pictures of the property as it currently exists</p>
<p>5. Letter of authorization for agent to make application (Required only if not made by owner)</p>
<p>6. NON-REFUNDABLE FEE: \$250.00</p>

NO APPLICATION WILL BE ACCEPTED UNTIL ALL THE REQUESTED INFORMATION HAS BEEN SUPPLIED AND THE REQUIRED FEE HAS BEEN PAID. THE ACCEPTANCE OF AN APPLICATION DOES NOT GUARANTEE ITS APPROVAL BY THE BOARD OF APPEALS. THE APPLICANT AND SURROUNDING PROPERTIES WILL BE NOTIFIED OF THE PUBLIC HEARING BY MAIL AND POSTING OF THE PROPERTY. THE APPLICANT OR HIS/HER AUTHORIZED AGENT MUST BE PRESENT AT THE MEETING.

IN THE EVENT THAT THIS VARIANCE REQUEST IS GRANTED, 30 DAYS MUST PASS BEFORE ANY REQUISITE BUILDING PERMITS CAN BE RELEASED, IN ORDER TO ALLOW TIME FOR APPEALS.

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE INFORMATION CONTAINED IN THIS APPLICATION. THAT I AM THE PROPERTY OWNER OR AUTHORIZED

AGENT FOR THE OWNER WITH AUTHORITY TO MAKE THIS APPLICATION, AND THAT ALL OF THE INFORMATION CONTAINED IN THIS APPLICATION, INCLUDING THE ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HEREBY APPLY FOR A ZONING VARIANCE AS REQUESTED.

NAME (S) OF PROPERTY OWNER (S)

NAME OF AUTHORIZED AGENT

PEUMAN PLAZA ASSOCIATES, LTD.

ADDRESS OF PROPERTY OWNER
3715 NORTHSIDE PARKWAY
BLDG 300, STE 105

ADDRESS OF AUTHORIZED AGENT

ATLANTA, GA 30327

SIGNATURE OF OWNER OR AUTHORIZED AGENT:

PRESIDENT OF CONSOLIDATED MEDICAL PROPERTIES - IT'S GENERAL PARTNER

BELOW THIS LINE FOR CITY USE ONLY.

BOARD PUBLIC HEARING DATE:	BOARD DECISION:
	APPROVAL DENIAL

VARIANCES

V08-03
Penman Plaza

VARIANCE REQUEST V08-03 – PENMAN PLAZA ASSOCIATES, 1209, 1223, 1301 ATLANTIC BOULEVARD:

- Variance Request # 1 Section 27-229-1, a variance request to increase the maximum lot coverage by 5.9%, creating 80.9% in lieu of the 75% maximum lot coverage.
- Variance Request # 2 Section 27-455(b), a variance request to reduce the gross landscape area by 3.6%, creating 16.4% in lieu of the required 20%.
- Variance Request # 3 Section 27-457(2)(a)(1), a variance request to reduce the perimeter landscape area by 3 feet leaving 6 feet in lieu of the required 9 feet.
- Variance Request # 4 Section 27-459(3)(a)(1), a variance request to omit the shade trees in 9 foot landscape buffer.
- Variance Request # 5 Section 27-457(2)(b)(2), a variance request to wave the requirement of one landscape island per 10 parking spaces for all existing parking areas.
- Variance Request # 6 Section 27-459(b)(3), a variance request to wave the required six foot masonry wall between commercial and single-family.
- Variance Request # 7 Section 27-540(C), a variance request to increase the maximum number of parking spaces to 52 spaces over minimum requirement in lieu of the thirty spaces over minimum requirement.

Moved by Pruette, seconded by Lee.



Motion: TO APPROVE VARIANCES NUMBER 1 THROUGH 4, 6 AND 7.

Mayor Brown stated the development order involved removing the old Neptune Theater and constructing an attractive shopping center. He explained the reason the variance requests were required was because the building and landscaping were nonconforming.

Councilor Weldon asked the representative for the developer to come forward and address the Council.

Mr. Timothy McClain, representative for Penman Plaza, addressed the Council and explained since the previous council meeting they had met with city staff regarding plans and landscaping. They also hired a landscaping architect to address landscaping requirements. They also met with representatives for Christ United Church and Winn Dixie regarding the new development.

For the Record Councilor Weldon stated for the record since the previous council meeting he had not spoken with representatives for Penman Plaza. He disagreed with the variance requests for maximum lot coverage and landscaping. He was concerned about water runoff and nitrogen extraction. He was also concerned the variance requests would be utilized to construct out parcels. He asked if the owners would agree to bring the shopping center into compliance with impervious surface and landscaping requirements if they were to construct out parcels in the future. Mr. McClain agreed for the record they would bring the impervious surface and landscaping requirements into compliance if out parcels were built in the future.

Council Weldon stated he was also concerned about the signage not being addressed in the

development order. He explained within six years all existing pole signs within the city would be required to be removed. Mr. McClain stated he was aware of the sign ordinance and had already removed the Neptune Beach Theater pole sign. He added that he was under lease agreement with existing tenants regarding signage.

City Attorney White asked when the lease with Winn Dixie would expire. Mr. McClain replied the current lease agreement with Winn Dixie Stores expired in 2015. City Attorney White asked if there was a clause in the lease agreement relating to governmental regulations. Mr. McClain replied there was such a clause within the agreement.

Councilor Pardee felt signage was not an issue concerning the motion that was currently on the floor. He asked for discussion to move forward.

Councilor Weldon asked Mr. McClain if he acknowledged the variances would not be transferable and if he made any changes to the plans they would have to start the development process over. Mr. McClain acknowledged if they changed the plans they would have to return to Council for approval. He added they did not intend to have any major changes to the plans and they were trying their best to stay in compliance.

For the Record Councilor Weldon asked Mr. McClain for the record if they were to build a smaller center if they would attempt to improve the variance percentages. Mr. McClain responded for the record "yes"

Mr. William McClain, representative for Penman Plaza, stated if Councilor Weldon was suggesting they bring the center into total compliance if they had to make minor changes to the footprint to accommodate a tenant that did not include changing the façade or the square footage then the answer to the question would be "no". Councilor Weldon stated that was not the intention.

Councilor Weldon stated if they were to decide to build a smaller building if they would agree to bring the overall numbers into compliance. Mr. William McClain stated if they made any changes to the plans they understood they would have to return to the Council for approval therefore, he was not sure he wanted to make that commitment.

Mayor Brown stated that it was correct that the Council would have to approve any changes that were made to the development order.

Mr. William McClain stated they would like to have the ability to change the shapes of some of the buildings in order to accommodate new tenants. City Manager Jarboe explained if the size was substantially changed the building plans would not match the development order and the building official would not be able to move forward without approval from Council and therefore the applicant would need to go back through the development process. Mr. William McClain explained they understood they would need to go back through the development process if that were the case.

Councilor Weldon stated he wanted everyone to agree that the impervious surface and landscaping requirements would be revisited if major reductions in square footage were made.

Janet Whitmill, Landscape Architect for the developer, explained when the building was built in 1964 it met all requirements. Most of the non-compliance issues dealing with the development order were incompatible land use square footages that could not be met with the ability to move the trucks in the rear of the structure. The site plan shows the Winn Dixie, Aarons, and the Neptune Theater did not have sufficient green space. She explained the proposed site plan reduced parking spaces at the Tire Kingdom site and along Atlantic Boulevard. The new parking spaces that were being introduced would be pervious pavement.

Councilor Lee wanted to clarify if the size of the building substantially changed in square footage they would have to go back through the development order process. However, changes in the shape in order to attract proposed tenants did not substantially change or

reduce the size of the structure and would not require a new development order.

Vice Mayor Pruette questioned when they would be demolishing the old theater. Mr. McClain replied as soon as they received Council approval and met with the contractor.

City Manager Jarboe stated the only reason Code Enforcement action has not been taken was because there was a pending development order and it would be their best interest to demolish the building as soon as possible.

Councilor Pardee felt the Council was setting a precedent for future development by asking them to bring the non-compliances into compliance if they were to add out parcels. He asked the applicants if they were willing to comply with variance request number five. Mr. McClain stated they were confused about how variance request number five was omitted. Councilor Pardee asked to call the question.

Mayor Brown stated the question had been called if no one had any objections.

Councilor Weldon stated he objected to calling the question.

Mayor Brown stated "calling the question" was a parliamentary procedure and could not be debated. He asked City Clerk Lisa Volpe to record the vote for "calling the question".

Roll Call Vote:

Ayes: 3 – Pardee, Pruette, Brown

Noes: 2 – Lee, Weldon

MOTION CARRIED TO CALL THE QUESTION ON THE ABOVE MOTION

Roll Call Vote:

Ayes: 5 – Lee, Pardee, Pruette, Weldon, Brown

Noes: 0

MOTION CARRIED

Moved by Pruette, seconded by Pardee.



Motion: TO APPROVE VARIANCE REQUEST NUMBER 5.

Community Development Director Amanda Askew explained the Planning & Development Review Board recommended denial of variance number five because a few of the board members indicated the existing parking spaces could easily be converted into required landscape islands.

Mayor Brown felt some of the existing shopping center grandfathered benefits were being lost because of the expansion.

Councilor Pardee asked Mrs. Askew what percentage of the expansion made the entire site have to be brought up to today Code. Mrs. Askew replied any time gross square footage was added to an existing non-conforming site the entire site had to be brought up to Code.

For the Record Councilor Lee stated for the record the only place that could be changed at this point was to add islands in two sections. That would require removing the existing parking lot and putting an island next to Bono's Bar-B-Que.

For the Record Councilor Pardee stated for the record he was adamantly opposed to the Code being applied in this manner.

Mayor Brown agreed the Code was very unfriendly to businesses and required unnecessary

expenditures.

Vice Mayor Pruette stated she would like to see the shopping center developed as soon as possible. She felt the improvements would compliment the community.

Councilor Lee also felt the development would compliment the community and asked Mr. McClain how soon they could begin construction. Mr. McClain replied they would like to begin as soon as possible.

Roll Call Vote:

Ayes: 4 – Lee, Pardee, Pruette, Brown

Noes: 1 – Weldon

➔ MOTION CARRIED

Development Order
Penman Plaza

APPROVAL OF THE DEVELOPMENT ORDER FOR PENMAN PLAZA ASSOCIATES, 1209, 1223, AND 1301 ATLANTIC BOULEVARD

Moved by Pruette, seconded by Lee.

Motion: TO APPROVE THE DEVELOPMENT ORDER FOR PENMAN PLAZA AS RECOMMENDED BY THE PLANNING & DEVELOPMENT REVIEW PLAN AND RETURN TO THE COUNCIL REGARDING THE SIGNAGE.

Councilor Weldon asked Mr. McClain if they intended to comply with the sign ordinance within the next five to six years. Mr. McClain felt he could not legally answer that question due to tenant lease agreements.

Councilor Weldon was concerned about the pine trees on the landscape plan and asked if they would replace them with palm trees. Ms. Whitmill replied she had no objection to changing the pine trees to palm trees.

Councilor Weldon questioned how the Church felt about not having a concrete barrier wall. He added that it was not up to the church to decide whether or not the barrier wall was required because the property could be sold and redeveloped in the future. Mr. McClain stated the Church was satisfied with having a chain link fence with privacy slats in lieu of a concrete barrier wall as long as the privacy slats were maintained.

Roll Call Vote:

Ayes: 5 – Lee, Pardee, Pruette, Weldon, Brown

Noes: 0

➔ MOTION CARRIED

ORDINANCES

Ord. No. 2008-05

ORDINANCE NO. 2008-05, AMENDING CHAPTER 27, SECTION 27-227, FIRST READ: AN ORDINANCE OF THE CITY OF NEPTUNE BEACH, FLORIDA AMENDING CHAPTER 27 UNIFIED LAND DEVELOPMENT REGULATIONS SECTION 27-227 SPECIAL RESTRICTIONS AND CONDITIONS ON ALLOWABLE USES WITHIN ZONING DISTRICTS(B)(5) RETAIL, GENERAL AND PROVIDING AN EFFECTIVE DATE.

Mayor Brown explained this ordinance would allow business to conduct eight outdoor sales per year in lieu of the three.

Vice Mayor Pruette felt businesses should have more flexibility with outdoor sales.

Councilor Weldon questioned if the ordinance had been recommended for approval by the