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Zoning & Building**

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**Palm Beach County  
Board of County  
Commissioners**

Tony Masilotti, Chairman

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Jeff Koons

Warren H. Newell

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**MEMORANDUM**

**TO:** Wesley Blackman, Chairman, and  
Members of the Land Development Regulation Advisory Board  
(LDRAB)

**FROM:** William Cross, Senior Planner  
Planning, Zoning and Building (PZB) Department

**DATE:** February 2, 2005

**RE: Wednesday, February 9, 2005 LDRAB Agenda and Attachments**

Please find attached the agenda and supporting materials to assist you in preparing for the LDRAB meeting on Wednesday, February 9, 2005. The meeting will be held at 4:00 pm. in the PZB 4<sup>th</sup> Floor Conference Room, 100 Australian Avenue, West Palm Beach, Florida.

Please bring your copies of the Unified Land Development Code (ULDC) to facilitate the review of the proposed amendments.

If you should have any questions and/or require additional information, please contact me at (561) 233-5206 or Izabela Aurelson, Planner I, at (561) 233-5213.

**Attachments:**

1. February 9, 2005 LDRAB Agenda
2. Attachment A – January 5, 2004 LDRAB Minutes
4. Attachment B – Loxahatchee Groves Moratorium Ordinance

BC/ia

c: Barbara Alterman, Esq., Executive Director, PZB  
Lenny Berger, Assistant County Attorney  
Jon MacGillis, Interim Zoning Director  
Robert Buscemi, R.A., Principal Planner, Zoning  
Isaac Hoyos, Principal Planner, Planning

Ref: U:\zoning\CODEREV\2005\LDRAB\Meetings\Feb. 9\2-9 mtg memo.doc

# **AGENDA**

## **PALM BEACH COUNTY LAND DEVELOPMENT REGULATION ADVISORY BOARD LAND DEVELOPMENT REGULATION COMMISSION FEBRUARY 9, 2005**

### **BOARD MEMBERS**

**Wes Blackman, AICP Chair**

**D. J. Snapp, III, Vice Chair**

**Joanne Davis**

**Barbara Katz**

**Ron Last, P.E.**

**Barbara Suflas Noble**

**John Glidden, R.A.**

**Rosa Durando**

**Stephen Dechert**

**Wayne Larry Fish, P.S.M.**

**Martin Klein, Esq.**

**Maurice Jacobson**

**David Carpenter, RLA**

**Brian Waxman, Esq., Alternate**

**Frank Palen, Esq., Alternate**

**Tony Masilotti  
Chair, District 6**

**Addie L. Greene  
Vice Chair, District 7**

**Karen T. Marcus  
Commissioner, District 1**

**Jeff Koons  
Commissioner, District 2**

**Warren H. Newell  
Commissioner, District 3**

**Mary McCarty  
Commissioner, District 4**

**Burt Aaronson  
Commissioner, District 5**



**Robert Weisman  
County Administrator**



**LAND DEVELOPMENT REGULATION ADVISORY BOARD (LDRAB)  
LAND DEVELOPMENT REGULATION COMMISSION (LDRC)  
Wednesday, February 9, 2005 AGENDA  
100 Australian Avenue  
4<sup>th</sup> Floor Conference Room, 4:00 p.m.**

- A. Call to Order/Convene as the Land Development Regulation Advisory Board (LDRAB)
  - 1. Roll Call
  - 2. Additions, Substitutions and Deletions
  - 3. Motion to Adopt Agenda
  - 4. Adoption of January 5, 2005 Minutes (Attachment A)
- B. ULDC Amendments
  - Attachment B Loxahatchee Groves Moratorium – (Proposed Amendments to Article 2, Development Review Process)
- C. Convene as the Land Development Regulation Commission (LDRC)
  - 1. Proof of Publication
  - 2. Consistency Determinations
- D. Reconvene as the Land Development Regulation Advisory Board (LDRAB)
- E. Public Comments
- F. Staff Comments
- G. Adjourn

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PALM BEACH COUNTY  
LAND DEVELOPMENT REGULATION ADVISORY BOARD

Wednesday, January 5, 2005  
2:10 p.m. - 4:15 p.m.  
100 Australian Avenue  
West Palm Beach, Florida

Reporting:  
  
Ed Flaxman  
Court Reporter  
York Stenographic Services, Inc.

ATTENDEES

Wesley Blackman, Chairman

D.J. Snapp, III, Vice Chair

Barbara Katz

Barbara Suflas Noble

Rosa Durando

Wayne Larry Fish, P.S.M.

Maurice Jacobson

Brian Waxman, Esq.

Frank Palen, Esq.

Joanne Davis

Stephen Dechert

Martin Klein, Esq.

David Carpenter, RLA

Izabela Aurelson, Planner I

William Cross, Senior Planner

Robert Buscemi, Principal Planner

Jon MacGillis, Interim Zoning Director

Lenny Berger, Assistant County Attorney

Bruce Thomson, Senior Planner

Isaac Hoyos, Principal Planner

1		<u>INDEX</u>	
2			
3	<u>Item</u>		<u>Page</u>
4			
5	B	ULDC Amendments - Big Box Ordinance	5
6			
7			
8			
9			
10			
11			
12			

P R O C E E D I N G S

CHAIRMAN BLACKMAN: We're going to get started. We do have a quorum, it appears. So, welcome. This is the Land Development Regulation Advisory Board, Land Development Regulation Commission. The date is Wednesday, January 5, 2005. The secretary will call the role.

MS. AURELSON: Wes Blackman.

CHAIRMAN BLACKMAN: Here.

MS. AURELSON: D.J. Snapp.

(No response)

CHAIRMAN BLACKMAN: I think he will be here.

MS. AURELSON: Barbara Katz.

MS. KATZ: Here.

MS. AURELSON: Barbara Noble.

MS. NOBLE: Here.

MS. AURELSON: Rosa Durando.

MS. DURANDO: Here.

MS. AURELSON: Wayne Larry Fish.

(No response)

MS. AURELSON: Maurice Jacobson.

MR. JACOBSON: Here.

MS. AURELSON: Brian Waxman.

(No response)

MS. AURELSON: Frank Palen.

MR. PALEN: Here.

MS. AURELSON: Joanne Davis.

(No response)

MS. AURELSON: Ron Last.

(No response)

MS. AURELSON: John Glidden.

(No response)

MS. AURELSON: Stephen Dechert.

MR. DECHERT: Here.

MS. AURELSON: Martin Klein.

MR. KLEIN: Here.

MS. AURELSON: David Carpenter.

MR. CARPENTER: Here.

CHAIRMAN BLACKMAN: Okay. Thank you. Any additions, substitutions or deletions to the agenda? Staff, do you have anything? Any additions, deletions, substitutions, staff have anything?

MR. CROSS: There's a small change we'll read into the record on caps when we get to that page.

CHAIRMAN BLACKMAN: Okay. Anything else from the Board?

(No response)

CHAIRMAN BLACKMAN: Seeing none...

MR. MACGILLIS: I would just like to note we have a court reporter here. We've had some of the agencies ask us because of their concern with some of the motions and the details at some of these meetings so when it's critical you're making a motion on something you state your name for the record so we can catch that on the minutes. And especially because this is a Big Box. It's new text language. We want to make sure we actually have a record of this. That's why we have a court reporter here. We will not have them for every meeting but when we do we just -- if the Chair could make sure when the motions are made, and we don't have people

1 talking because it's very difficult for the court  
2 reporter to get the verbatim straight.

3 MR. JACOBSON: Does that mean in the past we  
4 were not recorded? Weren't we recorded?

5 MR. MACGILLIS: You were recorded but we had a  
6 court reporter for a while, and then we did away with it.  
7 We're bringing them back whenever we think it's a  
8 critical issue.

9 MR. JACOBSON: Very well.

10 MS. AURELSON: Actually before we begin this  
11 meeting I would to introduce our new division secretary.  
12 Her name is Leticia Stinson, and we are extremely excited  
13 to have her on board. You know that we had a vacancy for  
14 a few months now, and we've had a series of temporary  
15 secretaries that replaced Jane Bilka [ph], and now we are  
16 very happy that finally we have our permanent secretary  
17 for the section.

18 CHAIRMAN BLACKMAN: Okay, great. Welcome.  
19 Okay. Do we have a motion to accept the December 9<sup>th</sup> 2004  
20 minutes?

21 MR. JACOBSON: So moved.

22 CHAIRMAN BLACKMAN: Okay. Moved by Maury. Is  
23 there a second?

24 MR. KLEIN: Second.

25 CHAIRMAN BLACKMAN: A second by Martin Klein.  
26 Discussion?

27 (No response)

28 CHAIRMAN BLACKMAN: Seeing none, those in  
29 favor, aye.

30 BOARD MEMBERS: Aye.

31 CHAIRMAN BLACKMAN: Those against, same sign.

32 (No response)

33 CHAIRMAN BLACKMAN: Motion passes. Moving on  
34 to adoption of December 9 minutes. We have those in our  
35 packet. Is there a motion to accept?

36 MR. JACOBSON: So moved.

37 MR. KLEIN: Second.

38 CHAIRMAN BLACKMAN: Motion by Maury. Second by  
39 Marty Klein. Discussion?

40 (No response)

41 CHAIRMAN BLACKMAN: Seeing none, those in  
42 favor, aye.

43 BOARD MEMBERS: Aye.

44 CHAIRMAN BLACKMAN: Those against, same sign.

45 (No response)

46 CHAIRMAN BLACKMAN: Motion passes.

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48  
49  
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52  
53 CHAIRMAN BLACKMAN: Moving on, under ULDC  
54 amendments, Attachment B, Big Box Ordinance. The format  
55 of this just for the benefit of the audience, we'll have  
56 a presentation by staff that will essentially recite the  
57 history of what has transpired since our last meeting, go  
58 over the packet materials, go through the proposed  
59 changes to the ordinance. We'll then entertain questions  
60 from the Board of staff, and any comments from the  
61 committee members that may be present, and then we'll  
62 take public comment.



1 And I do have your cards here. If you wish to  
2 make a public comment, we'd appreciate you fill out a  
3 yellow card. So with that, we'll turn it over to staff.

4 MR. MACGILLIS: I'll just give a brief  
5 introduction before I turn it over to Bill Cross. First  
6 of all, I'd like to wish everybody a Happy New Year and  
7 thank you for all your hard work last year on the 2004  
8 amendments, especially those members that were on our  
9 subcommittee because there were a lot of meetings going  
10 on in December to get the Big Box ticks language finished  
11 so we'd like to express our appreciation for that.

12 Where we are with the Big Box, I wasn't at the  
13 meeting when this was introduced but I just want to go  
14 into some of the history. The Board of County  
15 Commissioners directed staff to develop a Big Box  
16 ordinance. Over the last year and a half they've been  
17 getting five or six projects that's come in, and that  
18 involves a lot of staff time negotiating stuff out with  
19 developers and trying to get the best product, and the  
20 public has to be coming to a lot of the public hearings  
21 because they don't know what the end result is so the  
22 Board directed staff now that we had enough come in the  
23 system, we should be able to now sit down and draft the  
24 regulations.

25 This is really the first new text we've had  
26 other than all the glitches that you've seen in the last  
27 year. At the last meeting in December you directed staff  
28 to go back and look at some of the standards specifically  
29 on the size, the access to the building, and the  
30 landscaping and the architecture. We've done that.  
31 There were three subcommittee meetings held with staff,  
32 input from industry and the subcommittee members. At  
33 that meeting industry's main concerns were, and I know  
34 there's members in the public that hopefully they have a  
35 copy of the ordinance and through their participation  
36 we've addressed their concerns, the size of the stores.

37 They're concerned that the cap of 200,000 is  
38 not going to allow some of the flexibility they want with  
39 some prototypes they're currently designing, so when we  
40 get to that item there you'll see there was an attachment  
41 put on it, the language that actually the LDRAB  
42 subcommittee recommended that we present to the full  
43 Board as far as allowing it to go up to 225,000 as an  
44 exception.

45 The second thing was the architecture, and I  
46 think we resolved most of the architecture with the  
47 details on the actual façade facing the parking lot or  
48 the street and the side A which is the secondary  
49 entrance. There was a lot of articulation and  
50 projections and recesses and stuff added. And what we  
51 added in there was what industry was concerned with and  
52 some of the subcommittee members was flexibility, not  
53 just having every store look alike, so some of the  
54 illustrations we have here that were submitted by  
55 industry and other stores they're building, we tried to  
56 incorporate that in. And when you see the chart that's  
57 in the ordinance actually Bill Cross will walk you  
58 through that to see how that allows that flexibility.

59 As far as the access, I think we worked this  
60 out. Industry still has some concerns with the two  
61 access points but the only way staff feels that the  
62 parking will work and the walking distance requirement in

1 the code of the 600 feet from the main entrance to the  
2 building you need that side parking lot on these Big Box  
3 stores. Many of the big stores that are coming in that  
4 we've reviewed have that second entrance. They were  
5 concerned with the hours of when that has to stay open,  
6 that second entrance, and we've actually accommodated  
7 that in the language.

8 I think the landscaping, I think there was an  
9 agreement on that, and I think that's really it. And  
10 what will happen today, whatever the motion is today,  
11 this will be sent on -- this is actually up for first  
12 reading in front of the Board of County Commissioners  
13 tomorrow. The second reading will be on January 27.  
14 Other than that, I can turn it over to Bill unless  
15 there's any questions.

16 CHAIRMAN BLACKMAN: Yes, Maury, go ahead.

17 MR. JACOBSON: I had one question. You spoke  
18 about industry being involved but I felt that the public  
19 was involved too, albeit it might have been singular or  
20 what it might have been there was public representation,  
21 and I think that ought to be part of your statement.

22 MR. MACGILLIS: Good point.

23 CHAIRMAN BLACKMAN: Do you just want to  
24 indicate the makeup of the committee? I know Barbara  
25 Katz, you were in on the meetings and were there any  
26 other public present besides people that are associated  
27 with this Board?

28 MR. MACGILLIS: I have a list here. Sandy  
29 Greenberg, Barbara Katz, Chuck Bell with the Green Team,  
30 Inc., Derrick Cave with Kimley-Horn Associates, Scott  
31 Flora, Creech Engineers, Inc., Kim Glas Castro with Ruden  
32 McCrosky, Chris Tellman, representing Lowe's, Martin  
33 Klein, LDRAB member, Larry Fish, Maury, Geoff Sluggett,  
34 Marcy Tinsley with Curl Corporation, and John Glidden.

35 CHAIRMAN BLACKMAN: Okay. Bill, do you want to  
36 lead us through the ordinance then?

37 MR. CROSS: Okay. I'll be brief on some of the  
38 changes that we talked about. During the LDRAB  
39 subcommittee meeting, Jon pretty much summarized all of  
40 them. The key thing that we want to talk about is on  
41 Attachment B, page 1 of 6 of the actual proposed  
42 ordinances. The first item is entirely new language that  
43 was proposed for architectural and square footage  
44 limitations of the site. If you look down at the bottom  
45 of the page we have Table 5.C.1.I.1-12. That table  
46 essentially summarizes all the proposed changes that  
47 would be addressing Big Box development in Palm Beach  
48 County.

49 There were some minor changes made during the  
50 architectural subcommittee to this table which  
51 subsequently was made to the remainder of the document so  
52 again this table summarizes the text in the document or  
53 provides specific detail for measurements, percentages,  
54 lengths. One of the main items that was changed is we  
55 added at the bottom of the table just a row that says  
56 perimeter buffers so that it properly refers you to  
57 landscape perimeter buffer section. Everything else is  
58 essentially within the architectural guidelines section  
59 of the ULDC as proposed language here.

60 Moving to page 2 of 6, I wanted to read into  
61 the record the minor change we had. We had made several  
62 changes to some of the architectural proposals -- the

1 proposed language in accordance with industry and  
2 architectural subcommittee input. These are essentially  
3 very minor changes from the drafts that were circulated  
4 last month. However, one of the main changes was in the  
5 middle of the page was b.2.(a)(1) under fenestration  
6 details for windows. We had written here a minimum of 70  
7 percent of windows on front and side. A façade shall be  
8 transparent or window box display. This should have been  
9 written per architectural subcommittee recommendation to  
10 indicate or window box displaying only merchandise. The  
11 architectural subcommittee was very adamant about not  
12 wanting to see a lot of advertising or other extraneous -  
13 - not I'd say visually friendly material being in open  
14 windows because they wanted to make sure that if they had  
15 clear windows that it was limited to display or display  
16 box with merchandise only. Other than that, moving on...

17 MR. CARPENTER: I have one question. We talked  
18 last time about windows in the back. Remember we had a  
19 discussion? Is that...

20 MR. CROSS: The provisions for the rear of the  
21 building?

22 MR. CARPENTER: Yeah.

23 MR. CROSS: If you go back to page 1 of 6.

24 MR. CARPENTER: Okay.

25 MR. CROSS: Where we have rear. We removed the  
26 recesses and projections requirement for the rear façade.  
27 That's the second row of that table.

28 MR. CARPENTER: Okay.

29 MR. CROSS: We also had mistakenly put it under  
30 windows and that's also indicated as not required now so  
31 there are no real windows required.

32 MR. CARPENTER: Okay.

33 MR. CROSS: Okay. The same thing for walkways.  
34 That was there before. But I think we had one other  
35 change, and that was in the urban suburban tier only  
36 there is no requirement in the current code language for  
37 rear foundation planning. We had pushed 20 percent. We  
38 still would like to push the 20 percent requirement. We  
39 feel that they can adequately provide this around their  
40 loading zones or the rear building façade or employee  
41 entrances with minimal problem. We would like to point  
42 out, however...

43 MR. CARPENTER: 20 percent of the length to  
44 have foundation planting.

45 MR. CROSS: Right.

46 MR. CARPENTER: Okay.

47 MR. CROSS: Two things I want to point out.  
48 Number 1, the most current BCC conditions of approval for  
49 these types of facilities have been 50 percent for the  
50 rear so we're saying 20 percent in the proposed code  
51 language but there should be no misunderstanding that in  
52 all probability the BCC will probably condition it to 50  
53 percent. We're just setting the base line here. Again,  
54 urban suburban tier only. All other tiers have, I think,  
55 somewhere in the range from 40 to 60 percent required  
56 minimum where a foundation planning requirement, urban  
57 suburban tier of 20 percent base line.

58 Okay. Moving on to page 3 of 6 we had some  
59 minor changes to the pedestrian amenities section. We  
60 had originally recommended 3 for 100,000 which we had  
61 rewritten as 1 per 33,000 square feet. We reduced that  
62 to essentially be just 1 per 50,000 square feet, and this

1 is essentially a doubling of the current architectural  
2 guidelines requirement which is 1 per 100,000 so now  
3 we're only specifically doubling that requirement.

4 Other additional changes on this page. I know  
5 that we're going to -- it's been pointed out that we  
6 might have some discussion later on. Parking, we can  
7 discuss that and respond to that at a later time in a  
8 location that require parking. Page 4 of 6, again the  
9 graphic to that effect. I'll wait to comment on that  
10 pending input from the public. The remainder of page 4  
11 and 5 and 6 is the landscaping requirements. As Jon  
12 indicated, we seem to have some decent compromise with  
13 industry. I'll wait and expect more comments on that,  
14 and perhaps we'll discuss that further. I'll wait to  
15 respond to that as well.

16 CHAIRMAN BLACKMAN: Anything else, Bill?

17 MR. CARPENTER: I have a question.

18 CHAIRMAN BLACKMAN: Okay. Yes, Dave. Go  
19 ahead.

20 MR. CARPENTER: Under the -- on page 3 under  
21 pedestrian amenities two pedestrian pathways. Is that  
22 what we decided at the last meeting? Was it two? Okay.

23 MR. CROSS: I want to point out this is  
24 different from what is already required for a PDD, which  
25 is every parking space in excess of 400 feet from the  
26 point of entrance to the building would have to have a  
27 pedestrian pathway so this requires two but if there are  
28 parking spaces in excess of 400 they may be required to  
29 provide more than two.

30 MR. CARPENTER: More than 400 parking spaces?

31 MR. CROSS: No, no. Parking spaces that are  
32 located more than 400 feet from the building. I think we  
33 had some very detailed conversations about that graphic a  
34 couple months ago.

35 MR. CARPENTER: Right.

36 MR. JACOBSON: It was 600 feet, wasn't it?  
37 Wasn't it 600 feet as the maximum distance? The maximum,  
38 right?

39 CHAIRMAN BLACKMAN: Okay, yes. Jon.

40 MR. MACGILLIS: Mr. Chairman, under the  
41 pedestrian a thing that did come up that I failed to note  
42 that the subcommittee, especially Mr. Glidden,  
43 unfortunately he's not here, and I think somebody from  
44 industry, they wanted some weight system given to the  
45 pedestrian amenities. For a clock tower they wanted some  
46 type of -- that got two points, and a plaza got one, and  
47 unfortunately staff at this point due to the timing and  
48 stuff we just didn't feel we had enough time to  
49 incorporate that stuff in here.

50 CHAIRMAN BLACKMAN: It's a little bit  
51 intricate.

52 MR. MACGILLIS: Yeah. I mean we don't have a  
53 problem. That's a direction we can work on in 2005 as we  
54 go through the next round of changes but staff has  
55 indicated that most of the time they're working these  
56 things out. They're getting the clock towers. They're  
57 getting the nice plazas on these large box stores, so it  
58 didn't seem to be an issue so staff at this point would  
59 like it to go the way it is here now.

60 CHAIRMAN BLACKMAN: Okay. Any other questions  
61 of staff here regarding these changes? Yes, Larry.

1           MR. FISH: Is this going to apply to a project  
2 coming in that's a redo of an existing grocery store like  
3 in CLU if you came in with a grocery store that was  
4 55,000 feet already and you wanted to add space to it,  
5 would you now have to bring it through all this to bring  
6 your shopping center up to code?

7           MR. MACGILLIS: No. At the beginning of the  
8 architectural ordinance it says where the architecture  
9 standards apply. That was one of the big issues when we  
10 brought the architectural standards in industry and the  
11 Board was concerned what that applied to so there is a  
12 provision right at the front where it says applicability.  
13 It states unless you're renovating an existing shopping  
14 center more than 70 percent of the assessed value of that  
15 center then the architecture standard which these are  
16 part of would then kick in. As far as any site  
17 improvements I think it's 30 percent on the site  
18 improvements where it would kick in.

19           MR. FISH: This is for new applications of Big  
20 Boxes?

21           MR. MACGILLIS: Exactly. You are completely --  
22 to get something up to 70 percent you're more or less  
23 gutting the entire shopping center, and that's how we  
24 apply it to the architectural standards today.

25           CHAIRMAN BLACKMAN: Okay. Barbara.

26           MS. NOBLE: One quick question. Again on  
27 attachment one, I just want to reiterate that the staff  
28 so far there are no existing or proposed single tenant  
29 buildings in unincorporated Palm Beach County that exceed  
30 200,000 square feet at this time? I'm just looking at  
31 Attachment 1.

32           MR. MACGILLIS: I think there's one that  
33 actually after staff did further research, I think it's  
34 over by 1,000 square feet.

35           MR. BUSCEMI: And the reason being is that  
36 there's 14,000 foot mezzanine level.

37           MR. MACGILLIS: And second floor square  
38 footage.

39           MS. NOBLE: Oh, okay. So there isn't one with  
40 a footprint of -- okay.

41           MR. FISH: But is there not another applicant  
42 that has a project coming in that's over 200,000?

43           MR. MACGILLIS: Not in the system so far. I  
44 think the only Big Box that's pending -- I don't know if  
45 Maryann is here. I don't see Maryann here. The Lowe's  
46 on Okeechobee is the only one that I know that's pending,  
47 and that's below the 200,000.

48           CHAIRMAN BLACKMAN: Okay. Any other questions  
49 of staff here?

50           CHAIRMAN BLACKMAN: Yes, Rosa.

51           MS. DURANDO: In the requirement for --  
52 planting requirements, is it understood that we are  
53 talking native plants as opposed to exotic or is that  
54 mentioned at all?

55           MR. MACGILLIS: Well, that's part of the  
56 regular landscape code. Anything in here that's above  
57 and beyond the minimum code requirement so in the  
58 landscape code depending on what tier you're in it  
59 dictates -- you know, if you're in the rural or the ex-  
60 urban rural or glades tier the increase in native is -- I  
61 think it's 70 percent -- 60 percent.

1           MS. DURANDO: Again the language one tree or  
2 palm, are we still allowing a real tree to be substituted  
3 by one palm?

4           MR. CROSS: There's a percentage of trees that  
5 would be allowed to be substituted by palms. I believe  
6 it's 25 percent of required right-of-way canopy trees to  
7 be substituted by palm trees.

8           MS. DURANDO: By a single palm? You're  
9 allowing a single palm? A single palm tree can be  
10 considered a tree requirement?

11           MR. MACGILLIS: Well, that's a lot of right-of-  
12 way because there are certain palms that are actually  
13 like the Bismark palm or the Phoenix that are actually  
14 large or rural palm where up to 25 percent of the  
15 required trees you're allowed along that right-of-way can  
16 be substituted, 25 percent of the required trees as  
17 palms. That just allows visibility into the site and it  
18 allows more diversity on the plant materials so you'll  
19 have clusters of royals and then the oaks, and it allows  
20 the oaks and stuff to fill out. And what you're  
21 referring to here was more for the foundation planning,  
22 that requirement where you have a mixture of like  
23 small...

24           MS. DURANDO: Where it says one tree or palm  
25 every 15 feet of façade.

26           MR. MACGILLIS: Yes, that's along the  
27 foundation planting so a lot of times you cannot get a  
28 shade tree in there. You're normally a small flowering  
29 tree.

30           MS. DURANDO: Right, but I would think that you  
31 have a cluster of palm trees if that's what you're going  
32 to allow.

33           MR. MACGILLIS: Well, not necessarily because  
34 you're going to have Alexander palms that besides the  
35 cluster on the root system you can't really cluster them  
36 in because the buffer is only 15 feet of the foundation.  
37 This is what we've been conditioning with the Board. And  
38 the sites that you see, the large Wal Mart over on  
39 Belvedere and some of the other sites that have already  
40 been constructed, I mean it's foundation planting that  
41 looks good and it's working. It allows the hierarchy  
42 along the foundation accenting the architecture and the  
43 signage on the building, and they're not out there  
44 chopping it all down because you have large shade trees  
45 that are obstructing the pedestrian sidewalk and the  
46 architecture.

47           MS. DURANDO: In any of the landscape is there  
48 any detail given to what the ground cover around the  
49 tree, rocks, grass?

50           MR. MACGILLIS: Yeah, that's spelled out in the  
51 general landscape ground cover treatment and plant  
52 material, whether it's grass or other material.

53           CHAIRMAN BLACKMAN: I'd like to note that D.J.  
54 Snapp and Joanne Davis have joined us. And are there any  
55 other questions of staff?

56           MR. CARPENTER: I was just going to point out  
57 to Rosa like on the foundation planting you typically use  
58 the smaller palms like Alexanders or something because  
59 you got the building and the walkway, you know,  
60 interfacing one another, and that's one for one, but  
61 everywhere in the parking lot and like in the right-of-  
62 way and buffers and everything palms are three for one.

1 The only time it's one for one is on the foundation  
2 planting.

3 MS. DURANDO: The biggest objection that most  
4 people have to Big Boxes is the barren look it has. It's  
5 all paved, and to throw in one, one, one, you know,  
6 spread out, single palm trees you're defeating the look  
7 you're trying to achieve. It's still going to look like  
8 a big barren concrete heap.

9 MR. MACGILLIS: I think that's something that  
10 through the subcommittees and with industry's input, and  
11 if you look at the improvements we've made to the  
12 architecture above and beyond what we already have in the  
13 architectural guidelines for a regular building coming  
14 in, I think it's increased significantly in addition to  
15 the landscaping that they're going to be nice buildings  
16 to look at. I mean it's always been because our  
17 landscape code, our sign code, and we had no  
18 architectural guidelines three years ago, you used the  
19 landscape code to hide everything. So the whole intent  
20 of the 2003 code was to have them all working together,  
21 architecture, signage, and landscaping.

22 So I think part of the subcommittee and  
23 industry's input was we don't have a problem in making  
24 additional improvements to the Big Box look and  
25 architecture above and beyond what they would have to do  
26 anyway but I think all this stuff has to work together.  
27 So the landscaping and with the nice architecture you're  
28 going to see a nice product.

29 MS. DURANDO: Well, I still think the majority  
30 of people are more impressed with greenery than  
31 architectural frills.

32 MR. MACGILLIS: But this was above and beyond  
33 code, remember that, because you still have the landscape  
34 code that requires the foundation plants so this is above  
35 and beyond.

36 CHAIRMAN BLACKMAN: Joanne.

37 MS. DAVIS: Does this -- okay. I'm going to  
38 refer to a specific Kosco, the one in Boca Raton that was  
39 so controversial a couple years ago. Does this sort of -  
40 - is this similar to that landscape that they were ending  
41 up doing? It is? Well, I like that one. That one came  
42 out pretty nice. Okay, good.

43 CHAIRMAN BLACKMAN: Okay. Martin, did you have  
44 something?

45 MR. KLEIN: Well, perhaps just a question of  
46 the Chair. I'm just a little confused as how we're going  
47 to proceed because it seems like the significant issue  
48 here that's unresolved is the size. I don't know if now  
49 is the time you want to discuss it, if you're going to  
50 vote separately.

51 CHAIRMAN BLACKMAN: Well, you can raise it now  
52 and we can discuss it now. What's going to happen though  
53 is we're going to take public comment in a second here.  
54 We'll hear the industry perspective on the latest  
55 addition of these changes that the staff may not even  
56 have heard yet, and we'll incorporate those into the  
57 record. We'll have that to digest. And then I think  
58 we'll have more questions of staff before we go to a  
59 motion. Any other questions of staff?

60 (No response)

61 CHAIRMAN BLACKMAN: Okay. Seeing none, we will  
62 go to the public, and I do have your cards here. And I

1 note that there are multiple representatives for certain  
2 organizations here, and typically we try and limit the  
3 comments to three minutes but we'd also like to get all  
4 your comments in so I'm going to be a little more liberal  
5 in that limitation but do keep that in mind. And if I  
6 start looking green here and my head hits the table then  
7 you know to stop. Okay? So we're going to start with  
8 Susan Motley.

9 MS. MOTLEY: Mr. Chair, members of the Board,  
10 my name is Susan Motley. I'm an attorney with Ruden  
11 McCrosky, and I'm here before you today representing Wal  
12 Mart. I have with me today Chris Callaway, who is Wal  
13 Mart's real estate manager for this area who flew in from  
14 Bentonville, Tim Rogers, who is Wal Mart's design manager  
15 for this area who also flew in from Bentonville. They're  
16 right back here. We have Chuck Bell, who is an outside  
17 architect who did participate in the subcommittee  
18 meetings, and Derrick Cave, who is a project engineer  
19 with Kimley-Horn, who has worked on many Wal Mart  
20 projects. We're not all going to speak although we are  
21 all here to answer any questions and provide input.

22 I am going to try and give you a summary of the  
23 remaining issues that we have. And we have come a long  
24 way, as they say, a long way, baby, in terms of the last  
25 meeting that we had and all the comments and concerns  
26 that we had at that last meeting. I want to thank the  
27 Board for giving direction to work with industry, and I  
28 want to thank the staff during a very busy holiday season  
29 for making the arrangements so that we could have these  
30 meetings. And I'm happy to say that many, really most of  
31 the issues that we had have been addressed. And as I  
32 made clear the last meeting, we know this is a reality.

33 Wal Mart is seeing this across the country that  
34 there are Big Box ordinances. We're not suggesting to  
35 you that you not have a Big Box ordinance, excuse me, but  
36 we're asking that you listen to input from the industry  
37 and some concerns that we have, and address them  
38 appropriately. We have four major issues left. The  
39 first, which was mentioned by staff, is the size  
40 restriction. The 200,000 square foot size restriction  
41 eliminates the very most popular prototype store that Wal  
42 Mart builds, its Super Center that with the way Palm  
43 Beach County calculates and measures buildings, and many  
44 of you are probably aware of this but some may not be,  
45 different jurisdictions measure buildings differently,  
46 but approximately 70 percent of the Super Centers that  
47 Wal Mart has built in the United States cannot meet the  
48 200,000 square foot restriction.

49 And I know staff mentioned something about that  
50 we had prototypes in design that would exceed the 200,  
51 and that is really not accurate. They are built -- 70  
52 percent of the stores in the United States would not meet  
53 this 200,000 requirement. We know most of you want to  
54 have some sort of a limit, and we are asking that that  
55 limit be 250,000 because that covers this existing  
56 prototype. And I know there was a question before about  
57 are there any Super Centers, Wal Mart stores, in  
58 unincorporated Palm Beach County that exceed 200, and I  
59 think the answer was perhaps one. But the answer if you  
60 talk about Palm Beach County in general and not just  
61 unincorporated is that there are already two Wal Mart  
62 Super Centers that exceed the 200,000 square feet.



1           And as I said there's very typical because 70  
2 percent of the stores would exceed that. Those are the  
3 Super Center in Boynton Beach, again within the municipal  
4 limits of Boynton Beach, but it is approximately 240,000  
5 square feet measured the way Palm Beach County measures.  
6 I don't know all the details of it but Palm Beach County  
7 measures outside wall to outside wall measures as part of  
8 that number areas that are not roofed. For example, an  
9 open air garden center is counted as part of the square  
10 footage of the building so you're talking here about  
11 stores that have been built in many places and these  
12 would totally restrict them.

13           What we talked about ideally was a 250,000  
14 square foot limitation. That way you get your  
15 limitation. I think there has been some concern about  
16 these stores are just getting bigger and bigger and  
17 bigger and bigger, and there needs to be a limit, so we  
18 would ask that it be 250. We also had discussions at the  
19 subcommittee meeting that, okay, if you weren't willing  
20 to do -- to increase it to 250 that perhaps there could  
21 be a way to have the ability to increase the size over  
22 200, perhaps to a maximum of 250, by adding some  
23 additional pedestrian amenities over and above what we  
24 are now going to be required to do.

25           In other words, almost like a quid pro quo  
26 situation. You give us this, we'll let you get a little  
27 bit bigger and we'll let you use your prototype.  
28 Unfortunately, your Attachment 1, which talks about some  
29 proposed language dealing with an increase in size, deals  
30 with a two-pronged requirement, one that you could not  
31 exceed the 200,000 square foot box but you could use a  
32 mezzanine. You could put a mezzanine in, and you would  
33 also have to provide some additional amenities.

34           I went to one of the subcommittee meetings. I  
35 wasn't able to go to the second one but several of the  
36 Wal Mart representatives were there, and it's our  
37 understanding that there was discussion from some of the  
38 subcommittee members that perhaps it might be workable to  
39 have a situation where you could increase the size if you  
40 provided pedestrian amenities but not that you were  
41 restricted to the 200,000 square foot footprint, that you  
42 could give something in return, additional amenities, and  
43 you could build a slightly bigger store. And maybe we  
44 didn't really talk exact numbers but maybe, you know,  
45 that number is anywhere in between 200 and 250 by  
46 providing some additional amenities, so that is really  
47 the concern in terms of the size. These are stores that  
48 are already being built. I know this...

49           CHAIRMAN BLACKMAN: Excuse me. You would say  
50 that that's your most important issue?

51           MS. MOTLEY: Yes, very important issue, and the  
52 others are important too but that's probably the biggest  
53 because these are stores they build all the time.  
54 Additionally, there was some discussion that somehow by  
55 limiting the size to 200,000 square feet it would  
56 eliminate vacant stores. As of today, Wal Mart has been  
57 building Super Centers since 1988. They have never  
58 replaced a Super Center. Now obviously there's other Big  
59 Box retailers but in terms of any vacant Wal Mart stores  
60 that you may have seen which we've been very successful  
61 and very promptly selling them or releasing them those  
62 are only dealing with general merchandise, typically

1 85,000 to 90,000 square foot and going to Super Centers  
2 which typically are 225 to 235. So there's really no  
3 correlation with the vacant stores at least in the  
4 context of our experience. So that's the issue in terms  
5 of the sizes.

6 The second issue is the side parking. This  
7 issue, we are fine with the requirement except that we  
8 would like to have a provision in the ordinance that  
9 would allow for a waiver process, some process that you  
10 would go through with your Board of Adjustment or maybe  
11 with you all or somebody if you have an unusually shaped  
12 piece of property. And there are instances, land is  
13 getting harder and harder to find in Palm Beach County  
14 that at least there would be the ability if we run into a  
15 problem and we can't meet those side parking and rear  
16 parking requirements that there would be a mechanism that  
17 wouldn't be a variance process because variance  
18 basically, I mean legally is extremely difficult to  
19 comply with, but that is the issue in terms of the side  
20 parking.

21 The next issues is on page 5 of 6 in your  
22 summary of amendment. And if you'll look at that, it's  
23 under perimeter buffers at the top of the page, and if  
24 you look under 1.b.(2), which is under Glades and  
25 Rural/Ex Tiers, the requirement, the language says  
26 required trees, palms and shrubs shall be double the  
27 quantities required under Article 7.F.2, trees, shrubs  
28 and hedges. There was discussion at the subcommittee  
29 meeting that I went to, and apparently at both meetings,  
30 that doubling that amount really is not good in terms of  
31 plant survivability. You can reach a point where you can  
32 just be pointing too many plants in one place. And there  
33 was discussion about it being a 25 percent or a 35  
34 percent increase but not double the amount of plants, that  
35 it just didn't make good sense in terms of landscaping a  
36 piece of property so that is our third issue.

37 The fourth issue, and this is the last one, is  
38 on page 1 of 6 of your summary. And if you look at the  
39 Table 5.C, which we spent a lot of time on and really  
40 came up with I think a situation where it is very  
41 workable, we can live with what is in there with the  
42 exception that this particular version of the summary  
43 added a number 2 if you look below the table, which  
44 states front façade requirements shall be used for any  
45 façade that is oriented towards a street. Now if you  
46 think about what the front façade requirements are in  
47 terms of windows and all sorts of requirements that will  
48 now be in the code if you think of it in the context of  
49 having the rear of a store where deliveries take place if  
50 that somehow is oriented towards the street which happens  
51 sometimes, then you're talking about really an unworkable  
52 provision because you can't put on the rear what is  
53 required for the front.

54 The language that you previously had, the  
55 previous number 2, said minimum standards for roofline  
56 parapet variations, façade recesses and projections, and  
57 window fenestration details shall be increased where the  
58 façade is oriented towards a street or residential use  
59 including vacant parcels with a residential FLU  
60 designation, thereby saying, yeah, if it's oriented  
61 towards a street you will have to do some additional  
62 things to make it look nice. Ironically most of the time

1 I think you're going to find with all of the additional  
2 landscape requirements that that's not even going to be  
3 visible, and we did have some discussion about that at  
4 the subcommittee meeting.

5 But to make the rear of a store, to require the  
6 rear of the store to look exactly like the front of the  
7 store, I guess you're supposed to have a front entrance  
8 and all of those things too, it just doesn't make sense,  
9 and perhaps that's not what was meant by it, but that is  
10 a significant difference between what we had been dealing  
11 with on that graph with what is in the description now.  
12 Those are the four major issues that we have. We can  
13 live with everything else. Would we prefer that you  
14 didn't pass it? Of course, but we know that's not going  
15 to happen. We appreciate all of the help that we have  
16 been given.

17 I'm going to turn it over to Chris Callaway who  
18 is the Florida real estate manager who I mentioned flew  
19 in from Bentonville yesterday so he can say a few words  
20 to you but those are our four major issues. Thank you.

21 CHAIRMAN BLACKMAN: Okay. We appreciate your  
22 input. Thank you. Chris.

23 MR. CALLAWAY: Thank you for taking the time to  
24 allow us to speak here today. My name is Chris Callaway.  
25 I'm a real estate manager for Wal Mart, and I'm not going  
26 to try to reiterate and restate everything that Susan  
27 just said, but I mainly wanted to just speak with you in  
28 the respect that it is not our intent as she mentioned,  
29 it's not our goal to try to eliminate the Big Box  
30 ordinance. We have absolutely no objection to having to  
31 do nice looking, esthetically pleasing buildings. The  
32 biggest thing that we want to emphasize is making sure  
33 that the operators and the retail industry that's going  
34 to have to function, not just look pretty but actually  
35 operate a store under these guidelines, has an ordinance  
36 that can be accomplished and at the same time be able to  
37 function in our operation in a practical matter.

38 And there are certain elements of this that  
39 concerns us in that regard. For instance, you know, the  
40 rear of the store and some of the things that she  
41 mentioned ago. As I said, I won't repeat all of what she  
42 said but the key is that as well as, you know, taking --  
43 when you take all the different aspects of the ordinance  
44 many of which are very good in concept and you layer them  
45 on top of each other some of it becomes impractical when  
46 trying to develop a site, and that's a concern that we  
47 are very concerned about.

48 I'll leave it at that, and if you have any  
49 questions as we go throughout the rest of the session  
50 feel free to ask.

51 CHAIRMAN BLACKMAN: Okay. Thank you. Tim  
52 Rogers, do you have anything additional to add?

53 MR. ROGERS: Yes, sir. Mr. Chair, Board, I  
54 also thank you for the opportunity to...

55 CHAIRMAN BLACKMAN: Sir, please use that mike.

56 MR. ROGERS: Okay.

57 CHAIRMAN BLACKMAN: Can you also say who you're  
58 representing?

59 MR. ROGERS: Tim Rogers with Wal Mart Stores,  
60 Inc. I'm the design manager for this territory. I also  
61 want to thank the Board for the opportunity to work with  
62 staff and have input in the ordinance. I think that it's

1 great that with a design ordinance it sets the image for  
2 the community. It also establishes a level design  
3 standard for all so that we don't have varying design  
4 standards. Also, as design manager with Wal Mart, I also  
5 wanted to emphasize that this is not new. There was a  
6 gentleman that mentioned that stores were being developed  
7 in future tense towards the 200,000. This is not new.

8 We opened and operated our first Super Center  
9 roughly 18 years ago. We've been operating our Super  
10 Center again in the past four years, 70 percent have been  
11 over 200,000. I also brought a representative graphic  
12 sample of our Coral Springs store that's over 200,000,  
13 and the level of architecture and landscaping. So we're  
14 responding to the customer. We're also responding to the  
15 community, and we believe that we're listening. We're  
16 working very hard to accommodate the design requirements,  
17 and we look forward to working with the county.

18 But again without reiterating what has been  
19 said before except that if I could amen a few things, but  
20 just to emphasize this is not new. It's not new to us.  
21 And again we're growing as well, and we're working in the  
22 design to embrace ordinances like this, and we believe  
23 that we're doing a product that we're very proud of. So  
24 thank you.

25 CHAIRMAN BLACKMAN: Thank you. David Lipp.

26 MR. LIPP: I'm here to answer any questions.

27 CHAIRMAN BLACKMAN: Okay. Great. We  
28 appreciate your presence. Charles Bell.

29 MR. BELL: I'd like to reiterate what the  
30 speakers have said and also offer at your convenience to  
31 answer any questions regarding architecture.

32 CHAIRMAN BLACKMAN: Okay. Glen Wilkins.

33 MR. WILKINS: I'm with Wal Mart and I'm here to  
34 answer any questions that you might have.

35 CHAIRMAN BLACKMAN: Okay. Kim Glass Castro.  
36 Caryn Gardner Young.

37 MS. YOUNG: Good afternoon. Let me start off  
38 I'm not from Wal Mart. Okay. My name is Karen Gardner  
39 Young, and I appreciate the opportunity. I'm from the  
40 planning consulting firm of Kilday & Associates, and  
41 members of my firm have had an opportunity in which to  
42 review the proposed ordinance. We are late comers, and I  
43 appreciate your ability to listen to me today. I called  
44 Robert this morning to at least give him some heads up.

45 My is more of a logistic issue. It has nothing  
46 to do with what has been discussed in the past, and  
47 that's why I do apologize for this new issue, I believe a  
48 new issue, coming up. When we took a look at the  
49 ordinance our concern came in to the issue of the  
50 limitations within the CL zoning district. As you know,  
51 the CL zoning district, you're putting a cap on the  
52 65,000 square foot. The CH you're doing at the 200,000  
53 square foot limitation. When we took a look at the land  
54 uses within Palm Beach County, we began to realize that  
55 if you go to the western areas you will find that there  
56 are generally not CH zoning districts in those particular  
57 areas, and generally we're talking the Wellington, the  
58 Loxahatchee and out in that area.

59 Without having the CH zoning district you're  
60 eliminating any type of retail to be 65,000 square feet.  
61 Now I'm not here to be a proponent of Wal Mart or any of  
62 those stores but I think you really need to look at that

1 issue and make a determination is that something which is  
2 good for the county. The individuals and the residents  
3 who are living out there need as much as anyone else, you  
4 know, whatever the store may be, and if you look at the  
5 research, I know staff has done that, even supermarkets  
6 are up to the 65,000 square foot range. So the problem  
7 that we have is that in order to get the CH zoning  
8 district out in the area, you have to have the density  
9 because you have to have a density of 5 or greater.  
10 You're not going to see that out there.

11 So I just want to make sure that this issue was  
12 brought up, that whatever you're doing today can have a  
13 substantial impact upon the retail design and trends that  
14 will occur in the western areas. I don't think you'll  
15 have a problem in the eastern areas because the density  
16 is sufficient in that area in order to either have a CH  
17 parcel or to be able to rezone it to a CH parcel. So  
18 nothing particular other than to make you aware of that  
19 issue, and if you have any questions I'd be more than  
20 willing to answer.

21 CHAIRMAN BLACKMAN: Okay. Thank you for your  
22 input.

23 MR. CARPENTER: Is anybody here from planning?  
24 No? Oh, okay. Do you have to have residential land use  
25 of at least five to have the CH land use?

26 MR. THOMSON: Well, what I'm more familiar with  
27 is what she was referring to...

28 CHAIRMAN BLACKMAN: Can you come to the mike,  
29 please, and introduce yourself, please.

30 MR. THOMSON: Bruce Thomson, Comprehensive  
31 Planning Section, Planning Division. That the  
32 Comprehensive Plan limits commercial outside of the  
33 suburban urban area to a commercial low.

34 MR. CARPENTER: Okay. Any of the tiers outside  
35 the urban suburban tier are limited to commercial low.

36 MR. THOMSON: Right.

37 MR. CARPENTER: That's in the plan?

38 MR. THOMSON: Right. And that's the future  
39 land use designation, that's not a zoning designation.

40 MR. CARPENTER: Yeah, CH is a future land use  
41 designation. Okay. That was my question. Thank you.

42 CHAIRMAN BLACKMAN: Geoff Sluggett.

43 MR. SLUGGETT: Good afternoon, Mr. Chairman.  
44 For the record, Geoff Sluggett with the firm Geoffrey  
45 Sluggett & Associates, representing Willbright [ph]  
46 Development. First of all, I am not with Wal Mart  
47 either. But anyhow just really two issues that I wanted  
48 to address, and we appreciate the opportunity to be able  
49 to speak before you today and working with staff on some  
50 of these issues. The first issue obviously deals with  
51 the CH land use designation with the maximum square  
52 footage of the 200,000. To reiterate what the attorney  
53 for Wal Mart said, we do feel that there needs to be at  
54 least some flexibility or an increase in the maximum  
55 limitation on size, and we feel that by allowing  
56 additional amenities to be presented to increase the size  
57 to either 225 upwards to 250 as a cap would probably be a  
58 very good direction for this Board to go and for the  
59 county commissioners as well when they take a look at  
60 this. So we would ask that you take a close look at  
61 including provisions along those lines.

1           The next issue, I think Jon had indicated  
2 before, was on how renovations would be handled to  
3 existing centers, and that there's already a provision in  
4 the code which basically says that if the value of the  
5 center is going to exceed the 75 percent threshold at  
6 that point in time you would fall under the new  
7 guidelines. Our concern addresses renovation. The  
8 question I guess to staff would be how do you handle say  
9 a development order amendment where an existing center  
10 may come in to add an additional out parcel, and  
11 basically my experience with staff is staff likes to have  
12 the ability to look at a project with new eyes from time  
13 to time.

14           So how would you handle that because we think  
15 that if you have a situation where you say you have a  
16 grocery store or a public store that has 66,000 square  
17 feet in the CL zoning district what is going to happen to  
18 a development order amendment? Are you going to come  
19 back and say, no, the maximum cap is 65,000 and then you  
20 have to wipe out 1,000 square feet. So we'd ask for  
21 clarification on that, and think obviously there should  
22 be some provision included to address development order  
23 amendments as well. And those are the two issues that we  
24 have.

25           CHAIRMAN BLACKMAN: Okay. Thank you very much  
26 for your comments.

27           MR. SLUGGETT: Thank you.

28           CHAIRMAN BLACKMAN: Staff, do you have a  
29 response to any of these items or do you want to walk  
30 through those?

31           MR. MACGILLIS: I can start with Susan's, her  
32 first one on the size. Staff has presented...

33           CHAIRMAN BLACKMAN: You might want to move the  
34 mike closer.

35           MR. MACGILLIS: In your backup material we sent  
36 to you there was staff's outline for where we came up  
37 with the justification for capping at the 200,000, the  
38 first being that the regulations that we came up with  
39 work on the 200,000 as far as the landscaping, the  
40 parking, the walking distance and the architecture. You  
41 have to set some standard, otherwise you skew all the  
42 regulations, the buffers, then they have to be 100 feet.  
43 You may need more amenities. The parking, her second  
44 point, Susan's, was the side parking. The larger the  
45 building gets the farther the people have to walk, and  
46 then you need waivers from the Board or variances.

47           So that was one of the main things when staff -  
48 - when the Board directed staff to come up with the  
49 ordinance it was staff who came up with the 200,000 as the  
50 footprint in order to have a measure to set the  
51 regulations on. The second was the dark sites that we  
52 referred to where -- there is a trend in this county.  
53 It's not just pointed to Wal Mart but when there's a new  
54 center built across the street you have a vacant parcel  
55 with stores right across the street, and that's been a  
56 major concern with the Board. You know, you have a site  
57 that's open and three years later they're closing it  
58 because a new site opened down the street so that was one  
59 of the concerns of staff and the Board.

60           Currently, as we stated, as far as we know in  
61 the county there's maybe only that one that's currently  
62 only -- that exceeds the 200,000 square foot requirement.

1 Some of the larger stores as indicated they have certain  
2 products and then I guess they keep based on their market  
3 studies they keep adding new products. Wal Mart,  
4 something that people visiting the stores want, they keep  
5 adding on to and so is there ever an end on what that  
6 square footage would be. So whether the Board decides  
7 here today it's 200 or 225 or 250, that's up for you to  
8 decide based on what we presented to you.

9 And I think some of the stuff that was also in  
10 your backup material was the Urban Land Institute  
11 statistics show that the average size community shopping  
12 center, and that's what we're talking here, community  
13 shopping center, not a regional shopping center like one  
14 of the Gardens Mall or Wellington, is 186 for the  
15 southern United States so this is still in keeping with  
16 what we've been presenting on the 200,000. The question  
17 that's come up by industry is the way we calculate the  
18 square footage. And just on the record, the way the  
19 county calculates gross square footage includes  
20 everything.

21 And I know it was brought up, and I know John  
22 Glidden corrected it, I think it was to you, Derrick,  
23 that he didn't know what cities that he worked in that it  
24 was based differently. I know the county for a time  
25 based it on net square footage deleting the hallways, the  
26 restrooms, and other things that weren't generating  
27 revenue for the thing but that turned into a nightmare  
28 for staff at the time of permitting because things were  
29 added on and they exceeded conditions of approval by the  
30 Board so we went back to basing it on growth. We just  
31 take the footprint and multiply it out so unfortunately  
32 that's where we had to go back to the gross. Apparently  
33 maybe some other municipalities are still using the net  
34 which allows them to get up over higher than what we're  
35 proposing here.

36 That's staff's recommendation on why we want to  
37 keep it at the 200,000, and we did include the  
38 recommendation that was brought up by the subcommittee  
39 that keep -- my understanding and staff's that the  
40 consensus was to keep it at the 200,000 and allow it to  
41 go up to 225 if you went to a second store and used it  
42 for offices and mezzanines. And the second thing you  
43 would provide additional amenities based on that square  
44 footage but it was not my understanding that square  
45 footage would be exceeding the footprint of the 200,000.

46 CHAIRMAN BLACKMAN: Yes, Maury.

47 MR. JACOBSON: My impression is the same as  
48 yours, and I was a member of that. One of the things  
49 that's going to be interesting to me is that at the rate  
50 of increase that you're increasing all of this and then  
51 to increase the parking area, by any chance do you have  
52 any idea or any thought of including a transit system in  
53 there or a people mover system so that people can get  
54 around in these things? We have both young and senior  
55 citizens in this area and I don't know how people can  
56 walk that much. And I'm not trying to be too funny about  
57 it but it's a reality because eventually you're going to  
58 get to the point where you're going to have to put people  
59 movers in there or transit system or such.

60 But my understanding was that the 200,000, they  
61 were permitted to go into a mezzanine sort of  
62 construction or design in order to get the 25,000 in

1 addition. The 250,000 to my recollection never came up.  
2 Where is that lovely, charming lady with those docent  
3 tones. You really are a very effective speaker, and I'm  
4 old enough to tell you that and do it with respect. But  
5 I must tell you I don't remember, 250,000...

6 MS. MOTLEY: No, that was the number that I  
7 have always asked for. That was not -- all I was saying  
8 it was my understanding -- I only went to one  
9 subcommittee meeting but several of the other Wal Mart  
10 representatives went to both, that there was discussion  
11 about a mechanism where you could increase over and above  
12 a 200,000 square foot size by providing additional  
13 amenities, and it wasn't tied to a mezzanine.

14 MR. JACOBSON: In my recollection, it was.

15 MS. MOTLEY: Okay. I wasn't at one of those  
16 meetings either.

17 MR. JACOBSON: Okay. Okay. Otherwise, I want  
18 to proceed now. You raised the point about where you  
19 have a garden and you have no roof. Yes, we included it  
20 in our footprint. That's part of the total square  
21 footage that you're going to occupy. And I think it's a  
22 fair assumption. We would like to see you very  
23 successful. By the way, I am very pro profit oriented.  
24 I've been that way all my life, and I am today. But also  
25 I am a citizen of this county, and I would love to see it  
26 kept with the atmosphere and the ambience that it has  
27 that attracts so many of us including you folks here.

28 And I would hate to think that would be  
29 destroyed because there's no end. You're asking for 250  
30 today. And obviously the other people, I say this  
31 respectfully, ladies and gentlemen, I'd also ditto your  
32 remarks enforcing it but I think that's above and beyond  
33 what the subcommittee went through in all their meetings.  
34 And we were pretty dedicated about it. I'm sorry that  
35 John isn't here. He was the most fluid and the most  
36 knowledgeable of all.

37 Mr. Chairman, I'm taking more than three  
38 minutes, and I'm sorry, but the point is that I would  
39 hate to see this abused when we do have a certain  
40 criteria that we're trying to establish here, and it's  
41 based upon our feelings as well as yours. We'd like to  
42 see Wal Mart -- well, they're successful. They got more  
43 money than God. But the point is that for 18 years  
44 they've got an astonishing record, and the point that I'm  
45 trying to make -- or whatever the years are that you were  
46 in business, I would hope that you would respect our  
47 feelings and our sensitivities.

48 I don't know what problems -- what happened to  
49 staff in dealing with what you are requesting or  
50 requiring in terms of meeting your needs. You mentioned  
51 four items, and I'm glad to see you open so much because  
52 I love to listen to you but the point is that I don't  
53 think that I would go along with some of your suggestions  
54 with all due respect.

55 CHAIRMAN BLACKMAN: Okay. And we'll probably  
56 call on you from time to time if we have questions,  
57 anyone out there in the audience. Larry, you had a  
58 comment or question.

59 MR. FISH: I want to recall for the committee  
60 here what the subcommittee actually recommended for staff  
61 to do. The last compromise that we worked out with John  
62 Glidden was to allow a 225,000 square foot Wal Mart site



1 or Big Box site with one extra amenity required and  
2 increase the perimeter buffers by 20 percent. That's  
3 what the subcommittee -- and there was another thing  
4 about using office space on the mezzanine level as well,  
5 10,000 or 15,000 square feet.

6 CHAIRMAN BLACKMAN: Office storage.

7 MR. FISH: To be removed from that total, in  
8 other words, to be able to use more ground floor space.  
9 That's what we talked about having staff bring back to us  
10 which obviously staff was told not to bring that back to  
11 us, and this is what we have now is the 200,000 square  
12 feet. The staff -- particularly the fellow from Kimley-  
13 Horn said that Wal Mart could live with 225,000 square  
14 feet including the garden center under those conditions.  
15 That was their agreement. And she was not at that  
16 meeting. She was at the meeting before that. So that's  
17 exactly what was stated by the subcommittee and worked  
18 out with John Glidden in a compromise, these extra  
19 amenities and so forth, and the increased buffers.  
20 That's what we wanted brought forward to this committee  
21 but that's not because staff doesn't want to do that.  
22 I'm not criticizing them. That's what their internal  
23 decision was.

24 CHAIRMAN BLACKMAN: That's consistent with  
25 what's on our Attachment 1 in the packet, right?

26 MR. FISH: Not really. No, it isn't.

27 MS. MOTLEY: Are you saying it's a footprint,  
28 Larry, 225 is a footprint?

29 MR. FISH: 225 footprint plus not taking out  
30 the garden center. That is something they could consider  
31 as a compromise if they want to remove the garden center  
32 and allow 225. Certainly they could fit that big  
33 prototype. But I think you have to be realistic. People  
34 want that store, and I'm not a Wal Mart representative  
35 nor do I want to be, but this is what we hammered out and  
36 I thought that was fair. I will make that in a motion  
37 later for us to recommend to the staff.

38 CHAIRMAN BLACKMAN: Okay. Right now we're  
39 discussing this amongst ourselves headed towards a  
40 motion. D.J., and then Barbara.

41 VICE CHAIRMAN SNAPP: Before we get to a motion  
42 there's three issues that I want to address here, and one  
43 of them was the development order amendment that Geoff  
44 brought up. Geoff, did you have suggestions how to  
45 resolve that issue?

46 MR. CROSS: I can respond to that.

47 CHAIRMAN BLACKMAN: Go ahead, Bill.

48 MR. CROSS: I want to respond to the current  
49 code requirement for projects that are -- what code  
50 requirements are subject to or applicable to a project  
51 that's already got a development order amendment or is  
52 calling for a development order amendment. I'm sorry.  
53 And I'll read for you from the code. The first overlying  
54 sentence applies two types of approved development  
55 orders, those that are approved without DRO approval  
56 meaning they apply but they haven't had final site plan  
57 approval, and that those that are built based on  
58 percentage of built. The lead in statement states that  
59 modifications to previous approvals states modification  
60 of previous approvals shall comply with this code to the  
61 extent possible for the affected area. All the  
62 requirements of this code shall apply.

1           So the key term here is affected area to the  
2 extent possible. Then it further breaks it up by un-  
3 built projects meaning a project that hasn't had its  
4 final DRO approval. Those projects have to comply with  
5 these requirements. Projects that have previous site  
6 plan approvals have to comply with Article 6, parking,  
7 Article 7, landscaping, and Article 8, signage, in the  
8 affected area to the greatest extent possible without the  
9 loss of density, intensity or required parking. So if  
10 you haven't built it yet you're going to have to  
11 incorporate several of these revisions to the maximum  
12 extent possible.

13           But if it's been built and it brings it up by  
14 percentage, less than 80 percent and greater than 80  
15 percent, if it's less than 80 percent -- the project is  
16 80 percent or more of the approved density intensity  
17 remain valid for any information in items clearly shown  
18 on that approved development order. Okay. Projects that  
19 have less than 80 percent, the same thing, shall comply  
20 with Article 6, Article 7, Article 8, to the greatest  
21 extent possible without the loss of density, intensity or  
22 required parking. I hope that answers that question.

23           VICE CHAIRMAN SNAPP: In terms of being  
24 reasonable, Article 1.5.

25           MR. CROSS: Article 1.E. Section 1.C., previous  
26 approvals, 1, modification of previous approvals is the  
27 language that would apply to a development order  
28 amendment for a zoning site plan.

29           VICE CHAIRMAN SNAPP: Okay, Bill, let me make  
30 sure I got this clear. If you had your site plan  
31 approval and you've gotten your basic approvals from the  
32 county commission, and you've gone to DRO and gotten your  
33 DRO approval then does it mean that I could then proceed  
34 and go apply for a building permit and meet the way it  
35 was approved as opposed to having to come into compliance  
36 with the new code?

37           MR. CROSS: That is correct.

38           VICE CHAIRMAN SNAPP: Okay. And then I've got  
39 time limitations on how long I've got to break ground.  
40 Okay.

41           MR. CROSS: And remember under the time  
42 limitations if you don't use them and then you go back  
43 for a monitoring status report they would probably  
44 incorporate to the maximum extent feasible the  
45 requirement to come back and fix the site plan as much as  
46 possible.

47           VICE CHAIRMAN SNAPP: Okay. Now on the next  
48 status which is I have my county commission approval but  
49 I haven't gotten the DRO yet. I haven't made it. Are  
50 you saying that I'm going to have to redesign my site  
51 plan and get my site plan approved by DRO under the new  
52 standards even though the county commission has already  
53 approved it?

54           MR. CROSS: To comply with this code for un-  
55 built projects but it's still under the heading -- in  
56 this case modification...

57           VICE CHAIRMAN SNAPP: I'm asking you for a  
58 staff interpretation of what that means.

59           MR. CROSS: The interpretation and application  
60 is very clear.

61           MR. MACGILLIS: What we have historically done  
62 once someone goes to the Board of County Commissioners

1 what's shown on the site plan even though you haven't  
2 gone to DRO, we adhere to what you were approved under.  
3 If it was something they could -- if it was so blatant  
4 that it didn't meet code at the time then they would work  
5 with the developer to say, look, the landscaping -- this  
6 project is 20 years old. Somehow you were allowed...

7 VICE CHAIRMAN SNAPP: I agree with you on that.  
8 My whole approach is reasonableness, you know, and I  
9 accept the fact if I had a petition that's in the process  
10 and the code changes then even though I filed an  
11 application I need to redo my petition to meet the  
12 current code. My only concern is if I've got an approval  
13 from the commission which means I've been through the  
14 public hearing process, I've been through the staff  
15 process, I've done everything I'm supposed to do, and I  
16 just haven't got to the next step yet and I get caught in  
17 this little window. That's my concern. So if you're  
18 telling me that your policy is going to be that you're  
19 going to go ahead and approve those at DRO level based on  
20 the way the county commission approved them, I don't have  
21 a concern about it.

22 I wouldn't even have a problem if you said you  
23 got six months to get that approval or you won't, you  
24 know, but put some kind of deadline on it like we did  
25 with traffic concurrency to say, okay, you can't sit out  
26 there for three years or five years under the old code.  
27 I'm perfectly comfortable saying, okay, you got to apply  
28 to DRO and get your DRO approval and then some kind of a  
29 window but I don't think it's reasonable to say, okay,  
30 you've been all the way through the process, you've been  
31 through the public hearing. Everybody is happy and they  
32 approved it, but now there's been this code change so  
33 you're going to lose 8,000 feet of your building or, you  
34 know, whatever it happens to be or you're going to have  
35 to shift your site plan because you got to move 25  
36 percent of your parking to some other location, you know.

37 MR. MACGILLIS: One thing with the  
38 architectural standards because of the way the code is  
39 set up you can apply to get architectural review at the  
40 public hearing section. When you go to the Board of  
41 County Commissioners you can submit your elevations there  
42 which then we would have them as part of your approval  
43 process whether it took you a year or two to come to the  
44 DRO approval so you would have those plus the square  
45 footage we wouldn't take from you.

46 The problem is the people who wouldn't submit  
47 elevations, they don't submit them sometimes to DRO or to  
48 the building permit. There might be a problem where they  
49 would go through DRO. It would have to comply to the  
50 greatest extent possible per the code to upgrade that  
51 site to the current -- the proposed standards here then.  
52 But if they submitted elevations and they were clearly  
53 shown to the Board and that stuff, I don't think we would  
54 come back and try to make them upgrade it then if they  
55 were clearly shown an approved document.

56 VICE CHAIRMAN SNAPP: Okay.

57 CHAIRMAN BLACKMAN: Anything else?

58 VICE CHAIRMAN SNAPP: Yeah, I have three  
59 questions. The second question was about the CL and the  
60 outside the urban suburban tier. While I recognize that  
61 that might be an issue...

1           CHAIRMAN BLACKMAN:     Actually it's CH outside  
2 the urban suburban.

3           VICE CHAIRMAN SNAPP:   But I'm limiting it to  
4 CL. I think that the proper way to address that if it  
5 needs to be addressed is through an eminent land use plan  
6 as opposed to trying to modify this ordinance. It's like  
7 the square peg in a round hole kind of approach. I think  
8 if the land use plan is wrong by saying you can't have it  
9 out there then let's look at that from the land use plan  
10 standpoint and modified land use plan if we need to, and  
11 if that's the community standard what everybody wants to  
12 do then let's approach it that way as opposed to trying  
13 to band aid an ordinance to fit a circumstance that might  
14 exist in the future that we don't even know exists today.

15          MR. CARPENTER:   You're saying ask the applicant  
16 to bring in the property to amend the land use from CL to  
17 CH as part of the application?

18          VICE CHAIRMAN SNAPP:   No. What I'm saying is  
19 if the current land use -- if our land use plan doesn't  
20 allow you to make this change then we need to look at  
21 change in the land use plan to make a provision to allow  
22 for that change to occur in that tier. The way I  
23 understood the question right now is that you can't get  
24 that land use plan change. And what I'm saying is I  
25 don't want to craft this ordinance that would go against  
26 the land use plan. If the land use plan is wrong and we  
27 need it amended...

28          MS. DURANDO:   But how do you know the land use  
29 plan is...

30          VICE CHAIRMAN SNAPP:   I'm not saying it is,  
31 Rosa. I'm not saying it is. I actually agree with you  
32 here, Rosa.

33          CHAIRMAN BLACKMAN:   Caryn, do you want to  
34 respond?

35          MS. GARDNER YOUNG:   Yeah, and it is -- correct,  
36 nobody knows for particular. We're not talking about a  
37 specific parcel. However, if you look over the general  
38 use as the Planning Division has said the parcels that  
39 are generally out in the western suburbs don't meet it  
40 and you already have one that doesn't meet it. There was  
41 approval of the Super Target that was on Lantana and 441.  
42 That is a CL designated parcel that's over the 65,000  
43 square feet.

44          MS. DURANDO:   And that was the wrong thing to  
45 do.

46          MS. GARDNER YOUNG:   I'm just saying but again  
47 the point that I make is that the people -- you know, we  
48 talk about traffic being our issue, and what you're doing  
49 is if you're telling people in the western suburbs that  
50 they can't have stores greater than 65,000, which we've  
51 all talked about, they have their typical sites, they're  
52 not going to come out to the western suburbs. Everybody  
53 got to travel to the east in order to go to their sites  
54 because there are no available sites. A developer cannot  
55 go to the commission now under the way the Comprehensive  
56 Plan reads in order to get that CH designation. And that  
57 is one remedy is to go -- you know, my suggestion would  
58 be instead of limiting it to 65 make it a higher number  
59 to at least give some flexibility.

60               I was talking about this morning take a movie  
61 theater. A movie theater that's in Royal Palm Beach is  
62 over 65,000 square feet, the Regal 18 that's on State

1 Route 7. You can't get a movie theater out in the  
2 western suburbs if you approve it the way the proposed  
3 language is now.

4 MS. DURANDO: That is the western suburbs.  
5 What is left of the westerns suburbs?

6 MS. GARDNER YOUNG: Well, I'm not going to get  
7 in a argument with you regarding what it is. I just want  
8 to bring to your attention that maybe 65,000 is too  
9 small. I would suggest maybe up in the 120 range but  
10 again that is a remedy that Mr. Snapp has indicated would  
11 be go to the land planning -- but there's no guarantee.  
12 So if you pass this ordinance and they're not willing to  
13 anything on the land planning end then you're stuck with  
14 what you have.

15 CHAIRMAN BLACKMAN: And that of course would be  
16 beyond what we're doing today.

17 MR. CROSS: I'd like to reply to this issue as  
18 well.

19 CHAIRMAN BLACKMAN: Okay. Go ahead.

20 MR. CROSS: The point we're trying to make here  
21 is this is an amendment that is a long time coming. We  
22 agree that we would prefer to not amend the Big Box  
23 ordinance but as in similar topics we're moving forward  
24 with it but this item is based on what the comp plan  
25 states for commercial land use designation. It states CL  
26 uses shall include a limited range of neighborhood  
27 oriented commercial activities designed primarily to  
28 provide services but adjacent to residential areas. This  
29 land development regulation is developed pursuant to the  
30 CL category and shall contain additional site design  
31 requirements in order to insure compatibility with  
32 adjacent uses. This is the comp plan, the definition for  
33 neighborhood as well. This is a long time coming.

34 We did some research. The 65,000 square foot  
35 neighbor is far in excess of what most grocery stores  
36 have currently been built at in Palm Beach County. We  
37 allowed for very large grocery stores saying that's  
38 probably the largest retail use that would serve or  
39 primarily serve the surrounding residential neighborhood  
40 but anything larger than that then you're very seriously  
41 crossing the line between what is neighborhood oriented  
42 and what is regional oriented or in the area of service.  
43 We feel very strongly about this, and 65 we think is  
44 pretty generous and it wouldn't be unreasonable.

45 VICE CHAIRMAN SNAPP: Okay. If you remember at  
46 the first meeting on this the major objections that I had  
47 to the ordinance was the 200,000 and the 65,000, and by  
48 the second meeting I backed off the 65,000, and the  
49 reason was it was strictly CL and it was neighborhood  
50 use. And although I haven't built shopping centers in  
51 over ten years, and I don't ever intend to plan to build  
52 another one, the one thing I knew when I was in that  
53 business is that they get bigger and bigger and bigger  
54 and bigger over time. The first ones I built were in the  
55 20,000 to the last ones I built were close to 60,000.  
56 And I know there's 65,000, 68,000 square footers now.

57 But I don't have a problem with it because of  
58 what you just said in terms of what the code says. And  
59 although I might have picked a bigger number, I can live  
60 with that. And in the big picture -- and like I said,  
61 Rosa, I think I agree with you here, is that if we are  
62 going to say we want to limit the growth out there and we

1 want to keep this low density character then if we allow  
2 it in it would change that character. And maybe part of  
3 the problem, which this will make Rosa happy, is that  
4 once you start allowing all those people to go out there  
5 in the first place then you've created that demand you  
6 said you didn't want. So which comes first, the chicken  
7 or the egg, so I really don't have a problem with it.

8 Like I said, if we're going to fix it I think a  
9 better place to fix it is let land use planning look at  
10 it. Let the Planning Division say is this what we want?  
11 Do we want a Target out there? I mean to me Target is  
12 not a neighborhood store. Publics is, Windixie is,  
13 Albertson's is, but maybe a small store might be -- but  
14 not -- you know, like the old dime stores as opposed to  
15 the Kmart's and the Wal Mart's and the Targets that are  
16 100,000 square feet might be more neighborhood oriented  
17 so I don't have a problem with the 65,000 feet.

18 CHAIRMAN BLACKMAN: Do you have another  
19 question?

20 VICE CHAIRMAN SNAPP: Yeah, my last issue is  
21 the rear fenestration. At the last meeting John made  
22 several suggestions in terms of adjusting the percentage  
23 of the foundation planning in the rear and his suggestion  
24 was that and pretty much the opinion of probably 80  
25 percent of the people or more of the task force or this  
26 body was that if you had the additional increased buffer  
27 and the increased landscaping and stuff in the rear of  
28 the building nobody is going to see this, and that you  
29 had sufficient buffering and that you wouldn't be able to  
30 look over the trees and the walls and the additional  
31 buffer to see it anyway then it doesn't really accomplish  
32 anything, and that's the service entrance and that type  
33 of thing.

34 And I thought we kind of settled that issue,  
35 and then it came up today. I wasn't at the subcommittee  
36 meeting but I agree with what John said at the last  
37 meeting that that was not necessary. If it's facing a  
38 street if it's not obstructed then, yeah, you need to put  
39 some architectural character. And my understanding of  
40 the real thrust behind this ordinance is esthetics and  
41 appearance and not creating these big ugly things, and  
42 that would address that.

43 CHAIRMAN BLACKMAN: Okay. Barbara.

44 MS. KATZ: Okay. Larry, I want to go back. I  
45 looked at my notes of that meeting, and I think that Wal  
46 Mart's statement that their number one prototype was  
47 225,000 square feet. We never got to 250. That's number  
48 1. Then you made a recommendation -- you said you were  
49 going to recommend to this committee that because of the  
50 way Palm Beach calculates its floor area and the garden  
51 center and that being included -- or being included you  
52 were going to ask for the 225, and at that point most of  
53 us agreed.

54 But we continued to talk and then some  
55 suggestions came out about, well, if they put an office  
56 on the second floor at that point it was 15,000 square  
57 feet then it wouldn't be counted in the footprint. All  
58 along I got the feeling that the staff was trying to  
59 recommend that we stay with the 200,000 square foot  
60 footprint because that's what I think the Board of County  
61 Commissioners really wants and that's where the real  
62 battleground will be tomorrow morning.

1           There were other things being kicked around. I  
2 never got the feeling that we actually left with  
3 definitive vote on what we were really going to recommend  
4 to this committee. We were going to leave it up to the  
5 staff, and I think they did a great deal of research. I  
6 had no problem with what they recommended. They do allow  
7 for some extra space on the second floor. How much space  
8 do you want? I think, Maury, I want to compliment you.  
9 I think you hit the nail on the head. This is Palm Beach  
10 County. I don't care what they built in the City of  
11 Boynton, which by the way to me was the worst example you  
12 could use because that is a horror. I would take off my  
13 name if it said Wal Mart on it. It is an awful one, and  
14 that's the one my group fights against.

15           Another thing you say is that we haven't closed  
16 any Super Centers. But you have closed general stores  
17 and you're trying to close the one that's on Hypoluxo and  
18 Military to build a Super Center across the street. So  
19 today it's a general store. Tomorrow maybe it will be  
20 super store or a super duper store. I don't really know.  
21 I have to live in the present day, not in the future.  
22 And as far as I'm concerned again I think staff did a  
23 great job. I think they made some good comments about  
24 it. I have no problem with the 200,000 footprint, and  
25 you have space for additional square feet if you want to  
26 use it on the mezzanine. There's nothing wrong with  
27 that.

28           And as far as I'm concerned, I don't have any  
29 problem. I think you discussed what we were bandying  
30 about. I don't think we ever came to a final decision at  
31 that meeting. And staff as far as I know went back and  
32 said, okay, we'll look it over and then we'll come in  
33 with the wording. I'd also like to say that John Glidden  
34 did a fantastic job on that, and I want to make sure that  
35 that gets into the minutes. I think we all would like to  
36 compliment him.

37           CHAIRMAN BLACKMAN: I ditto that. Do you want  
38 to respond to just that point?

39           MR. ROGERS: Yes, Mr. Chairman. I'd like to  
40 respond to a couple of things. One is a footprint, also  
41 the mezzanine. Tim Rogers, again, design manager. The  
42 mezzanine, we're not proponent of mezzanines either. It  
43 is an additional headache for us in operating the store.  
44 The store elevator is an additional expense, and I would  
45 just simply like to emphasize I think that the only gap  
46 that we have between what is currently proposed and what  
47 we would like you to consider is 25,000 square feet.

48           CHAIRMAN BLACKMAN: Okay. All right. Joanne.

49           MS. DAVIS: If it were up to me, I'd go  
50 backwards. I'd go to 180. I think that this whole thing  
51 is out of control, and Big Box does not contribute to  
52 community character no matter how you look at it. They  
53 fragment communities. They cause traffic. They're  
54 huge. They don't allow diversity in the marketplace.  
55 And frankly I'm a little offended that Wal Mart is  
56 offering to add amenities in order to get something to  
57 make themselves bigger and more profitable.

58           I would think that if a store wants pedestrians  
59 to enter it would already provide those amenities to  
60 encourage people to come and shop at their store, not go  
61 to the local government and say, hey, you know, we'll  
62 give you something that we should be providing anyway so

1 you can make us bigger. I'm offended by that. I would  
2 go to 180. I would accept staff's recommendation,  
3 however, as a compromise to go to 200 but I just think  
4 the whole argument about community character and Big  
5 Boxes is just pure rhetoric.

6 And I think if any retailer, no matter who it  
7 is, if they want to be in Palm Beach County we need to  
8 tell them how we want them to look and how we want them  
9 to behave. This is our community, and we welcome you in  
10 but, you know, you got to give to get.

11 CHAIRMAN BLACKMAN: Marty.

12 MR. KLEIN: I find myself very persuaded by  
13 what Joanne said, and particularly by what the staff has  
14 done. This is really an attempt to codify. It's a first  
15 attempt. It puts into place a mechanism that can be  
16 altered if we're wrong. We got a dedicated staff that's  
17 done a wonderful job over a very short period of time and  
18 has to deal with these issues on a regular basis. When I  
19 was younger and had real black hair I did have some  
20 legislative experience when I worked for the United  
21 States Senate, and I was convinced then as I am now that  
22 whatever ceiling or level is proposed there's someone  
23 who's going to think it's too low and there is someone  
24 who's going to think it's too high. I've already heard  
25 that today.

26 And whatever ceiling we adopt someone is going  
27 to say that they want to change it and they want to raise  
28 it. The question for me is is there a rational basis for  
29 what's been proposed by the staff, and I believe there  
30 is. And if I'm wrong, and I'm sure that this Board is  
31 going to do the right thing and change it, but this again  
32 is our first attempt and I'd rather err on the  
33 conservative side because we can always go up. I'm not  
34 sure that we can go down, and I've always been concerned  
35 with vested property rights and Lenny Berger and Greg  
36 Harrison, all those things that are going to come out,  
37 you know, if we're wrong. I'm comfortable starting at  
38 200,000, and I'm very comfortable supporting the staff,  
39 and that's where I am.

40 CHAIRMAN BLACKMAN: Barbara.

41 MS. NOBLE: Yes. Thank you, Marty. Well said.  
42 D.J., I also agree and support what you were saying about  
43 looking at the land use designations. I also just -- I  
44 wouldn't have thought but when Joanne mentioned being  
45 offended by the pedestrian amenities or adding amenities,  
46 I did make a note here that said, gosh, we'll take them  
47 anyway, thank you, since you apparently have some up your  
48 sleeve that you're holding back.

49 I wanted to talk about vacant stores, and again  
50 not that this is about Wal Mart but I just utilized your  
51 -- how you never vacated a Super Center and that you  
52 quickly sell off your old properties. Right now my  
53 vision is at the intersection of State Route 7 and  
54 Southern Boulevard. We're on the northeast corner. The  
55 Target is now dark, and on the southeast corner the Wal  
56 Mart is not dark because Home Depot bought that property  
57 to build their new store, but the old Home Depot is dark.

58 So one-half of that intersection is dark so I'm  
59 going to step out there as I've had a conversation with  
60 staff about how other areas of the country even require a  
61 bond so that should an area that you vacate be empty  
62 after a couple of years that there's been a bond that's



1 been set in place to pay for demolition so that you don't  
2 have that eyesore of that dark box that's there. And not  
3 to through another new thing into the mix today but as we  
4 talk about negotiating before I'm going to go up in  
5 square footage I'm going to look out at other  
6 requirements that would be required. And I think that's  
7 it for me.

8 CHAIRMAN BLACKMAN: Okay. Any other discussion  
9 as we heard toward a motion here? Frank, and then Rosa,  
10 and then Joanne.

11 MR. PALEN: Of the four points that Ms. Motley  
12 raised, I didn't hear any response on number 3 of 4  
13 dealing with the parking in the lots, and also note two  
14 which when I read it, it seems to be a bit vague.

15 MR. BUSCEMI: Okay. I can respond to note two.  
16 Note two is only a...

17 MR. PALEN: Where is that?

18 MR. BUSCEMI: These are footnotes on Table  
19 5.C.1.I.-12 on page 1 of 6. Basically it only applies to  
20 the roofline parapet articulation so if it abuts a street  
21 then we expect the parapet to have an articulation to it  
22 because that would be visible from the street.

23 MR. CARPENTER: So are you going to change that  
24 language then to say that it only relates to the parapet  
25 and not...

26 MR. BUSCEMI: It's only on number 2. If you  
27 look at the chart it's only number 2.

28 MS. DAVIS: Bob, show us where.

29 MR. BUSCEMI: First line of the chart.

30 MS. MOTLEY: Under the slide A.

31 MS. DAVIS: Okay. But it's saying front façade  
32 requirements which are more than just what you were  
33 saying, I think, right?

34 MR. BUSCEMI: It's only for this so you'd have  
35 5 feet. It would go to front requirement which is 5 feet  
36 if that façade is only towards the street.

37 MS. MOTLEY: My suggestion would be just so  
38 that there is no confusion on it, even a parenthetical or  
39 something, that just says...

40 MR. BUSCEMI: Actually if you look over a page  
41 or two it's verbalized. It's a summary table. It's  
42 actually verbalized. It's either the next page or two  
43 pages. I don't have my copy with me. We covered that at  
44 the last meeting. I remember because I asked the same  
45 question.

46 MR. MACGILLIS: We discussed this. Susan  
47 wasn't at the second meeting when this came up and staff  
48 was adamant about not allowing the waiver. The project  
49 came through. There was no problem with that. I mean if  
50 there is a unique configuration of the site and they  
51 brought one lot in at least out of all the -- Derrick  
52 brought in a couple of examples and we looked at them at  
53 the subcommittee meeting. There was only one out of I  
54 think four sites that are not in an unincorporated area.

55 That adds something unique that would warrant  
56 the variance process but you'd have to go through and  
57 justify it. We felt not allowing the waiver to the Board  
58 of County Commissioners just to set it up or the Board  
59 would waive it. We felt it was strong enough that it  
60 would add uniqueness to the lot and stuff. That's what  
61 the variance process is set up for. So that was what  
62 staff presented to the subcommittee.

1           CHAIRMAN BLACKMAN: Okay. Is this in response  
2 to just that? Okay.

3           MR. FISH: Some of that might be also  
4 ameliorated by the in fill ordinance that you're going to  
5 work on as well with the Achee Properties. That would  
6 take care of that. And in particular about the rear I've  
7 got a question. What if you have a street in the front  
8 and the back, and it's just a small street.

9           MR. MACGILLIS: In relation to what...

10          MR. FISH: The question before.

11          MR. MACGILLIS: He's going back to your thing.  
12 He's back to your...

13          MR. BUSCEMI: He'd have to increase the parapet  
14 articulation from 2-1/2 feet to 5 feet.

15          CHAIRMAN BLACKMAN: Any street, correct? Any  
16 street?

17          MR. BUSCEMI: That's correct.

18          CHAIRMAN BLACKMAN: Okay.

19          MR. MACGILLIS: The last point that Susan  
20 brought up that hasn't been touched on is the  
21 landscaping. She was concerned with doubling the  
22 landscaping. I think what staff had presented in the  
23 original meeting was that the Board of County  
24 Commissioners directed staff to increase everything by 50  
25 percent. I think what they were more concerned, the  
26 Board, was increase in the landscape where it's  
27 appropriate along the right-of-ways and along the  
28 compatibility buffer which is what working with the  
29 subcommittee I think that's what we did.

30          As far as increasing it, the one thing we did  
31 compromise in the urban tier to allow the right-of-way  
32 buffers to remain at 20 feet instead of increasing it to  
33 50 to encourage the in fill redevelopment like the new  
34 one on Okeechobee Boulevard. It wouldn't put a burden on  
35 them in the -- everywhere else we're increasing it. The  
36 buffers currently are 15 or 20 feet depending on the  
37 width of the right-of-way. The trees are one tree for  
38 every 30 feet with tree shrubs for every 30 feet so we've  
39 been increasing the buffers from 15 or 20 up to 50 in all  
40 the tiers except the urban suburban tier. It required  
41 two trees for every 30 feet and six shrubs for every 30  
42 feet.

43          MR. CROSS: The language we had the 25-foot  
44 right-of-way buffer in the urban suburban tier, we still  
45 have retained that 25-foot buffer even though the BCC had  
46 previous direction in some cases have 50-foot buffers.  
47 We no longer have any buffer and landscaping requirement  
48 in that 25-foot right-of-way buffer. That was the  
49 compromise made at subcommittee. If you have in the  
50 other tiers your right-of-way buffers or any other 50-  
51 foot required buffer then the materials would be doubled  
52 but not that predominant 25-foot wide urban suburban tier  
53 buffer.

54          MS. MOTLEY: I guess my question, and I get  
55 confused anyway, in terms of -- because you were  
56 mentioning 50 percent increase. 50 percent and double  
57 are different at least -- double is a 100 percent  
58 increase, not a 50 percent increase, so what are we  
59 really talking about here?

60          MR. CROSS: Again, the 50 percent increase that  
61 we had talked about for the 25-foot wide right-of-way  
62 buffer, we just felt that increasing and bring in

1 perspective the required buffers must stop at 20 feet,  
2 we're increasing it by 5 feet to 25 feet, and that's  
3 where we're going to have the 50 percent increase. We  
4 kind of just sat around and said we don't think we can  
5 really fit that much more material in that 25 feet.  
6 We're going to delete that 50 percent increase. So  
7 that's where your 50 percent went. It's gone. If you  
8 really want to cram it back in there, we'd be more than  
9 happy to put it there.

10 MS. MOTLEY: No. All that I recall, and like I  
11 said I was not at the second meeting, but that I remember  
12 talking about percentages but this says double. I mean  
13 maybe, Bill, what you're telling me is that you made that  
14 area bigger, therefore, there's more room to put the  
15 shrub in that area but you eliminated it some place else.  
16 Thank you.

17 CHAIRMAN BLACKMAN: We have Rose, and Joanne,  
18 and then Marty.

19 MS. DURANDO: The proposal here as I understand  
20 it without locating where this is diagrammatic but you  
21 have just two entrances and exits to serve this huge  
22 building? Does that meet with the...

23 MR. MACGILLIS: It's on page 6 of 6 which needs  
24 to be clarified. This is your berm. That's what this  
25 is.

26 MS. DURANDO: You have main entrance...

27 MR. MACGILLIS: Page 4 of 6.

28 MS. DURANDO: Are you only requiring two exits  
29 and entrances for this huge -- I don't like that at all.  
30 I don't think that's adequate. If there should be an  
31 emergency that doesn't give you much leeway. You got the  
32 whole big rest of the building.

33 MR. BUSCEMI: I think the issue is beyond this,  
34 but emergency exits would be above and beyond what's  
35 indicated here. This is just the main...

36 MS. DURANDO: Okay.

37 MR. BUSCEMI: The permit code would govern any  
38 kind of fire access and egress.

39 MS. DURANDO: And I would agree that --  
40 Commissioner Masilotti said 180,000. I would think that  
41 that's better. The 200,000 is the staff's compromise.  
42 And I really got to comment that Wal Mart is not  
43 specifically held responsible for deserting smaller areas  
44 and building a bigger building. That's not the issue.  
45 What Wal Mart is responsible for is the darkened rest of  
46 the commercial situation in this county, that once a Wal  
47 Mart opens up with their practices the other smaller  
48 stores, never mind that they're not Big Boxes, are forced  
49 to close down. And there's plenty of that in this county  
50 in the strip malls because they just couldn't compete  
51 within a mile of a Big Box. And that's a tragedy.

52 I also got a last -- but I'm not surprised.  
53 The comment from the Kilday outfit. The western people  
54 are entitled to shop. Well, thank you for that  
55 consideration. I can assure you that the western people  
56 would be most grateful if there were no more large malls,  
57 boxes or anything else. The majority of them love that  
58 feed store on State Route 7 in Forest Hills. They love  
59 the Red Barn. And the Wellington people may patronize  
60 the mall but saying that we are denied because we don't  
61 have any more Big Boxes, that's ridiculous. I want an  
62 acknowledgement from Mr. Kilday because he's been around

1 a long time, and we run into each other 20 some years  
2 ago, the western communities he talks about so glibly are  
3 all now, thank God for Dexter Lightman [ph], are in the  
4 water preserve area basin.

5 The Target store on 7 and Lantana is  
6 responsible for destroying almost three acres of  
7 wetlands. Soon the current administration -- and what  
8 happens at water management, their mitigation, strict  
9 denials down the road outside the basin where we have  
10 problems now. We have a wet area there that is hardly  
11 drained at all. We have one canal that's way over  
12 capacity, the C-51. Another canal on 441, the E-1 canal,  
13 way over capacity. You're glibly putting in more  
14 development, more crawls. The original crawls are  
15 supposed to be rehabilitating the east, east of Military  
16 Trail, U.S. 1, and North Palm Beach and so on. You got  
17 crawls on the west side of 7. You have crawls on  
18 Clintmore Road from the turnpike to 7. You have crawls  
19 on Southern Boulevard.

20 CHAIRMAN BLACKMAN: I would encourage you to  
21 have -- I'm sorry to interrupt but I would encourage you  
22 to have this conversation with Mr. Kilday. I used to  
23 work for him. So hold up and just let him have it.

24 MS. DURANDO: But don't say the western  
25 communities are entitled to a Wal Mart. It's not  
26 appropriate.

27 CHAIRMAN BLACKMAN: All right. Joanne.

28 MS. DAVIS: I sort of echo that sentiment. All  
29 the business dealings that we've had out in the western  
30 areas, Loxahatchee Acreage, and so forth, they don't want  
31 any more so for some developer type to come in and say,  
32 oh, we're being denied, no, no, that's completely  
33 incorrect. It's just an opportunity for development to  
34 get out there where it doesn't belong. It's the rural  
35 tier. It's not supposed to have that kind of heavy  
36 development.

37 I would like to make a motion that we accept  
38 the ordinance as it's been presented by staff with the  
39 exception of 180,000 square feet as maximum.

40 CHAIRMAN BLACKMAN: Okay. There is a motion on  
41 the floor and a second. Discussion on the motion?

42 MR. MACGILLIS: Does that include the minor  
43 amendment that staff read into the record regarding the  
44 merchandise in the windows on page -- that would have  
45 been on page 2 of 6.

46 MS. DAVIS: Yes, page 2 of 6.

47 MR. MACGILLIS: Bill Cross can read that in --  
48 Bill, can you read that in again for the record?

49 MR. CROSS: It should state Article 5.C.1,  
50 going down to b.(2)(1), a minimum of 70 percent of  
51 windows on front and side A facades shall be transparent,  
52 or window box, and here's the amendment, displaying only  
53 merchandise.

54 MS. DAVIS: Yes.

55 CHAIRMAN BLACKMAN: Okay. We have a motion and  
56 a second. Any further discussion? D.J.

57 VICE CHAIRMAN SNAPP: Okay. A couple of side  
58 comments, and then I'll speak directly to the motion. In  
59 response about the pedestrian amenities, I don't think  
60 any of the developers volunteered those. I think those  
61 actually came from John saying, hey, if you want to get  
62 something you're going to have to give something, and

1 these things would be good things and would increase the  
2 appearance and the functionality of the properties and  
3 just make the world a better place. So I don't think  
4 they were in here making that offer. We kind of forced  
5 that on them.

6 And I'm going to speak against the motion. I  
7 didn't attend the subcommittee meeting because I couldn't  
8 but I did exchange e-mails with staff, and I did have  
9 some phone conversations with staff about the ordinance  
10 and about what came out of it and the direction that it  
11 went. And I got the feeling that pretty much the  
12 subcommittee was in agreement to look at it with some  
13 flexibility as opposed to the 200,000 that we're talking  
14 about. I don't think 180,000 is sufficient for a lot of  
15 different users.

16 I don't have a problem with the size. I told  
17 everybody to begin with I didn't care if it was 300,000  
18 feet. I didn't think size was the issue. I thought it  
19 was appearance and how it fit into the community and how  
20 it impacted its neighbors, and I don't think that's a  
21 function of size, but I'm willing to accept some size  
22 limitations regardless of the fact that I don't think  
23 that's it.

24 I think this ordinance needs to have a couple  
25 of exemptions. One exemption I think it needs to have is  
26 this ordinance came about because of the concern about  
27 Big Boxes, freestanding, independent buildings, and right  
28 now it's throwing a net out there and it's catching all  
29 kinds of things. I think we need to exclude malls and  
30 regional shopping centers which get an entirely different  
31 kind of view, don't look like this. In fact, we're  
32 trying to make these Big Boxes look like those types of  
33 buildings.

34 And the analogy that I used is like the  
35 fishermen that go out with their seines and their nets  
36 and they throw them out to catch these fish and they end  
37 up with byproduct which is catching the dolphins and the  
38 turtles and everything that they don't want, and they  
39 have this kill product that we don't -- I don't think we  
40 want to throw this net out there trying to get these  
41 independent, freestanding buildings and have this thing  
42 be so broad that we catch a lot of things we didn't  
43 intend to catch. So I support the ordinance in concept  
44 but I think that we need to exempt regional shopping  
45 centers and malls which are entirely a different issue  
46 and I don't think are the subject of the concern.

47 Let me finish and then you can beat me up.  
48 What I would propose instead is that I like the concept  
49 as saying, okay, let's look at measuring the footprint,  
50 continue to measure the way we measure, but let's exclude  
51 mezzanine areas up to say 10 percent of whatever the  
52 footprint is, and let's exclude outdoor garden centers or  
53 outdoor shopping areas that are open air things from that  
54 calculation, not from parking requirements or other  
55 requirements but from this box because we're talking  
56 about the box. We're not talking about those other  
57 things, and if a building has a 200,000 square foot  
58 footprint and has no mezzanine it doesn't look any  
59 different on the outside than if it has 100,000 square  
60 foot of mezzanine in there. I mean the building is  
61 still going to look the same, so let's address the issue.

1           And I think that would provide some relief for  
2 the size issue by allowing them to have up to 10 percent  
3 of the footprint be in a mezzanine that wouldn't count  
4 towards the gross square footage. The other provision I  
5 would put in is -- I like the way that Jon was talking.  
6 I would like to see this ordinance say that if you want  
7 to go bigger, okay, the county commission -- you have the  
8 opportunity to ask the county commission to approve it up  
9 to 10 percent bigger by increasing your perimeter  
10 landscaping by 20 percent and by adding additional  
11 pedestrian amenities so that -- then let the county  
12 commission decide, yeah, it's good, and the community  
13 comes out and says, yeah, that's okay because you added a  
14 clock tower and you increased the landscaping by 200  
15 percent on the perimeter. We don't have an objection to  
16 it anymore.

17           The county commission has the flexibility to  
18 approve it up to 10 percent increase, and the developer  
19 has a chance to go in and ask for that. At the same time  
20 the community can show up and say, no, we don't want to  
21 see that increase and it doesn't have to be approved.  
22 It's not a guarantee. I think you should have the  
23 ability to ask for that just like we have flexibility  
24 with development orders. You can go back in and you can  
25 increase your size by a certain percentage without having  
26 to go through a lot of things but you have to show that  
27 it's reasonable and you can still meet the code, so  
28 that's my overall.

29           Plus the other thing, I guess the last thing  
30 is, this isn't the Wal Mart ordinance, and I'd hate to  
31 see us look at it as a Wal Mart ordinance. I'm trying to  
32 look at it in a broader picture. We've got home  
33 improvement centers that fall under this. Then we got  
34 the Wal Marts and the Kmart's and the Targets, and we got  
35 the Kosco's and the Sam's but there are other kinds of  
36 Big Boxes out there too. I mean I'm familiar with Big  
37 Boxes that are strictly appliance retailers and furniture  
38 stores that are Big Boxes that have entirely different  
39 kinds of issues. So I don't want to get focused on the  
40 Wal Mart aspect. This is to me not the Wal Mart  
41 ordinance. It's a Big Box ordinance, and let's kind of  
42 get back to that center. Thank you.

43           CHAIRMAN BLACKMAN: Okay. Discussion on the  
44 motion here. Maury.

45           MR. JACOBSON: First of all, I'd like to be  
46 very clear about one thing, and I think the people -- I  
47 think that I'm the worse offender. Unfortunately, I  
48 think the people who originally built all these Big  
49 Boxes, they created this monster. They created this  
50 problem that we're addressing here today. This is not --  
51 this didn't come out of nowhere whether it's -- all of it  
52 right across the board, Kosco's, Sam's, Wal Mart,  
53 whatever you want to call them, and Home Depot. They all  
54 created the same mess. And I think that there's a real  
55 basis for us having an ordinance to establish some level  
56 of creative design and architecture making an appealing  
57 place to go into.

58           I feel very strongly about the -- I have a  
59 question of you, D.J. First of all, I don't remember the  
60 interior portion counting toward the square footage of  
61 the building. I might be wrong but I hope that perhaps  
62 Barbara can remember. I don't remember that -- that was

1 not added in as a factor of -- that wasn't the problem,  
2 was it, the additional square footage in a mezzanine  
3 operation?

4 MR. MACGILLIS: It's calculated in the gross  
5 square footage unless you change the ordinance.

6 MR. JACOBSON: Well, I was under the impression  
7 that this was not going to be considered part of the  
8 gross area.

9 MR. MACGILLIS: Well, by definition of the  
10 current ULDC definition gross square footage includes  
11 everything.

12 MR. JACOBSON: Would have to be everything.

13 MR. MACGILLIS: Everything, yes. And the  
14 mezzanine would be included in your gross square footage.

15 CHAIRMAN BLACKMAN: From outside wall to  
16 outside wall.

17 MR. JACOBSON: And the other part about it is  
18 garden area, which is now included in the footprint as  
19 part of the square footage. What is the sales area?  
20 It's an area that does produce product, as it should, by  
21 the way. I'm not opposed to that. And it should provide  
22 profit. But I think it should be included as part of the  
23 overall square footage of this thing. I really do. And  
24 this is my feeling, and I agree with what staff has come  
25 up with. Some of these things that came up today, I  
26 appreciate the concerns of the people that are  
27 represented here today. But we have some concerns too  
28 and I think our concern should be what is in the best  
29 interest of our community.

30 CHAIRMAN BLACKMAN: Okay. Any other discussion  
31 on the motion? Larry.

32 MR. FISH: I'm going to keep my discussion  
33 brief. I support a lot of what D.J. said. I'm going to  
34 vote against this as it is in this form too because I  
35 think it's not what we agreed to and what we've been  
36 working on for the last two months.

37 CHAIRMAN BLACKMAN: Okay. Any other discussion  
38 or do we call the question, and it's probably appropriate  
39 to have a roll call given the number of people here. We  
40 are voting on the 180,000 square feet with the change in  
41 the -- which section was it, the façade section?

42 MR. KLEIN: We're voting approval of the Big  
43 Box ordinance as amended with 180,000.

44 CHAIRMAN BLACKMAN: Yes. Correct. Staff  
45 recommendation with 180,000 square feet.

46 MR. KLEIN: As is with 180,000.

47 CHAIRMAN BLACKMAN: With that slight revision  
48 to the façade portion. Okay. Let's call the question,  
49 and then have a roll call vote, please. Could we have a  
50 roll call? Just read down our list. Okay.

51 MS. AURELSON: D.J. Snapp.

52 VICE CHAIRMAN SNAPP: No.

53 MS. AURELSON: Wes Blackman.

54 CHAIRMAN BLACKMAN: No.

55 MS. AURELSON: Barbara Katz.

56 MS. KATZ: Yes.

57 MS. AURELSON: Barbara Noble.

58 MS. NOBLE: NO.

59 MS. AURELSON: Rosa Durando.

60 MS. DURANDO: Yes.

61 MS. AURELSON: Larry Fish.

62 MR. FISH: No.

1 MS. AURELSON: Maury Jacobson.  
2 MR. JACOBSON: No.  
3 MS. AURELSON: Frank Palen.  
4 MR. PALEN: No.  
5 MS. AURELSON: Brian Waxman.  
6 MR. WAXMAN: No.  
7 MS. AURELSON: Joanne Davis.  
8 MS. DAVIS: Yes.  
9 MS. AURELSON: Stephen Dechert.  
10 MR. DECHERT: No.  
11 MS. AURELSON: Marty Klein.  
12 MR. KLEIN: No.  
13 MS. AURELSON: And David Carpenter.  
14 MR. CARPENTER: No.  
15 CHAIRMAN BLACKMAN: Okay. The motion fails.  
16 Do we have a substitute motion? Larry.  
17 MR. FISH: Yes. I would like to make a motion  
18 that we encourage 200,000 square feet but that we allow  
19 up to 225,000 square feet with the following provisions.  
20 1, they have to increase the perimeter buffer around the  
21 entire site by 20 percent in square footage or size; 2,  
22 that they can use up to 15,000 square feet of mezzanine  
23 office space on a second floor mezzanine, not counted as  
24 the gross square footage. I'm not going to say anything  
25 about the garden center. Keep calculating the square  
26 footage the same way you're doing now because that will  
27 make that confusing versus everything else that you do in  
28 the county so I don't want to do that. And one  
29 additional amenity be required. There's 50,000 for each  
30 amenity so if you took 225 divided by 4 it becomes 5, and  
31 you have to add another one so that would be really 6  
32 amenities for 225,000 square foot footprint. No bigger  
33 than that. Maximum box square footage to the outside of  
34 building walls. That's my motion.  
35 CHAIRMAN BLACKMAN: Okay. That is the motion.  
36 Is there a second to that motion?  
37 MR. CARPENTER: I just want to say one thing  
38 what Larry was saying that the 15,000 square feet on the  
39 second floor not be counted in the gross floor area. I  
40 think what he means is not be counted toward the lot  
41 coverage or the footprint.  
42 MR. FISH: Yes.  
43 MR. CARPENTER: Okay. It still would be in the  
44 gross floor area. It counted as gross floor area. Is  
45 that right, Larry?  
46 MR. FISH: Yes. You just can't ignore that  
47 square footage.  
48 MR. CARPENTER: It's just not part of the  
49 footprint.  
50 CHAIRMAN BLACKMAN: It's just not part of the  
51 footprint.  
52 MR. FISH: Not part of the footprint which is a  
53 maximum of 225 under my proposed motion.  
54 MS. DURANDO: The footprint can be 225?  
55 CHAIRMAN BLACKMAN: But I don't think you  
56 particularly have to mention the mezzanine because that  
57 would be internal and they could just incorporate that.  
58 MS. DURANDO: So then it could be more.  
59 MR. CARPENTER: We're talking about square  
60 footage.



1           CHAIRMAN BLACKMAN: I think if you talk about  
2 225,000 square feet as the maximum footprint, I think you  
3 still allow them to do the mezzanine.

4           MR. CROSS: You would say 240,000 square feet  
5 if on the second floor mezzanine.

6           CHAIRMAN BLACKMAN: Right now we don't have a  
7 second anyway. Let's just have quiet here and see if we  
8 have a second

9           (No response)

10          CHAIRMAN BLACKMAN: So we don't, so motion dies  
11 for lack of a second. D.J.

12          VICE CHAIRMAN SNAPP: Then I would move that we  
13 recommend approval of the Big Box ordinance with the  
14 additions presented by staff today, and that the square  
15 footage be 200,000 square feet for the footprint of the  
16 building, and that we exempt mezzanine space up to 10  
17 percent of the size of the building from the footprint  
18 calculations and that there's a provision that you can  
19 increase the size of the building by up to 10 percent if  
20 you add an additional pedestrian amenity and you increase  
21 your perimeter landscaping by 20 percent. And further  
22 that we exclude regional shopping centers and malls from  
23 this ordinance.

24          MR. JACOBSON: I'll second that.

25          CHAIRMAN BLACKMAN: Okay. A motion and a  
26 second. Discussion on the motion?

27          MR. BUSCEMI: I want to make sure I understand  
28 what he's saying is you can increase the footprint by up  
29 to 10 percent so then the building would be 220,000  
30 square feet.

31          VICE CHAIRMAN SNAPP: You have a provision to  
32 increase it by up to 10 percent.

33          MR. BUSCEMI: Increasing the footprint.

34          VICE CHAIRMAN SNAPP: The footprint by up to 10  
35 percent with an increase in the perimeter landscaping by  
36 20 percent and an additional amenity. I said a provision  
37 for that. That doesn't mean you're guaranteed to get it.  
38 Under what I just said you'd have to go to the county  
39 commission. They could turn it down or they could  
40 approve it.

41          MR. BUSCEMI: But the base footprint would be  
42 200,000. Okay.

43          CHAIRMAN BLACKMAN: David.

44          MR. CARPENTER: I have a question about the  
45 mezzanine, the way you stated it.

46          VICE CHAIRMAN SNAPP: That they can have a  
47 mezzanine that didn't count up to 10 percent of the  
48 size...

49          MR. CARPENTER: Does not count as square  
50 footage?

51          VICE CHAIRMAN SNAPP: It does not count as the  
52 footprint.

53          MR. CARPENTER: Or does that mean not count as  
54 square footage so then the actual building could be 240.

55          VICE CHAIRMAN SNAPP: If they had 40,000 of  
56 mezzanine, yeah.

57          MR. CARPENTER: No. If they had 10 percent  
58 mezzanine, okay, which would be allowed that's 20,000,  
59 and the additional 10 percent would be 20,000. That  
60 would be 240.

61          CHAIRMAN BLACKMAN: Maury.

62          MR. JACOBSON: What you're saying is that...

1           MR. CARPENTER: No. I'm trying to figure out  
2 what he's saying. He's making the motion.

3           MR. JACOBSON: I was under the impression that  
4 you just said that 20 percent or 10 percent of that would  
5 be mezzanine.

6           MR. CARPENTER: No. He said 10 percent would  
7 be deleted from the square footage for mezzanine.

8           VICE CHAIRMAN SNAPP: I said as long as your  
9 mezzanine was 10 percent of your building or less it  
10 wouldn't count towards the footprint.

11          MR. CARPENTER: Okay. That's what I needed  
12 clarification on.

13          VICE CHAIRMAN SNAPP: Which would essentially  
14 allow 220,000 square foot building.

15          CHAIRMAN BLACKMAN: But it would still be a  
16 200,000 square foot box.

17          MS. KATZ: The footprint will never exceed  
18 200,000 square feet according to this.

19          VICE CHAIRMAN SNAPP: Unless the county  
20 commission gives an additional 10 percent based on one  
21 additional pedestrian amenity and 20 percent increase in  
22 landscape buffer.

23          MS. KATZ: But isn't that in addition to going  
24 into the mezzanine?

25          CHAIRMAN BLACKMAN: He's saying you could do  
26 both.

27          VICE CHAIRMAN SNAPP: It would be additive.  
28 Ultimately you could have a 240,000 square foot building  
29 including a mezzanine of 20,000 square feet.

30          MS. KATZ: I just want to know what the  
31 footprint will be. I don't want to know that mezzanine  
32 space. What will the footprint be?

33          CHAIRMAN BLACKMAN: The maximum square footage  
34 of the footprint based on D.J.'s motion would be 220,000  
35 square feet.

36          MS. KATZ: 220,000?

37          CHAIRMAN BLACKMAN: 220,000 square feet. Okay.  
38 Marty. Hold on. Marty. Some orderly fashion.

39          MR. KLEIN: I guess it's a question of the  
40 staff. The piece of the motion that also troubles me is  
41 the exclusion. I think D.J. said he wanted to exclude  
42 regional shopping centers or malls or whatever, and are  
43 those terms sufficiently identifiable or definable,  
44 Lenny? I'm troubled by this whole approach. If this  
45 motion doesn't pass, I'm going to move adoption of the  
46 motion of the ordinance as is. But when we start  
47 creating an ordinance and then start excluding generic  
48 categories, I'm very troubled by it.

49          MR. CARPENTER: Isn't the Big Box for single  
50 user?

51          MR. KLEIN: Single user.

52          MR. CARPENTER: Okay. Then the regional malls  
53 by definition...

54          CHAIRMAN BLACKMAN: Let's let Lenny address  
55 this, please.

56          VICE CHAIRMAN SNAPP: Can I respond to it?

57          MR. CARPENTER: Lenny was going to jump in  
58 here.

59          MR. BERGER: I have a question for you, D.J.  
60 Are you contemplating like a gigantic -- are you thinking  
61 about a giant anchor tenant on the end of a mall?

62          VICE CHAIRMAN SNAPP: Just for analogy, okay,

1 you got the Gardens Mall in Palm Beach Gardens. Okay.  
2 There's a new Nordstrom's going up there right now.  
3 Okay. This ordinance says it's Big Box and the intent  
4 was to catch freestanding, independent buildings. Okay.  
5 That mall, if you pass this, you got Sak's -- the way  
6 this ordinance reads it's any tenant in the building that  
7 exceeds this number is covered by the ordinance. I just  
8 want to exclude those buildings because now like I said  
9 you're catching properties that you're not intending to  
10 catch.

11 MR. BERGER: So you don't want to capture if  
12 the Nordstrom goes over 200,000 square feet...

13 VICE CHAIRMAN SNAPP: Yeah, if you're building  
14 a mall that has a 250,000 square foot Nordstrom's and a  
15 230,000 square foot Sears and has got a Sak's 5<sup>th</sup> Avenue  
16 in there and you got 150 other local tenants in this  
17 regional mall, which is a DRO approval anyway, then  
18 that's not what this ordinance is about. I'm saying  
19 let's exclude those buildings being captured by this  
20 ordinance.

21 MR. BERGER: Briefly the last time we met we  
22 talked about using -- describing it as a detached  
23 structure or freestanding building, and I think we could  
24 do that.

25 VICE CHAIRMAN SNAPP: If we do that, I got no  
26 problem.

27 MR. BERGER: But I don't want to use the mall  
28 because I don't think that's sufficiently defined  
29 anywhere.

30 VICE CHAIRMAN SNAPP: So your suggested  
31 language is to restrict this ordinance to freestanding  
32 building?

33 MR. BERGER: If you want to accomplish that  
34 effect you would put the word in freestanding or detached  
35 structure, something in the definition. Change the word  
36 single...

37 VICE CHAIRMAN SNAPP: My concern about that is  
38 just what he just said, and I had this conversation with  
39 staff. I don't think you want to have -- we'll pick on  
40 Kmart. I don't think you want to have Kmart go in and  
41 then put a Tire Kingdom on the side of the building and a  
42 sub shop and something else, and all of a sudden it's now  
43 a shopping center which it really isn't. I don't want to  
44 exclude that. I just don't want to capture things that  
45 we don't mean to catch.

46 CHAIRMAN BLACKMAN: Barbara.

47 MS. NOBLE: I'm sorry. I just want to ask  
48 Lenny -- thank you, Mr. Chair. I'm thinking of an  
49 example in Pennsylvania, the King of Prussia mall where I  
50 believe it might have even been Nordstrom's actually  
51 built a freestanding building adjacent to the mall and  
52 then did a covered walkway to attach it to the mall so  
53 now by utilizing D.J.'s language by excluding malls they  
54 did do a free -- you know, so I'm troubled by that.

55 MR. BERGER: And just off the top of my head  
56 cross country if those boxes were big enough you could  
57 call that a mall but they're really just a bunch of --  
58 it's a big box farm, so I'm not sure you can capture it  
59 that way either unless maybe we could craft a -- the only  
60 thing I can think of is craft a definition to identify  
61 the regional malls that are here now but...

1           VICE CHAIRMAN SNAPP: I'll tell you what. I'm  
2 willing to -- I don't have a second anyway. I'm willing  
3 to back that provision out of this to get rid of the  
4 confusion and I'm thinking that maybe we can come back  
5 and address it some other point in time to do the mall  
6 and shopping center. Okay. And I'm also thinking I  
7 don't know that there's that many places left in the  
8 county you can do a mall, you know. They're all in the  
9 cities.

10           CHAIRMAN BLACKMAN: Do you want to back that  
11 out formally then? Maury, are you okay with that?

12           MR. JACOBSON: Yes.

13           CHAIRMAN BLACKMAN: So we have a revised  
14 motion.

15           MR. CROSS: If I may.

16           CHAIRMAN BLACKMAN: We have a revised motion.  
17 Yes, Bill.

18           MR. CROSS: Before you revise the motion the  
19 percentage becomes confusing, the percentage of the total  
20 building. If your intent is to be additional 20 and an  
21 additional 20 if you can just specify the square footage  
22 versus the 10 percent.

23           VICE CHAIRMAN SNAPP: That's fine. It works  
24 either way. You wouldn't need to be increasing it over  
25 200,000 anyway.

26           MR. CARPENTER: And the language should be up  
27 to a certain square footage so it gives them some  
28 flexibility.

29           CHAIRMAN BLACKMAN: Hold on. Rosa wanted to  
30 get in and then we'll get to -- and this is discussion on  
31 the motion.

32           MS. DURANDO: Let's have a little dose of  
33 reality here. We're not talking about any malls in the  
34 county. These are malls in incorporated areas. This is  
35 not going to refer to that. I would like to know where  
36 you have in mind that you would put this Big Box of  
37 220,000 square feet. Where in this county is there  
38 space...

39           VICE CHAIRMAN SNAPP: I don't build anything.  
40 I'm not building anymore.

41           MS. DURANDO: I think that's the most  
42 unrealistic discussion I ever heard of. If you're  
43 familiar with this county what is left of this county  
44 that's under county jurisdiction that you could possibly  
45 associate with a mall? The Wellington annexation could  
46 come all around that area, not there. Palm Beach  
47 Gardens, ditto. Are you figuring to put this out near  
48 Scripps for an amenity near Mecca? I would like to know  
49 where in this county you can put a monster like this at  
50 this point in time.

51           CHAIRMAN BLACKMAN: I don't think we can do a  
52 locational study within the county the size of Palm Beach  
53 County.

54           MS. DURANDO: But we're quibbling over 220,000  
55 square feet when it's an impossibility.

56           CHAIRMAN BLACKMAN: Okay. And it's impossible  
57 to answer that question at this time. David.

58           MR. CARPENTER: I don't particularly -- I don't  
59 think I support the 10 percent reduction for the  
60 mezzanine. Nobody else gets that. And so I'd have to --  
61 I don't think given -- not counting 20,000 square feet is  
62 a good incentive. I would prefer to back that out. The

1 additional 10 percent, I'm not real sure about that  
2 either.

3 CHAIRMAN BLACKMAN: Okay. Barbara.

4 MS. KATZ: All right. I'd like to say  
5 something. I got the feeling before that most of us were  
6 willing to accept the 200,000. I cannot support this if  
7 you're going to suddenly go to 220. That's going in the  
8 back door when they couldn't get in through the front  
9 door. I was very much in agreement with what the staff  
10 recommended. I thought a lot of it was so stated, and  
11 the only motion that I feel I could support today is the  
12 one that the staff came in with their side amendment  
13 about merchandise, and that's the one that I will vote  
14 for. I won't vote for this one.

15 CHAIRMAN BLACKMAN: Okay. I think we're going  
16 to call the question here.

17 MS. DAVIS: Second.

18 MR. CARPENTER: There was a second. Maury.  
19 Maury seconded it.

20 MS. DAVIS: Oh, okay. Excuse me.

21 CHAIRMAN BLACKMAN: And he seconded the  
22 revisions too. So, Joanne, before we have the vote here.

23 MS. DAVIS: I want to support the motion as  
24 D.J. stated it. I would support what Barbara has  
25 suggested as 200,000 square feet as a maximum and with  
26 that slight staff revision of the language on the  
27 merchandising in the façade.

28 CHAIRMAN BLACKMAN: Okay. So could we have a  
29 roll call vote, please, on the motion?

30 MS. AURELSON: Wes Blackman.

31 CHAIRMAN BLACKMAN: Yes.

32 MS. AURELSON: D.J. Snapp.

33 VICE CHAIRMAN SNAPP: Yes.

34 MS. AURELSON: Barbara Katz.

35 MS. KATZ: No.

36 MS. AURELSON: Barbara Noble.

37 MS. NOBLE: No.

38 MS. AURELSON: Rose Durando.

39 MS. DURANDO: No.

40 MS. AURELSON: Larry Fish.

41 MR. FISH: Yes.

42 MS. AURELSON: Maury Jacobson.

43 MR. JACOBSON: Yes.

44 MS. AURELSON: Brian Waxman.

45 MR. WAXMAN: Which motion is this?

46 CHAIRMAN BLACKMAN: This is the motion saying  
47 that a 200,000...

48 MR. WAXMAN: No.

49 CHAIRMAN BLACKMAN: Okay.

50 MS. AURELSON: Frank Palen.

51 MR. PALEN: No.

52 MS. AURELSON: Joanne Davis.

53 MS. DAVIS: No.

54 MS. AURELSON: Stephen Dechert.

55 MR. DECHERT: Yes.

56 MS. AURELSON: Martin Klein.

57 MR. KLEIN: No.

58 MS. AURELSON: David Carpenter.

59 MR. CARPENTER: No.

60 CHAIRMAN BLACKMAN: The motion fails.

61 MR. KLEIN: Mr. Chairman.

62 CHAIRMAN BLACKMAN: Yes, Marty.

1           MR. KLEIN: I'd like to make a motion that the  
2 Big Box ordinance as proposed by the staff with the  
3 slight modification regarding advertising that was read  
4 into the record be adopted by the Board.

5           MS. DAVIS: Second.

6           CHAIRMAN BLACKMAN: Okay. Motion and second.  
7 Discussion on this motion? And that would include the  
8 amendments regarding the façade that's been incorporated  
9 before.

10          MR. KLEIN: Yes, please.

11          CHAIRMAN BLACKMAN: Okay. Any discussion on  
12 this motion? We've had the baby, the poppa, and now the  
13 momma. So let's have a roll call vote on this. Okay.

14          MS. AURELSON: Wes Blackman.

15          CHAIRMAN BLACKMAN: Yes.

16          MS. AURELSON: D.J. Snapp.

17          VICE CHAIRMAN SNAPP: No.

18          MS. AURELSON: Barbara Katz.

19          MS. KATZ: Yes.

20          MS. AURELSON: Barbara Noble.

21          MS. NOBLE: Yes.

22          MS. AURELSON: Rosa Durando.

23          MS. DURANDO: Yes.

24          MS. AURELSON: Larry Fish.

25          MR. FISH: No.

26          MS. AURELSON: Maury Jacobson.

27          MR. JACOBSON: Yes.

28          MS. AURELSON: Brian Waxman.

29          MR. WAXMAN: Yes.

30          MS. AURELSON: Frank Palen.

31          MR. PALEN: Yes.

32          MS. AURELSON: Joanne Davis.

33          MS. DAVIS: Yes.

34          MS. AURELSON: Stephen Dechert.

35          MR. DECHERT: No.

36          MS. AURELSON: Martin Klein.

37          MR. KLEIN: Yes.

38          MS. AURELSON: David Carpenter.

39          MR. CARPENTER: Yes.

40          CHAIRMAN BLACKMAN: Okay. Motion passes.  
41 We're through that part of it.

42          MR. CARPENTER: Is anybody in the Post in the  
43 room? I wanted a reporter to note that Rosa voted for  
44 the Big Box ordinance.

45  
46  
47  
48  
49  
50  
51  
52          CHAIRMAN BLACKMAN: Okay. Just to continue the  
53 proceedings here, we must convene as the Land Development  
54 Regulation Commission so we're going to adjourn as the  
55 Land Development Regulation Advisory Board and reconvene  
56 as the Land Development Regulation Commission. We have  
57 proof of publication. Is there a motion to accept?

58          MR. JACOBSON: So moved.

59          CHAIRMAN BLACKMAN: Motion. Is there a second?

60          MR. KLEIN: Second.

61          CHAIRMAN BLACKMAN: Second by Marty. Moved by  
62 Maury Jacobson. Discussion?

1 (No response)  
2 CHAIRMAN BLACKMAN: Seeing none, those in  
3 favor, aye.  
4 BOARD MEMBERS: Aye.  
5 CHAIRMAN BLACKMAN: Those against, same sign.  
6 (No response)  
7 CHAIRMAN BLACKMAN: Motion passes. We have a  
8 presentation by planning concerning the consistency.  
9 MR. HOYOS: Good afternoon. For the record,  
10 the ordinance as approved is consistent with the  
11 Comprehensive Plan.  
12 CHAIRMAN BLACKMAN: Okay. And that's the  
13 recommendation. Do we have a motion?  
14 VICE CHAIRMAN SNAPP: Motion to find it  
15 consistent with the plan.  
16 MR. KLEIN: Second.  
17 CHAIRMAN BLACKMAN: Okay. Motion by D.J.  
18 Second by Marty. Discussion?  
19 (No response)  
20 CHAIRMAN BLACKMAN: Seeing none, those in  
21 favor, aye.  
22 BOARD MEMBERS: Aye.  
23 CHAIRMAN BLACKMAN: Those against, same sign.  
24 (No response)  
25 CHAIRMAN BLACKMAN: Motion passes.  
26  
27  
28  
29  
30  
31  
32 CHAIRMAN BLACKMAN: We now reconvene as the  
33 Land Development Regulation Advisory Board. And the item  
34 on our agenda next is public comments. Anyone out in the  
35 public want to say anything before they leave?  
36 (No response)  
37 CHAIRMAN BLACKMAN: Okay. Seeing none, staff  
38 comments.  
39 MR. MACGILLIS: No comments. Thank you.  
40 CHAIRMAN BLACKMAN: Okay. And we are  
41 adjourned. Thank you.  
42 (Whereupon, the meeting was adjourned at 4:15  
43 p.m.)

C E R T I F I C A T E

THE STATE OF FLORIDA )

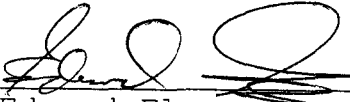
COUNTY OF PALM BEACH )


I, Edward Flaxman, Notary Public, state of  
Florida at Large,

DO HEREBY CERTIFY that the above-entitled  
and numbered cause was heard as hereinabove setout; that  
I was authorized to and did report the proceedings and  
evidence adduced and offered in said hearing and that the  
foregoing annexed pages, numbered 1 through 45 ,  
inclusive, comprise a true and correct transcription of  
the Land Development Regulation Commission.

I FURTHER CERTIFY that I am not related to  
or employed by any of the parties or their counsel, nor  
have I any financial interest in the outcome of this  
action.

IN WITNESS WHEREOF, I have hereunto set my  
hand and seal this \_\_\_\_\_ day of \_\_\_\_\_, 200 .

  
Edward Flaxman

NOTARY PUBLIC-STATE OF FLORIDA  
 Edward Flaxman  
Commission #DD362893  
Expires: OCT. 14, 2008  
Bonded Thru Atlantic Bonding Co., Inc.



**LOXAHATCHEE GROVES MORATORIUM**  
**SUMMARY OF AMENDMENTS**

**Revised 2/2/05**

**ORDINANCE 2005 \_\_\_\_\_**

AN ORDINANCE OF THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, AMENDING THE UNIFIED LAND DEVELOPMENT CODE, ORDINANCE 03-067, AS AMENDED, AS FOLLOWS: AMENDING ARTICLE 2 OF THE UNIFIED LAND DEVELOPMENT CODE, DEVELOPMENT REVIEW PROCEDURES, CREATING NEW CHAPTER G, LOXAHATCHEE GROVES MORATORIUM, IMPOSING A MORATORIUM ON THE ACCEPTANCE OF APPLICATIONS FOR REZONINGS WITHIN THE BOUNDARIES OF LOXAHATCHEE GROVES THROUGH DECEMBER 31, 2005; PROVIDING FOR THE TREATMENT OF PENDING APPLICATIONS AND REZONINGS REQUIRED TO IMPLEMENT COMPREHENSIVE PLAN AMENDMENTS ADOPTED IN AMENDMENT ROUND 2004-2. PROVIDING FOR INTERPRETATION OF CAPTIONS; REPEAL OF LAWS IN CONFLICT; SEVERABILITY; INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE; AND AN EFFECTIVE DATE.

**WHEREAS**, the legislature is currently considering a special act which would allow a referendum on the incorporation of Loxahatchee Groves; and

**WHEREAS**, a moratorium on rezonings in Loxahatchee Groves will encourage community deliberation regarding incorporation; and

**WHEREAS**, the moratorium on rezonings will prevent changes in the character of Loxahatchee Groves while the community is debating its future; and

**WHEREAS**, a moratorium for a limited duration of time for a valid public purpose is a valid exercise of the police power and does not result in a taking of private property.

**NOW, THEREFORE, BE IT ORDAINED BY THE BOARD OF COUNTY COMMISSIONERS OF PALM BEACH COUNTY, FLORIDA, THAT:**

**PART 1. AMENDMENT TO THE UNIFIED LAND DEVELOPMENT CODE**

Article 2, Development Review Procedures (Page 51 of 51), is hereby amended by adding Chapter G, Loxahatchee Groves Moratorium, as follows:

**Section 1. Moratorium**

- A.** That the Board of County Commissioners of Palm Beach County does hereby impose a moratorium beginning on the effective date of this ordinance, upon the acceptance of applications for rezonings in Loxahatchee Groves. The boundaries of the area subject to the moratorium are the boundaries of the proposed Town of Loxahatchee Groves and are incorporated into this ordinance as indicated in Exhibit 1.
- B.** That this ordinance shall not apply to any complete application for rezoning submitted to county staff with payment of appropriate filing fees prior to the effective date of this ordinance, pursuant to Section of the ULDC of Palm Beach County, or the items indicated below in Subpart C.
- C.** This ordinance specifically excludes and shall not affect: rezonings implementing comprehensive plan amendments adopted by the Board of County Commissioners in Amendment Round 2004-2.

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**Notes:**

Underlined language indicates proposed new language.

Language ~~crossed-out~~ indicates language proposed to be deleted.

... (ellipses) indicates language not amended which has been omitted to save space.

Relocated language is shown as *italicized* with reference in parenthesis.

**LOXAHATCHEE GROVES MORATORIUM**  
**SUMMARY OF AMENDMENTS**  
**Revised 2/2/05**

D. This ordinance shall expire on December 31, 2005 at 11:59 p.m.

**PART 2. CAPTIONS:**

The captions, section headings, and section designations used in this ordinance are intended for the convenience of users only and shall have no effect in the interpretation of the provisions of this ordinance.

**PART 3. REPEAL OF LAWS IN CONFLICT:**

All local laws and ordinances applying to the unincorporated area of Palm Beach County in conflict with any provision of this ordinance are hereby repealed to the extent of any conflict.

**PART 4. SEVERABILITY:**

If any section, paragraph, sentence, clause, phrase, or word of this ordinance is for any reason held by the Court to be unconstitutional, inoperative or void, such holding shall not affect the remainder of this ordinance.

**PART 5. INCLUSION IN THE UNIFIED LAND DEVELOPMENT CODE:**

The provision of this ordinance shall become and be made a part of the Unified Land Development Code of Palm Beach County, Florida. The Sections of the ordinance may be renumbered or relettered to accomplish such, and the word "ordinance" may be changed to "section," "article," or any other appropriate word. References to the effective date of the moratorium created by this ordinance may be changed to the actual calendar date established upon filing with the Department of State.

**PART 6. EFFECTIVE DATE:**

The provisions of this ordinance shall become effective upon filing with the Department of State.

**APPROVED and ADOPTED** by the Board of County Commissioners of  
Palm Beach County, Florida, on this \_\_\_\_\_ day of \_\_\_\_\_,  
20\_\_\_\_.

SHARON R. BOCK, CLERK &  
COMPTROLLER

PALM BEACH COUNTY, FLORIDA,  
BY ITS BOARD OF COUNTY  
COMMISSIONERS

By: \_\_\_\_\_  
Deputy Clerk

By: \_\_\_\_\_  
Tony Masilotti, Chairman

APPROVED AS TO FORM AND  
LEGAL SUFFICIENCY

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**Notes:**

**Underlined language** indicates proposed new language.  
Language ~~**crossed-out**~~ indicates language proposed to be deleted.  
... (ellipses) indicates language not amended which has been omitted to save space.  
Relocated language is shown as *italicized* with reference in parenthesis.

**LOXAHATCHEE GROVES MORATORIUM**  
**SUMMARY OF AMENDMENTS**  
**Revised 2/2/05**

By: \_\_\_\_\_  
County Attorney

EFFECTIVE DATE: Filed with the Department of State on the \_\_\_\_\_ day  
of \_\_\_\_\_, 20\_\_\_\_.

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**LOXAHATCHEE GROVES MORATORIUM**  
**SUMMARY OF AMENDMENTS**

**Revised 2/2/05**

**Exhibit 1**

The boundaries of the area subject to the moratorium are described as follows:

That portion of Loxahatchee Sub-Drainage District, Township 43 South, Range 41 East and Range 40 East, Palm Beach County, Florida, being more particularly described as follows:

**Beginning** at the Northwest corner of Section Eighteen (18) in Township Forty-three (43) South, Range Forty-one (41) East, Palm Beach County, Florida, and run thence along the North line of Section Eighteen (18) and Seventeen (17) of said Township to the Northeast corner of Section Seventeen (17) in said Township and Range; **Thence** run South along the Eastern boundary of Section Seventeen (17) to the Southeast corner of said Section; **Thence** run East along the Northern boundary of Section Twenty-one (21) and of Section Twenty-two (22) to the Northeast corner of the Northwest quarter of the said Section Twenty-two (22); **Thence** run South along the East line of the Northwest quarter of said Section Twenty-two (22) to the Southeast corner of said Northwest quarter of said Section; **Thence** run West along the South line of the Southeast quarter of Northwest quarter of said Section Twenty-two (22) to the Southwest corner of said Southeast quarter of Northwest quarter of said Section; **Thence** run South along the East line of the West half of the Southwest quarter of Section Twenty-two (22) and of the West half of West half of Section Twenty-seven (27) and of the West half of West half of Section Thirty-four (34) to the North Right of Way line of State Road 80, in Section Thirty-four (34); **Thence** West along the Northern edge of the North Right of Way line of State Road 80, across the West half of West half of Section

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**SUMMARY OF AMENDMENTS**

**Revised 2/2/05**

Thirty-four (34) and across Section Thirty-three (33), Thirty-two (32), and  
Thirty-one (31) in said Township to the point where the range line dividing  
ranges Forty (40) and Forty-one (41) East intersects said North Right of  
Way line of State Road 80; **Thence** North along the West line of Sections  
Thirty-one (31), Thirty (30), Nineteen (19) and Eighteen (18) to the **Point  
of Beginning**, embracing approximately Six Thousand Nine Hundred  
Thirty five and 56/100 (6,935.56) acres.

Said lands lying within the above described boundary lines are described  
more particularly as follow, to wit:

All of Section Seventeen (17), Eighteen (18), Nineteen (19), Twenty (20),  
and Twenty-one (21) and the Northwest quarter and West half of  
Southwest quarter of Section Twenty-two (22); and West half of West half  
of Section Twenty-seven (27); and all Section Twenty-eight (28), Twenty-  
nine (29) and Thirty (30) and all of Section Thirty-one (31) North of North  
Right of Way line of State Road 80; and all of Section Thirty-three (32)  
North of North Right of Way line of State Road 80; and all of Section  
Thirty-three (33) North of North Right of Way line of State Road 80; and  
all of the West half of West half of Section Thirty-four (34) North of North  
Right of Way line of State Road 80; all in Township Forty-three (43) South  
Range Forty-one (41) East, all of said lands being situate in Palm Beach  
County, State of Florida, according to the United States official surveys of  
said lands.

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**LOXAHATCHEE GROVES MORATORIUM**  
**SUMMARY OF AMENDMENTS**

**Revised 2/2/05**

**TOGETHER WITH**

The South ½ of Sections 7 and 8, T43S, R41E. The South ½ of the East ¼ of Section 12, The East ¼ of Sections 13, 24, 25, T43S, R40E, and that part of the East ¼ of Section 36, T43S, R40E, lying North of the North Right of Way of S.R. 80, all in Palm Beach County, Florida, containing 1320 acres, more or less.

**LESS AND EXCEPT The All or Nothing Legislation Parcel as described in Senate Bill No. 2616, Laws of Florida, Chapter 99-425, formerly known as The Palms West Hospital property**

A parcel bounded by Southern Boulevard (S.R. 80) on the South, the Southern boundary of the drainage/road Right of Way known as collecting canal on the North, Folsom/Crestwood of the East, and the Western boundary of The All or Nothing Legislation Parcel as described in Senate Bill No. 2616, Laws of Florida, Chapter 99-425 on the west, said parcel being more particularly described as follows:

A parcel of land located in the County of Palm Beach, State of Florida, to wit:

The **point of beginning** being the intersection of the Easterly line of Lot 4, Block K, Loxahatchee District, according to the plat thereof on file in the Office of the Clerk of the Circuit Court recorded in Plat Book 7, Page 81, of the Public Records of Palm Beach County, Florida, and the Southerly boundary of the “Collecting Canal” as shown on the Replat of Loxahatchee Groves Subdivision according to the Plat thereof, recorded in

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**LOXAHATCHEE GROVES MORATORIUM**  
**SUMMARY OF AMENDMENTS**

**Revised 2/2/05**

Plat Book 12, Page 29, of the Public Records of Palm Beach County,  
Florida; **Thence** Easterly along said Southerly boundary of the “Collecting  
Canal” to the Easterly boundary of said Replat of Loxahatchee Groves;  
**Thence** South along said Easterly boundary line of the Replat of  
Loxahatchee Groves to the North Right of Way line of State Road 80;  
**Thence** Westerly along said Northerly Right of Way line of State Road 80  
to the Easterly line of Lot 4, Block K, Loxahatchee District;

**Thence** Northerly along said Easterly line of Lot 4 to the **Point of**  
**Beginning.**

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