

**PALM BEACH COUNTY**  
**BOARD OF COUNTY COMMISSIONERS**  
**PUBLIC HEARING**

Thursday, February 28, 2008  
9:30 a.m. - 12:10 p.m.  
301 North Olive Avenue  
Jane M. Thompson Memorial Chambers  
6<sup>th</sup> Floor  
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny)

Springer

Notary Public

**A T T E N D E E S**

\_\_\_\_\_ Addie L. Greene, Chairperson  
Jeff Koons, Vice Chairman  
Karen T. Marcus, Commissioner  
Burt Aaronson, Commissioner  
Mary McCarty, Commissioner  
Jess R. Santamaria, Commissioner  
Robert J. Kanjian, Commissioner

Verdenia Baker, Asst. County Administrator

Barbara Alterman, Director, PZ&B

Jon Mac Gillis, Zoning Director

Wendy Hernandez, Acting Principal Planner,  
Zoning

Ron Sullivan, Senior Site Planner, Zoning

Ora Owensby, Senior Site Planner, Zoning

Carrie Rechenmacher, Senior Site Planner,  
Zoning

Autumn Sorrow, Senior Site Planner, Zoning

Carol Glasser, Site Planner II, Zoning

Joyce Lawrence, Site Planner II, Zoning

Douglas Robinson, Site Planner II, Zoning

Sandra Gonzalez, Site Planner II, Zoning

Bob Banks, Assistant County Attorney

Isaac Hoyos, Planning Dept.

Patrick Rutter, Chief Planner, Planning

Bryce Van Horn, Planning

David Wiloch, Planner II, Planning

Nate Marx, Planner I, Planning

Jim Choban, Engineering Dept.

Ken Rogers, Director, Land Development  
Division

Nick Uhren, Senior professional Engineer,  
Traffic Div.

Linda Monroe, Monitoring Division

Jon Pancoast, Monitoring Division

Bob Kraus, ERM

Kenny Wilson, Health Department

A T T E N D E E S

\_\_\_\_\_ Jean Matthews, Parks & Rec Dept.

Michael Owens, School Board Rep.

Julie Burns, Clerk

Lorraine Cuppi, Senior Secretary, Zoning

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P R O C E E D I N G S

CHAIRPERSON GREENE: We'll have roll call,  
and then we have opening prayer and Pledge of  
Allegiance by Commissioner Marcus.

CLERK: Commissioner Aaronson.

COMMISSIONER AARONSON: Here.

CLERK: Commissioner Greene.

CHAIRPERSON GREENE: Here.

CLERK: Commissioner Kanjian.

COMMISSIONER KANJIAN: Here.

CLERK: Commissioner Koons.

VICE CHAIRMAN KOONS: Here.

CLERK: Commissioner McCarty.

COMMISSIONER McCARTY: Here

CLERK: Commissioner Marcus.

COMMISSIONER MARCUS: Here.

CLERK: Commissioner Santamaria.

COMMISSIONER SANTAMARIA: Here.

COMMISSIONER MARCUS: If you'd all rise, please, for the prayer and the Pledge.

(Whereupon, the prayer and Pledge of Allegiance were given.)

CHAIRPERSON GREENE: Thank you, Commissioner Marcus.

Do we have proof of publication, please.

MR. Mac GILLIS: Yes, Madam Chair.

COMMISSIONER MARCUS: Move to receive and file.

COMMISSIONER AARONSON: Second.

CHAIRPERSON GREENE: You've heard the motion by Commissioner Marcus, second by Commissioner Aaronson.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

Mr. Attorney, swearing in, please.

MR. BANKS: Yes. Would anyone wishing to testify at today's hearing please rise.

(Whereupon, speakers were sworn in by Mr. Banks.)

MR. BANKS: Thank you.

CHAIRPERSON GREENE: One day we're going to make it 100 percent. Everybody stood up except one person.

Motion to adopt agenda.

COMMISSIONER AARONSON: So moved.

COMMISSIONER MARCUS: Second.

CHAIRPERSON GREENE: You've heard the motion by Commissioner Aaronson, seconded by Commissioner Marcus.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

CHAIRPERSON GREENE: Postponements.

MR. Mac GILLIS: Good morning,  
Commissioners.

Begin on Page 1, Item 1 for postponements,  
Z/DOA/CA2007-1185, Winners Church, postponed to  
March 24th, 2008, by right.

Item 2, PDD2006-1682, 112<sup>th</sup> Northlake  
Office, postponed to March 24th, 2008, by right.

Brings us to Page 2 of the agenda, Item No.  
3, PDD/TDR/R2007-1407, the Carlyle CLF, postponed  
to March 24th, 2008, by right.

Item 4, PDD/R2007-1592, Jupiter RV Resort  
RVPD, postponed to March 24th, 2008, by right.

Item 5, DOA2007-1590, Square Lake North,  
postponed to March 24th, 2008, by right.

Page 3 of your agenda, Item No. 6, Status  
Report 1991-042A, Faith United Methodist Church,  
postponed to March 24th, 2008, by right.

Item 7, Status Report 2001-005.2, Okean  
Office MUPD, postponed to April 24th, 2008, by  
right.

We've had a request this morning from the  
Monitoring staff that Item 9 on Page 4 of your  
agenda, Status Report 1983-078B, West Boca  
Presbyterian Church, be postponed to March 24th,  
2008.

All these are by right. We don't need a  
motion.

CHAIRPERSON GREENE: Thank you. And we  
don't need a motion?

MR. Mac GILLIS: We don't need a motion.

CHAIRPERSON GREENE: Okay.

CHAIRPERSON GREENE: Next we have consent  
agenda. Are there any items any commissioner want  
to pull from consent agenda?

VICE CHAIRMAN KOONS: Yes, Madam Chair.  
Can we pull Item 18? I need to read a statement.  
That's Bethesda -- that is on consent;  
right?

MR. Mac GILLIS: Yes.

VICE CHAIRMAN KOONS: Yeah, so I make a  
motion -- well, I just need to pull 18.

COMMISSIONER MARCUS: I move approval of  
the consent agenda without -- without Item No. 18.

COMMISSIONER AARONSON: Second.

CHAIRPERSON GREENE: You've heard the motion by Commissioner Marcus, second by Commissioner Aaronson.

COMMISSIONER MARCUS: Madam Chair, we have two cards, but I think they only want to speak if they got pulled.

Max Pastor.

MR. PASTOR: That's correct.

COMMISSIONER MARCUS: You only wanted to speak -- and it didn't get pulled.

MR. PASTOR: I'm -- yeah.

COMMISSIONER MARCUS: Okay. And then No. 13 is Suzan Posthumus, didn't want -- okay.

CHAIRPERSON GREENE: Okay. Thank you. Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

MR. Mac GILLIS: That'll bring us to Page 10 of the agenda, the --

COMMISSIONER MARCUS: Eighteen.

VICE CHAIRMAN KOONS: Want to do 18 now?

CHAIRPERSON GREENE: Well, Commissioner Koons pulled 18.

VICE CHAIRMAN KOONS: Yeah, Item 18, Bethesda Hospital West.

An employee for Bethesda also serves as a trustee for a blind trust in my name. Neither this vote or any other vote regarding Bethesda will result in any financial benefit to this employee.

While this does not constitute a voting conflict under the Code of Ethics, I wanted to publicly disclose for the record the nature of the relationship I have with this person.

CHAIRPERSON GREENE: Thank you.

COMMISSIONER McCARTY: And Madam Chair.

CHAIRPERSON GREENE: Commissioner McCarty.

COMMISSIONER McCARTY: Just my -- just since you pulled it, I'm -- it occurred to me my brother is Bethesda's lobbyist in Tallahassee. I

don't make any money from my brother's business.  
I wish I did, but I don't.

So I don't have any gain here, but there is  
a relationship with Bethesda and my brother.

CHAIRPERSON GREENE: Thank you.

Heard the motion to approve the consent  
agenda.

COMMISSIONER AARONSON: I'll make that  
motion.

VICE CHAIRMAN KOONS: For 18?

CHAIRPERSON GREENE: You've heard the  
motion by Commissioner Aaronson -- pardon?

VICE CHAIRMAN KOONS: Eighteen.

COMMISSIONER MARCUS: Second.

CHAIRPERSON GREENE: Second by Commissioner  
Marcus.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

COMMISSIONER AARONSON: By the way, on  
disclosure I have spoken to the representatives of  
Bethesda, as well, but just for disclosure.

CHAIRPERSON GREENE: Okay.

COMMISSIONER AARONSON: I have no interest  
in it, other than saving lives.

CHAIRPERSON GREENE: Anybody else?

(No response)

CHAIRPERSON GREENE: I have no trust and no  
money.

VICE CHAIRMAN KOONS: He's got all my  
assets in the blind trust so I hope he's a good  
trustee, so --

CHAIRPERSON GREENE: That's the end of  
consent agenda.

COMMISSIONER MARCUS: I don't have that  
problem, either, so -- I know the guy's really  
nice, and he's a friend, but I don't --

COMMISSIONER AARONSON: Actually, what he's  
saying is the rest of us don't have enough money  
to have blind trusts.

CHAIRPERSON GREENE: That's true.

COMMISSIONER McCARTY: We didn't have rich  
daddies.

VICE CHAIRMAN KOONS: And the -- it'll be a  
clothing allowance that's coming next. I can see  
it coming.

CHAIRPERSON GREENE: We can start the regular agenda.

MR. Mac GILLIS: Okay. That'll bring us to Page 10 of the agenda, Item 23, Status Report 1999-036, Coconut Plaza MUPD, Pages 267 to 271.

I believe Jon Pancoast is here to present this.

MR. PANCOAST: Good morning. I'm Jon Pancoast in the Monitoring Section.

This was previously postponed to have a traffic study. The traffic study was submitted. It does meet traffic performance standards, so, therefore, we're recommending a time extension.

COMMISSIONER MARCUS: So moved.

VICE CHAIRMAN KOONS: Second.

CHAIRPERSON GREENE: You heard the motion by Commissioner Marcus, second by Commissioner Koons.

COMMISSIONER MARCUS: No, I read it.

CHAIRPERSON GREENE: Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

MR. PANCOAST: Thank you.

MR. Mac GILLIS: This will bring us to Item 24, the small scale land use amendment and zoning application, which is Item No. 25.

Item 24, Small Scale Comp Plan Amendment 2008-015, the Jog/Joe Delong Institutional, also known as Park Vista.

COMMISSIONER AARONSON: Madam Chair, can I interrupt for a moment?

CHAIRPERSON GREENE: Commissioner Aaronson.

COMMISSIONER AARONSON: On consent agenda I have some disclosures to make.

I -- on Item 13 and Item 18, I already disclosed, but I had conversation on 13, which was already approved, but I just wanted that for the record.

COMMISSIONER MARCUS: We need to do it -- I don't think I did anybody.

COMMISSIONER AARONSON: Okay.

CHAIRPERSON GREENE: That's the only one?

COMMISSIONER AARONSON: I have more as we come to the item.

CHAIRPERSON GREENE: Oh, okay. Thank you.

MR. Mac GILLIS: David Wiloch from the Planning Division is going to present this for us.

MR. WILOCH: Good morning. David Wiloch, of the Planning Division.

Item before the Board is a proposed small scale amendment to the future land use atlas known as Jog/Joe Delong Institutional.

This 1.64-acre site is located in the Urban Suburban Tier on the northeast corner of Jog Road and Joe Delong Boulevard.

The request is for a land use change from low residential, three units per acre, to institutional with underlying LR-3 to develop 16,000 square feet of medical office uses.

The underlying residential designation is being retained to allow for the future development of a mixed use project.

The site was a subject of a previous amendment request to convert to commercial high office. That request was withdrawn by the application prior to the BCC public hearing.

The site lies just south and west of Park Vista High School and the new Palm Beach County Sheriff's substation which are part of the Springs PUD. Both of these properties have the LR-3 future land use designation.

To the northwest is the North Tree PUD with the LR-3 future land use designation, and to the south, the Aberdeen PUD with the LR-2 future land use designation.

The subject site is bisected by the Lake Worth Drainage District lateral 20 canal. The district has agreed to sell this property to the applicant with the understanding that an easement will exist to allow access for maintenance.

The District has also made a piping, paving and parking agreement known as a Triple P agreement with the applicant to allow the canal area of the site to be developed.

Staff recommendation is for approval, based on the following criteria.

First, the proposed amendment is consistent with the future land use and public school facilities elements of the Comprehensive Plan.

Second, the proposed medical office use is compatible with the school and sheriff substation, which are considered institutional uses.

Third, the proposal would provide infill development of a vacant parcel.

And, finally, the Palm Beach County School District has no issues with this amendment.

The applicant has agreed to limit development to 16,000 square feet of medical office use, and the Planning Division has included this as a condition of approval.

In conclusion, the proposed small scale amendment is consistent with the Comprehensive Plan, compatible with adjacent future land uses and meets all relevant concurrency level of service standards.

Therefore, staff recommends approval of their proposed land use change from LR-3 to institutional three, and that concludes the presentation.

MR. Mac GILLIS: Yes, if you would like, there's -- would you like to hear the presentation on the --

CHAIRPERSON GREENE: Yes.

MR. Mac GILLIS: -- corresponding zoning application?

Carrie Rechenmacher will present this.

MS. RECHENMACHER: Yes. Carrie Rechenmacher, for the record.

This is a companion rezoning piece. The project that is concurrently going through a land use amendment also has a rezoning. It had a -- it was part of the Aberdeen PUD, and Aberdeen was Item 19 on the agenda.

That small portion was deleted from the PUD and added to this, and there is also a Lake Worth Drainage District easement running through the middle of the property.

The applicant has agreed to purchase the Lake Worth Drainage District -- actually, it's a right-of-way, and he's converting it into an easement, and he's subject to the Triple P agreement.

So there is a rezoning action to the agricultural residential PUD zoning district, and the AR zoning district, and it's being converted to the institutional public facility to allow the 16,000 square foot medical office only facility.

And staff is recommending approval, subject to 20 conditions.

Thank you very much.

CHAIRPERSON GREENE: Any comments, questions from the commissioners?

(No response)

CHAIRPERSON GREENE: If not, I need a motion.

COMMISSIONER AARONSON: I'll make a motion to approve an ordinance to approve the proposed amendment from LR-3 to Institutional 3, subject to a condition.

COMMISSIONER KANJIAN: Second.

CHAIRPERSON GREENE: You heard the motion by Commissioner Aaronson, second by Commissioner Kanjian.

COMMISSIONER McCARTY: Just glad it's finally resolved. What a headache this was.

COMMISSIONER MARCUS: Was -- I'm sorry, Commissioner Aaronson. Was that for No. 24, the land use change?

CHAIRPERSON GREENE: Yes.

COMMISSIONER AARONSON: On 24.

CHAIRPERSON GREENE: Page 10.

MR. MILLER: Madam Chair, if I could.

Bradley Miller, from Miller Land Planning, for the record.

Just so -- on No. 25, we were just asked by COWBRA to include one more item in the sign condition.

COMMISSIONER MARCUS: We're not --

CHAIRPERSON GREENE: We're not on 25. We haven't reached that.

MR. MILLER: Oh, I'm sorry. They presented together, so I'm jumping the gun. Sorry.

CHAIRPERSON GREENE: Okay.

You've heard the motion and a second.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

Now we are on Item 25.

COMMISSIONER MARCUS: Okay.

CHAIRPERSON GREENE: Presentation?

MR. MILLER: Presentation. Again, Bradley Miller, Miller Land Planning Consultants.

On Page 306, the sign condition, COWBRA asked us to include in there that the monument sign not have the replaceable tenant components on the sign, which we're in agreement with.

Other than that, we're in complete agreement with the staff report and recommendation.

COMMISSIONER AARONSON: Staff have any problem with that?

MR. Mac GILLIS: If the applicant's agreeing to it. Typically we wouldn't put a condition on that restricting them, but if the applicant's agreeing to it, just so he doesn't come back later on and now we have a BCC condition restricting it.

So staff has no objection if the applicant is agreeing to it.

COMMISSIONER AARONSON: Okay. Then I'll --

MR. Mac GILLIS: It'd be a new item -- it would be a new Condition 4 on Page 306 under signs.

COMMISSIONER MARCUS: I move to --

COMMISSIONER AARONSON: I'll make a motion to adopt a resolution approving an official zoning map amendment from the Agricultural Residential Zoning District and Single Family Residential with a special exception for a Planned Unit Development Zoning District to the Institutional Public Facility Zoning District with a Conditional Use Overlay Zone.

COMMISSIONER MARCUS: Second.

CHAIRPERSON GREENE: You've heard the motion by Commissioner Aaronson, second by Commissioner Marcus.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

MR. MILLER: Thank you.

CHAIRPERSON GREENE: You're welcome.

MR. BANKS: Were there any disclosures on that item?

COMMISSIONER MARCUS: No, I didn't --

COMMISSIONER McCARTY: A long time ago I talked to the owner.

CHAIRPERSON GREENE: I didn't talk to anyone.

COMMISSIONER MARCUS: I haven't met with anybody.

CHAIRPERSON GREENE: That's it? Okay.

CHAIRPERSON GREENE: No. 25 -- 26.

MR. Mac GILLIS: Twenty-six and 27 are companion applications.

Item 26 is a small scale Comp Plan amendment, 2008-001, Fitzgerald Subdivision, and Nate Marx from the Planning Division will present this.

MR. MARX: Good morning. Nate Marx, with the Planning Division.

The item before the Board is the Fitzgerald small scale amendment which previously received unanimous recommendation for denial by the Local Planning Agency.

The subject site is a 1.59-acre parcel. It's located on the west side of Riverside Drive, approximately a half a mile south of County Line Road.

The applicant is requesting an LR-2 land use so that the property can be subdivided into two new parcels.

This shows the subject property looking southwest towards the Loxahatchee River, and to the north beyond Riverside Drive are properties with an LR-3 land use.

This area highlighted in blue represents the Coastal High Hazard Area, and the Coastal High Hazard Area is required by Chapter 163, a Florida State Statute, and 9J-5 of the Florida Administrative Code.

The whole basis for the creation of the Coastal High Hazard Area is for the protection of life and property from tidal surges created by Categories 1 and 2 of hurricanes.

As a result, the County has in place three policies all stating that the County shall not increase densities in the Coastal High Hazard Area; therefore, staff recommends denial based on the following.

First, the aforementioned programs and policies.

Secondly, that this proposal would create an arbitrary LR-2 land use among a section of LR-1 properties.

And, lastly, this area in red highlights 12 properties totaling 12 acres which has been consistent in density since the adoption of the 1989 Comprehensive Plan.

This concludes staff's recommendation for the Fitzgerald small scale amendment.

CHAIRPERSON GREENE: Okay.

MR. Mac GILLIS: Would you like to take the --

CHAIRPERSON GREENE: Uh-huh.

MS. ALTERMAN: Well, I think that since the staff is recommending denial, you might want to hear this -- the land use change first, and then you can take up the zoning.

MR. BANKS: This is a rare situation where they don't -- the zoning they're requesting is consistent with the land use that the property has now and would be consistent with the new land use, so they really don't -- we don't need to hear them both at the same time, so.

COMMISSIONER MARCUS: The Zoning recommendation is what, though?

CHAIRPERSON GREENE: It's for approval.

COMMISSIONER MARCUS: It's for approval, so we have kind of conflicted --

MR. BANKS: Right. What I'm saying is the zoning they have is inconsistent with the current land use designation. So the zoning they're asking for brings them into conformance with the Comp Plan -- with the current Comp Plan.

So staff had no basis, so, you know, the zoning's supposed to be in conformance with the Comp Plan.

COMMISSIONER MARCUS: It was the high -- it was the flood issue, the Category 1 --

MR. Mac GILLIS: Correct.

COMMISSIONER MARCUS: -- flood issue that is the reason Planning is recommending denial?

MR. Mac GILLIS: That's correct. It's in the -- this additional unit they're proposing is in the coastal high protection zone, and that's Planning's basis for denying it.

You're not allowed to add any additional dwelling units to that coastal construction area for protecting people during the hurricanes, so --

COMMISSIONER MARCUS: The applicant?

COMMISSIONER McCARTY: Madam Chair.

CHAIRPERSON GREENE: Commissioner McCarty. I'm sorry. I didn't see your light.

COMMISSIONER McCARTY: Yeah. And I don't know if this is -- I don't -- you're going to tell me maybe this is zoning or something, but let me just tell you my issue with this.

I really -- you know, I take umbrage with looking across the road to these other developments as what's consistent because, really, these properties on the river are sort of something unto themselves. They're not part of some subdivision that's across the street that has a completely different feel.

So I don't really -- I'm not -- I don't really pay attention to that as far as the consistency thing, but -- and I don't -- I wouldn't necessarily be opposed to splitting this particular site, given how these properties kind of now are gradually going into smaller parcels as they go north.

My concern is the properties to the south, the precedent that we're setting that we won't -- that if somebody wants to now go split these properties to the south, we won't have an argument against it because they're going to cite this as, you know, that the -- look, you did it here. You gave them two units, and so we want to -- to the acre, and so we want what you gave them.

And I just don't want to start a domino effect of splitting these because these are beautiful large lots on the river that have their

own feel, their own unique character. There aren't, you know, many of them, and I'd like to preserve that, while, though this 1.59 acres, you know, splitting that in half still leaves you two nice large lots.

I'm just concerned that these lots to the south then will use that as a precedent to come back and want to split their stuff up, and I don't want to set ourselves up for that, so that's where I am with this, and I did tell the applicant when they came to see me I don't necessarily have a problem with what they want to do, 'cause I think it's sort of consistent, and it fits well. I'm just concerned about the precedent that we're setting.

So if I can get some satisfaction from staff that we won't be put in some sort of bind precedent-wise, I won't be able to support it.

MR. BANKS: Every time you make an amendment it's the precedent for the neighbor, and here this one's kind of in the middle so it right -- it would kind of set the kind of tone to kind of fill it in 'til -- so that whole area would -- could be made LR-2.

COMMISSIONER McCARTY: I just -- you know, if we had in our -- if somehow, and I don't know who -- I think staff, when I met with staff on this, there was a suggestion -- you know, these properties are pretty narrow up on the road, and if we had something in the code -- again, you know, this might be something we have to do first, or we could get on the boards to do immediately.

But if we had something in the code where in order to have those two units you have to have a certain amount of frontage on that road that you can't have two driveways right next to each -- or one driveway servicing two, you know, something maybe, 'cause they're every narrow, those frontages on the road, and it's pretty good size for this -- the subject parcel.

So I just -- I'm trying to figure out a way to make this work, that there may be some conditions, some zoning provision, something we can do that would make these properties not as eligible and not -- and have it not be as much of a precedent.

MS. ALTERMAN: Well --

COMMISSIONER McCARTY: I'm just, you know -

-

MS. ALTERMAN: If I may, Commissioner --

COMMISSIONER McCARTY: -- flailing about here.

MS. ALTERMAN: There is actually a code amendment for frontage along the right-of-way, and if in fact they get approved, they will be going to the Zoning Commission for a variance from that.

So even if you do have code requirements for frontage, there's always the ability to get a variance, and in fact that's what they're intending to do if they get this approval in order to split it into two lots.

So there are several steps they go through, but they can get that variance. So I'm not sure that there's a way to say you can't do that.

CHAIRPERSON GREENE: Any other comments?  
Commissioner Aaronson.

COMMISSIONER AARONSON: I don't know how you stop -- you would be setting a precedent, okay, and I don't know how you go ahead by law and say you can do this but have not set a precedent; am I correct?

MR. BANKS: Yes.

COMMISSIONER MARCUS: Madam Chair.

CHAIRPERSON GREENE: Commissioner Marcus.

COMMISSIONER MARCUS: But as you've told us each time, under Comp Plan we have total, you know, latitude to look at each thing independently, even though we might have done one thing somewhere, if --

MR. BANKS: Here you have specific policies in the Comp Plan that say to approve this amendment would be a violation of the Comprehensive Plan.

Usually the Comp Plan policies are kind of vague, and there's some room for ambiguity. Here it says --

COMMISSIONER MARCUS: But it's not --

MR. BANKS: It says unless we -- unless we change the Comp Plan, it says you can't do the amendment.

COMMISSIONER MARCUS: But it's not for the reasons that Commissioner McCarty's talking about. It's because of flooding.

MS. ALTERMAN: It's -- I think it's more than flooding. I think it's evacuation times, it's flooding and damage to additional property and --

COMMISSIONER MARCUS: I guess my -- I guess my --

MS. ALTERMAN: -- all of those things.

COMMISSIONER MARCUS: I guess my point to Bob, though, is that I thought you had said, you know, if the next one comes in, and they have different --

MR. BANKS: But every -- I mean but I've always --

COMMISSIONER MARCUS: Let me finish.

If they had a different size or -- of lot or frontage or something like that, then we have the discretion to say well, you're not the same because this one had this kind of a narrow thing, this one doesn't, or something,

MR. BANKS: Amending the Comprehensive Plan is legislative so you have great discretion, but every time you make an amendment it provides the argument for the next person coming in for an amendment.

So everything you do has precedential value.

MS. GLAS: If I could.

CHAIRPERSON GREENE: Did he want to say something before you make your presentation?

MR. HOYOS: Just to clarify that the policies in the plan are in response to State requirements.

So even if we decide to go forward with this one, every other one that is coming in we're going to have to recommend denial because it's going to be inconsistent with the Plan and with the State Statutes.

COMMISSIONER McCARTY: Madam -- let me just says this.

You know, we -- I think we need to be careful because the coastal hazard or the high hazard issue is one, as various areas want to -- especially those on water -- want to increase density, one of the biggest arguments against them is the high hazard issue, and I'm a little concerned about piercing that issue or setting a precedent where we look the other way on this and having that thrown back in our face on other areas that may be looking to do it, but it's a much bigger impact.

Obviously it's just one house, so I'm really nervous about this. I --

COMMISSIONER AARONSON: Well, how would it --

COMMISSIONER McCARTY: All by itself I wouldn't have a problem, but what it -- the message it's sending is a dangerous one.

COMMISSIONER AARONSON: When you talk about the hazard, how would this affect us if there was a hurricane and we were looking for recovery dollars from FEMA, and FEMA said that we went against the recommendation of our staff because of hazard and things such as that?

What type of an effect, Bob, would that have on our recovery of dollars?

MR. HOYOS: If I may, Commissioner, this Coastal High Hazard Area is not based on the flood insurance maps. It's based on a hurricane evacuation times for Hurricane 1 category.

So it's totally different from the FEMA criteria.

COMMISSIONER AARONSON: Okay.

CHAIRPERSON GREENE: Are you ready for your presentation?

MR. BANKS: We have to have a Comprehensive Plan that's consistent with the -- with the State Statute and the, you know, and the State rules, and so if we -- as we amend our plan and veer away from the State requirements, or at least without attempting to change the text and, you know, somehow -- and, you know, show the State that we have some other way to mitigate for hurricane risk, you know, we just -- we just risk -- we just end up with an inconsistent plan and kind of the implications that it has down the road.

COMMISSIONER MARCUS: Madam Chair.

COMMISSIONER AARONSON: So the answer to my question is yes, we do put ourselves --

MR. BANKS: We don't know. We really can't say, you know, what will happen down the road.

COMMISSIONER AARONSON: Well, okay, but -- but it doesn't -- it's not in our favor to do it?

MR. BANKS: Correct.

CHAIRPERSON GREENE: Okay.

Commissioner Marcus.

COMMISSIONER MARCUS: I'm struggling with -- so this is not even about flooding. This is just about evacuation. Okay.

I'm struggling with -- and all we have to do is -- do we have to change our text to show this as not a high area of critical concern?

MR. HOYOS: Well, the State indicates that the Coastal High Hazard Area needs to be depicted based on the surge for Hurricane 1 evacuation --

COMMISSIONER MARCUS: So the hurricane --

MR. HOYOS: -- and that's what --

MR. BANKS: If you -- you can have a different policy, but right now the policy's a flat out prohibition on increasing density.

If it was discouraging increases in density, if it was something else, but right now it says -- it's a prohibition policy.

So if there was a -- if the policy was modified, you know, maybe we could show the State well, we're still meeting the intent, but we don't have a flat out prohibition because it creates a hardship to some property owners, but --

COMMISSIONER MARCUS: But did we -- are we required statutorily to do the prohibition or we just did that?

MR. BANKS: Well, I don't think every -- I don't know that the State's -- I can't speak to the wording of the statute, but --

COMMISSIONER MARCUS: Well --

MR. BANKS: I just know that that's -- the State found the language we put in in compliance. So the State accepted that language.

COMMISSIONER MARCUS: Right. But we don't know if it has to be a prohibition.

I mean in some -- I agree with Commissioner McCarty. We don't want to set precedent for being able to do this, and yet I sit here, and I watch like in -- not to pick a -- Singer Island gets to do all sorts of condos, huge units, on a barrier island. Talk about evacuation issues, and nobody utters a peep, and now we're talking about one house.

So that's what I'm struggling with in terms with whether it's our policy we need to reflect in terms of density as opposed to -- I mean and this --

MR. BANKS: I think -- I think if the County changed that policy in the Comp Plan, you know, worked to come up with a policy that still met the requirements of 9J-5 but wasn't a flat prohibition, then this Board would have the discretion to approve the amendment.

The problem is right now it's just a flat out prohibition.

COMMISSIONER MARCUS: But nobody knows if that's just because that's the way we wrote it or if the State law requires it.

MS. ALTERMAN: And --

COMMISSIONER MARCUS: And Briny Breezes got certified.

MS. ALTERMAN: No.

COMMISSIONER McCARTY: They did not get certified.

COMMISSIONER MARCUS: Because of the --

COMMISSIONER McCARTY: High hazard was one of the big issues.

MS. ALTERMAN: Yeah, exactly. I mean if --

COMMISSIONER McCARTY: You're reading my mind here.

MS. ALTERMAN: I think we need to get through this one, and you need to make a decision, and then if the Board's direction, if you want us to look at that policy and bring back some changes to it in the future, we can do that if that's the Board's desire.

We would figure out whether it is, you know, it needs to be a straight prohibition or whether we have some flexibility to mitigate it in some way or something else, but right now the Comp Plan says what it says, and that's why staff's recommending denial.

COMMISSIONER MARCUS: Could we -- could we -- and if you bring the policy back, could we differentiate and be stronger in certain places and more flexible in other places?

MS. ALTERMAN: We'd have to look at that.

COMMISSIONER MARCUS: Okay.

MS. ALTERMAN: You know, we'd have to check with the statutes and DCA.

COMMISSIONER McCARTY: You all understand where we want to go with this so you need to try and figure out if we can get that.

MS. ALTERMAN: We understand.

CHAIRPERSON GREENE: Commissioner Kanjian.

COMMISSIONER KANJIAN: Madam Chair, thank you.

I had the opportunity to meet with the applicant yesterday for a brief period of time, and I think for the viewing public it'd be real important for them to hear what the point is because if I were at home right now, I'd be real confused, and I think that at least if we hear from the applicant, we'll get an understanding of why we're, you know, where we are today.

And as I look at the picture of this entire area and you worry about increased density, and I have a photo, an aerial photo, there aren't a bunch of lots there that are over one acre. So this will only affect anything that's over one acre, anyway.

In fact, this is the largest one that's anywhere around there, and it looks rather unique, just like the river there is rather unique.

So I think it'd really be helpful for all of us, including the public, to hear from the applicant and then discuss those issues.

COMMISSIONER McCARTY: There's a larger lot just two lots down, 1.77.

COMMISSIONER KANJIAN: Yeah, but the way -- the way it's laid out, Commissioner McCarty, it won't -- it won't work to put another home on that lot on the water the way it's configured because of the wide angle there.

I will also note when we're questioning whether or not we would be in trouble or what kind of houses would be here, the codes that this new home would be built on, if there is one to be built, would be drastically different, and the elevation of the home that would be built there would be drastically different than its neighbors.

So, quite frankly, we'd actually be better as a community if our homes were all built under the new hurricane codes and new elevation codes than when these older homes were built there if you want to look at this as what's the best thing for our community, but, you know, that's a much bigger -- a much bigger question to get into.

Any home that would be built here, this is where people would go during the hurricane, any new home. And that's what people do with new homes today. They go to those homes during the hurricanes because of the way they're built.

So from a public policy standpoint I'd really like to hear from the applicant 'cause they kind of have an interesting story.

CHAIRPERSON GREENE: If there are no other questions, we'll hear from the applicant.

MS. GLAS: Thank you. Dodi Glas with Gentile, Holloway and O'Mahoney, representing Mr. Fitzgerald.

And if -- I'll abbreviate a little bit here, but as has been discussed, there's an established development pattern in this area. This is an older subdivision which was -- as you can see, this area in the green is the Rivercrest subdivision. There's also a portion of it that crosses Rivercrest Drive, and it is LR-3 designation.

To the north of our property on the river is an LR-2 designation. The property that abuts us to the south is an LR-3 designation.

You can see that there's a pattern in terms of the way the land use was designated here.

You can see that the lots are smaller to the north of us, and that you can see that variation that Commissioner McCarty pointed out in terms of the depth of these lots and how it changes as you move down the river.

One of the things that you also note is the zoning of the whole area is RS, whether it's multi-family or single family. Part of what the petition does is holds to a single family request in its both land use and zoning request.

The surrounding community is fairly dense. There's 5.5 units per acre to the north of us in Tequesta and across the river from us in Tequesta, as well.

The adjacent property, you can see here what happens with the lot sizes. All the lots to the north of the site are smaller than this lot in terms of acreage. They're 0.8, 0.58.

This particular property is obviously, as an LR-2, compatible with the surrounding uses. The issue's been the Coastal High Hazard Area.

When this gentleman bought this property, one of the things that he was told is that he was in a Flood Zone A. He knows a little bit about, if you will, the height of the property.

The issue is what is the elevation of the property. He knew he was over that elevation because part of storm surge is related to elevation of property.

In this particular case he went to FEMA and said wait a minute, you know, I've got a survey, take a look at this.

And when it was reviewed by FEMA, it was determined that he's in Flood Zone B, not A, that he is out of that flood plain designation, and in fact so are some of his neighbors; however, FEMA won't adjust all of their properties.

They'll have to go through the same thing to get their adjustment, which the biggest issue for those property owners is their insurance rate because it's tied to the flood zone designation, and FEMA doesn't go in and just change them based on information. You have to go property by property in order to get a change in that designation.

And FEMA did issue their letter. We have copies of that with us. I believe it's been presented before that establishes that this property's in Flood Zone B.

And the reason why this is relevant is if you, again, look at the overall designation of the property, it's the Rivercrest subdivision that's been affected.

Again, to the north we have the LR-2 land use along the -- right on the river and LR-3 adjacent to that, and that's why this particular property owner felt it was important to proceed and go through this process.

We know it's onerous. We know it's difficult, but we're talking about one additional house in this location.

And I'll be happy to answer any additional questions.

COMMISSIONER McCARTY: Can I just ask her?

We were -- the FEMA thing is nice, but it's not -- you didn't address the issue of the high hazard, which has to do with the evacuation.

So how do we -- we have a prohibition in our Comp Plan. You're asking us to go against our Comp Plan.

Do you have any --

MS. GLAS: What I can add to that --

COMMISSIONER McCARTY: -- issues on that?

MS. GLAS: -- is if you look at Objective 2.3, which is development in the high hazard area, it begins with Palm Beach County shall direct population concentrations away from known or predicted Coastal High Hazard Areas.

The policy is designed -- and then it goes on -- to be implemented by, as staff has pointed out, there are policies that talk about not increasing density, but, again, when we look at these, it's all a give and take.

The fact in some of the other coastal communities we were dealing with mansionization issues where we're tearing down, building one unit on two lots. There's this give and take.

In terms of a legal interpretation the question becomes how much of this give and take goes on.

The overall direction of the policy, and I believe the intent, as was noted, is to direct

from putting higher concentrations of population and property at risk.

COMMISSIONER McCARTY: So when it goes on to say that it's prohibited, you're --

MS. GLAS: It doesn't say prohibited anywhere in the text --

COMMISSIONER McCARTY: It says shall not?

MS. GLAS: It says shall not increase densities was the policy that was referenced --

COMMISSIONER McCARTY: Okay.

MS. GLAS: -- to that objective.

COMMISSIONER McCARTY: And so you interpret that as give and take?

MS. GLAS: Well, in my experience this whole mathematical issue of units and density is a little bit -- it's the smaller properties that wind up getting caught in this whole process and the complexity of it because what we have over time is some natural attrition in both directions.

COMMISSIONER McCARTY: Well, I'm going to move staff's recommendation for denial.

CHAIRPERSON GREENE: You've heard the motion by Commissioner McCarty.

COMMISSIONER AARONSON: Second.

CHAIRPERSON GREENE: Second by Commissioner Aaronson.

Ready for the question.

COMMISSIONER MARCUS: Madam Chair.

CHAIRPERSON GREENE: Commissioner Marcus.

COMMISSIONER MARCUS: I'm trying to figure out how we go and do this without -- with changing the policy.

I was asking about how we can do this with a -- some sort of a caveat on changing the policy or something like that.

Is there a condition we can put on this? Is there something that they can't have, you know, that's what I'm trying to do because I -- it's just one more house.

And I appreciate the concern about the way the policy is written. Clearly, we need to look at that.

MS. ALTERMAN: And we have been having some staff discussions, not only about this, but others that come into the process where they're -- where staff believes that there's a prohibition. It may not be "prohibits," but "shall not" do these things. I think that's as close to a prohibition as you get.

And we've been -- we've been trying to come up with a way, and, quite frankly, I think that my belief is that we need to come in, have these discussions with the Board about a policy, have the policy amended, and then that would allow a project to come in without trying to send something to DCA and getting ourselves into the

point where DCA is saying what are you doing, you've got a prohibition in your Comp Plan, and yet you're sending us these things.

I'm just really concerned about how we approach DCA, how we look to the public about trying to do things that are totally inconsistent with our Comp Plan.

I'd rather have us amend the policy if that's what we want to do, and then if that's the case, then come -- let them come in and apply under a new policy.

COMMISSIONER MARCUS: Small scale goes to DCA?

MS. ALTERMAN: Yes.

COMMISSIONER MARCUS: Well -- and I guess -- I met with the applicant early on, and I --

MR. BANKS: DCA does not --

MS. ALTERMAN: They get -- they see them.

MR. BANKS: I mean they -- the amendments are filed with the State, but DCA does not review the small scales unless someone challenges.

COMMISSIONER MARCUS: I guess when I originally met with the staff and the staff was -- told the applicant that well, we have to recommend denial, but it's really up to the Board, if there was such a strong concern about needing to change the policy, that would have been the message at the time that we could have worked on, and I didn't get that message.

VICE CHAIRMAN KOONS: Uh-huh, uh-huh.

COMMISSIONER MARCUS: And so I'm concerned that we've been sending them down a path, and then all of a sudden now we have more concerns, and that the policy is the issue.

We obviously need to revisit the policy and at least make it clearer.

MS. ALTERMAN: Madam Chair, quite frankly, we -- I actually met with them and told them that there was a prohibition, that we believed that we -- not only could -- I actually had concerns about even taking it in, but we did take it in, and we did tell them that we were going to recommend denial, and I don't know where this idea that we would recommend denial, but it's up to the Board when there's a policy that prohibits it.

COMMISSIONER MARCUS: Well, that was when we met. That was what I was told, and the staff was there, and it was basically that it was really -- it goes to the Board, and the Board decides, not that it's a prohibition and it's a absolute, you can't do it; otherwise, I think they wouldn't have done this without trying to change the policy.

So I'm -- I feel uncomfortable that we didn't send that message first, and how long is it going to take to fix the policy?

MS. ALTERMAN: It's going to take Board initiating us and telling us to look at it and bring back a policy, probably -- I don't think we can do it in this round 'cause we'd have to look at some research --

COMMISSIONER McCARTY: Depends on if we're going to do it once a year or two times a year.

VICE CHAIRMAN KOONS: Or high hazard zone.

MS. ALTERMAN: Probably the 08-2 round if you give us that direction.

COMMISSIONER MARCUS: Could -- if we were to -- if we were to do this one today, could we put a hold on any more applications until we revisit that policy?

MR. BANKS: We don't have comp planning in progress.

I mean the Comp Plan remains in effect until it's amended, so there isn't really a way to kind of comply with the plan while approving something that's in violation of the plan.

CHAIRPERSON GREENE: Commissioner Koons.

VICE CHAIRMAN KOONS: My understanding is that DCA is looking hard at this particular issue in terms of discussions we had in growth management that this is obviously a state-wide issue, particularly in this high hazard zones, and so I understand, but I don't know what's coming, but I think DCA is looking hard at this, and I think they could take a look at the developments happen --

COMMISSIONER McCARTY: I don't think they're looking at it being any weaker.

VICE CHAIRMAN KOONS: That's -- but it --

COMMISSIONER McCARTY: I think it's going the other direction.

VICE CHAIRMAN KOONS: I think, you know, they look at the satellite maps and say gee, look at all this barrier island stuff, but I -- I'm kind of in the same position that Commissioner Marcus.

I didn't see any -- I mean I would -- would not support the motion and allow us to go through and see if we can hold going forward and see what DCA wants to do.

I just don't see any particular problem in this certain geographic area for this. If this was -- if you were coming in on a barrier island, I'd have some real serious issues, but here, two lots, one area, I -- so I'm not going to support the motion, but I would like us to take a look at it so maybe we can get something in writing, if there's some language that DCA has got coming forward in the legislative session.

CHAIRPERSON GREENE: Commissioner Aaronson.

COMMISSIONER AARONSON: There are many things that we do up here, and we sometimes don't listen to staff, and we vote differently.

This has a specific language in it which says "shall not;" correct?

MS. ALTERMAN: That's correct, Commissioner.

COMMISSIONER AARONSON: Okay. The word "shall not" means that we can't.

CHAIRPERSON GREENE: Uh-huh.

COMMISSIONER AARONSON: We were the ones who voted on that and said we restricted it. We were the ones who allowed the language to come in, "shall not." We'd be violating what we set up.

I agree, it should be looked at again, okay, and maybe adjustments have to be made, but the reason that I seconded the motion is because it said "shall not." It didn't say "may," it didn't say "use your discretion." It didn't say anything like that. It specifically said "shall not."

CHAIRPERSON GREENE: Commissioner Kanjian.

COMMISSIONER KANJIAN: Just a clarification with Commissioner Aaronson's question.

This particular section of the code where it says "shall not," does that have anything to do with an individual parcel, or is that having to do with the entire high coastal area, the impacted area?

MS. ALTERMAN: Commissioner, the policy is Policy 2.3-a, and it says, "The County shall not increase densities in the Coastal High Hazard Area," period.

COMMISSIONER KANJIAN: So that's --

MS. ALTERMAN: Anything with --

COMMISSIONER KANJIAN: Let me just get the legal opinion on that.

MR. BANKS: So the "shall not" is referring to the Board of -- the Board of County Commissioners increasing densities.

COMMISSIONER KANJIAN: No, I understand, but my question is -- I mean the applicant made a point if it's correct that if the high coastal area is including the whole area, we're talking about overall density, or are we talking about the density in the individual parcel.

That's the question. Which one is it?

Because if it's overall, then the applicant makes a good point because all we've seen is tear-downs of four homes and big huge ones put up. So the question is, is it the overall area and that's the policy that we don't do that, or if it's just a particular site. That's --

MS. ALTERMAN: Again, when you look at the -- when you look at the intent of the entire provision in the Comp Plan and the statutes, it's

to gear your development away from these Coastal High Hazard Areas in general all over, not to look at a specific parcel and say well, this one's okay, but that one's not, I don't think.

You know, I mean the State's been pretty clear about keeping away from those areas because of all the various reasons that we run into problems when we allow development in those areas.

So I would have to say, and I don't interpret the Comp Plan, but I believe that it's intended on a lot by lot basis you should not be increasing the density.

COMMISSIONER McCARTY: There's nothing in the Comp Plan that says okay there's these amount of units currently in this high hazard area, and we've counted them, and we're going to try to keep that number the same, or if you're going to lose two here, you can pick up two there. There's no provision or reference to that.

The idea is whatever you have today don't make it more, but if you have less, that's even better.

Not the amount you have today, try and keep it the same. The less amount you have the better it is, and there's no provisions that speak to what you're talking about and what she was talking about, this give and take.

You get rid of a unit here, and you can pick it up over there.

COMMISSIONER KANJIAN: Okay.

COMMISSIONER McCARTY: There's no provision in the Comp Plan for that and no discussion or anything with that -- for that concept.

The idea of this high hazard area is have as few people living there as possible and to not exacerbate the issue, not keep it static.

CHAIRPERSON GREENE: Okay. We have a --

COMMISSIONER AARONSON: Madam Chair, call the question, please. We --

CHAIRPERSON GREENE: That's what I was going to do, but before we do that, we need to do a disclosure.

MR. BANKS: For the Comp Plan amendment there's no disclosure required, and it's a mistake in the agenda.

CHAIRPERSON GREENE: Okay. I was just looking there.

MR. BANKS: Okay.

CHAIRPERSON GREENE: Okay.

Ready for the question.

All in favor.

COMMISSIONER McCARTY: Aye.

COMMISSIONER AARONSON: Aye.

COMMISSIONER SANTAMARIA: Aye.

CHAIRPERSON GREENE: Aye.

All opposed.

COMMISSIONER MARCUS: Aye.  
VICE CHAIRMAN KOONS: Aye.  
COMMISSIONER KANJIAN: Aye.  
CHAIRPERSON GREENE: Okay. Let me start

over.

All in favor.

COMMISSIONER McCARTY: Aye.  
COMMISSIONER AARONSON: Aye.  
COMMISSIONER SANTAMARIA: Aye

CHAIRPERSON GREENE: Aye. One, two, three, four, five.

All opposed.

COMMISSIONER MARCUS: Aye.  
VICE CHAIRMAN KOONS: Aye.  
COMMISSIONER KANJIAN: Aye.

COMMISSIONER McCARTY: How is it five? It's four.

COMMISSIONER KOONS: Four.

CHAIRPERSON GREENE: I count only two hands against.

COMMISSIONER McCARTY: Two here and two --

CHAIRPERSON GREENE: Oh, I'm sorry. So it's four for and three against.

VICE CHAIRMAN KOONS: Yes.

COMMISSIONER McCARTY: Correct.

CHAIRPERSON GREENE: Gotcha.

COMMISSIONER MARCUS: Madam Chair, if we could -- again, because I feel bad that the applicant wasn't told so or I wasn't -- it wasn't impressed upon me from the staff, even though we sent them a letter and said we were going to be having to recommend denial, I don't know how they even got here if it is a shall not, and I feel bad for the applicant, because if that was the -- going to be the strategic move, I would have said don't get in the process, let's go look at the policy so that you can do this, and it doesn't cause such heartburn.

That was not the message I got. That wasn't the message that I gave to the applicant, and I -- I -- I'm now at a loss to what can we do to send the right message to them, or is there no message. This is it.

MS. ALTERMAN: I think there's two messages.

COMMISSIONER MARCUS: I mean explain to me how they got certified if it's a shall not, and we shall not.

MS. ALTERMAN: Well, the certification of the zoning was based upon a denial and the Comp Plan saying that we're -- the zoning was -- well, the zoning is different. Wait a minute. Let me go back to that.

Zoning is different. As we explained to you, in this case the zoning, whether it's the LR-1 or LR-2 is the same. So actually staff is

recommending approval of the next part of this, the zoning, because it doesn't make any difference which land use category they have. They need this zoning to be consistent with it.

It's one of those quirks of the code where it fits with two land use categories. So staff is recommending approval of the rezoning.

Now, if you choose -- if the Board gives us the direction to go back and look at this policy and bring some amendment back, if it's possible to amend it under the statute, we will do that. We can bring that back to you in the 08-2 round. You could then make that change if it's appropriate, and then they could resubmit for the land use change.

COMMISSIONER MARCUS: So on a Comp Plan change you can come in, even though it says "shall not."

MS. ALTERMAN: And that's a policy that we wanted to talk -- have a discussion with the Board about because in the past --

COMMISSIONER MARCUS: Well, if it says "shall not," don't bring it back. Don't let them do it.

MS. ALTERMAN: Well --

COMMISSIONER MARCUS: I mean I don't see how they could do it.

MS. ALTERMAN: And that is a discussion we do want to have with you at an appropriate time because there has been a policy in the past to accept Comp Plan amendments, even if the staff -- there was no way they could be approved --

MR. BANKS: Right.

MS. ALTERMAN: -- without changing the Comp Plan because there was a feeling that people had the right to apply.

MR. BANKS: And -- and --

MS. ALTERMAN: There's some issues with that.

MR. BANKS: And lots of -- and lots of policies are ambiguous or can be read different ways, and so staff might read it one way, and the Board very legitimately can, you know, read it a different way, and we've had those over the years.

But when it's -- when I read that policy, it's a flat out prohibition. There really isn't a way to -- there's no ambiguity in that policy.

COMMISSIONER MARCUS: Then I would suggest that, if the Board would agree, that we ask you to look at that policy to be specific to the areas that we have legitimate concerns on -- not legitimate, but in other areas where it won't set a precedent for other areas.

CHAIRPERSON GREENE: Commissioner Aaronson.

COMMISSIONER AARONSON: I agree with Commissioner Marcus.

When something says "shall not," it shall not go through, and the fact is that you're really leading somebody on by saying okay, apply after you say shall not, and I think we have to clarify the language in there because when something says "shall not," that 's --

CHAIRPERSON GREENE: No.

COMMISSIONER AARONSON: -- absolute, and if we allow them to come forward when it says "shall not," then we are leading somebody on, expending dollars for no reason whatsoever.

So I think we have to find out whether or not we want to leave words like "shall not" in, you know, may, shall, prohibit, whatever it may be, I think it's something we have to look at.

CHAIRPERSON GREENE: Commissioner Koons.

VICE CHAIRMAN KOONS: We've had some knockdown drag out fights over the last 20 years with "shall" versus "may." I remember the Planning Council and I just feel sorry these people got this particular area.

And then, you know, what the word was ambiguous or, you know, we're up -- I mean you --

COMMISSIONER AARONSON: Feeling sorry, Jeff, and I do feel sorry, and I feel sorry that people who expend their dollars to come forward and do something -- I once mentioned once before that maybe we ought to have people come up for zoning first before we make them spend \$200,000 for site plans and things like that and do it a little differently so that everybody doesn't come forward with something, knowing that neighbors are going to be objecting to it and the Board goes along with the neighbors.

But in this particular case you have something that says "shall not," and there has been disputes about "shall" and "may" and the way you want to interpret "shall" and "may," but "shall not" is absolute, and that's what the difference is, and we'd be going against our own policy if we violated "shall not."

COMMISSIONER McCARTY: Is it --

COMMISSIONER AARONSON: Let's see what we can do to change.

COMMISSIONER McCARTY: Is there a way -- and I did have my light on -- is there a way that maybe if they -- if we are able to amend the policy, and we're not even sure we are able without jeopardizing other larger goals for one house.

You know, we have to -- but if we are able to amend the policy which then would make it easier for them to come back through, do -- can we waive their fees coming back through? Maybe that could be a way to make it. You know, I don't know

if we have any ability to do that. That's number one.

Number two, in this particular case, from what I'm hearing here and what I sort of understand is how things go around here, I believe the applicant was told that this was a nonstarter, but I believe that the staff was not emphatic or as clear to the commissioner because maybe the staff didn't feel that's what the commissioner wanted to really hear, and so they were a little reticent.

And I think that we need to -- and so, therefore, the commissioner went down a road because staff didn't really stand up and, you know, they're not shy on a lot of other things so I don't know why they would be shy on this, that's for sure.

So I just think that -- I do think that the -- there were two messages being sent, one that was a little weaker to the commissioner and one that was probably stronger to the applicant, and the applicant had a lot of faith in the commissioner's --

COMMISSIONER AARONSON: Well, are we --

COMMISSIONER McCARTY: -- ability to carry four votes.

COMMISSIONER AARONSON: Are we prepared today to say to the staff that if it says "shall not," don't even bring it forward?

COMMISSIONER McCARTY: Yeah. Yeah, and maybe, though, maybe under staff comments you can tell us there was an application that came in and here's the policy, and if we -- and if it says "shall not" -- it said "shall not," we're not -- just, you know, and then if for some reason it didn't quite say "shall not," maybe it said "shall/may," and we didn't necessarily agree with the interpretation, then we could tell staff no, let that one through.-

COMMISSIONER AARONSON: There's a difference, Mary. If it says "shall not," then the -- I believe the staff should tell the applicant don't even bring it forward.

COMMISSIONER McCARTY: Yeah. All right. I agree.

COMMISSIONER AARONSON: Okay. Don't even bring it forward if we adopt that policy.

If it just says "shall" or "may," that's open to our decision to be made, but if it says, "shall not," let staff not bring it forward.

Do we all agree on that or not?

COMMISSIONER MARCUS: I do now.

CHAIRPERSON GREENE: Commissioner Koons.

VICE CHAIRMAN KOONS: Well, as I was saying before, how many of these shall nots do we have, and -- and --

COMMISSIONER AARONSON: Well, we have to --

VICE CHAIRMAN KOONS: I have no idea what the implications are of saying if it says "shall not" --

COMMISSIONER AARONSON: So let's look at the Comp Plan and go over it and see what we want to do and take out the "shall nots" that we don't want to take out.

VICE CHAIRMAN KOONS: Wait, wait, wait. All we do is we have an existing Comp Plan, and what we sit up here as this Board is we change the Comp Plan.

COMMISSIONER AARONSON: Correct.

VICE CHAIRMAN KOONS: But that --

CHAIRPERSON GREENE: Yeah, I've been doing it ever since I've been here.

VICE CHAIRMAN KOONS: That's what we do. We have -- here is this Comp Plan, and then what we do up here, since I've been here five years, is we change the Comp Plan.

COMMISSIONER McCARTY: But we're not supposed to change it for one house or one project. We're supposed to make overall policies, and if it doesn't make sense, then we change it, but we, you know, sometimes you got to weigh the greater good.

I mean I'm willing to look at this policy and see if there's a way that we can bifurcate it in some way, but --

VICE CHAIRMAN KOONS: Okay, I --

CHAIRPERSON GREENE: He didn't finish.

COMMISSIONER McCARTY: -- the bigger policy is correct.

CHAIRPERSON GREENE: Let -- let him finish.

COMMISSIONER McCARTY: Sorry.

CHAIRPERSON GREENE: He's killing me over here.

VICE CHAIRMAN KOONS: I just -- I would -- I'm very interested in the -- in what the unintended consequences are of people walking through the system when it says "shall not," you know, or "may not."

I don't know what the implications are. I'll be honest with you.

COMMISSIONER AARONSON: "May not" is different than "shall not."

VICE CHAIRMAN KOONS: Well, I just -- I use two different words.

COMMISSIONER AARONSON: "Shall" is absolute.

VICE CHAIRMAN KOONS: I went through in the early '90s on the planning thing where we knew what we should do in this County, and we went to the voters, and they said everything's going to be "may," you know, so -- but at least us dictating

to other entities, other cities or stuff like that. So --

MR. Mac GILLIS: In the Unified Land Development Code in Article 1 the word "shall" and "may" are clearly defined. "May" is permissive, and "shall" is mandatory. So when it comes to provisions in the code, when we rewrote the code in 2003, it's very clear where we put "may not" and "shall not."

So it -- I'm not clear on where it is in the Comp Plan, the implications, but the zoning code is very clear.

VICE CHAIRMAN KOONS: Okay.

MR. Mac GILLIS: And staff enforces it.

CHAIRPERSON GREENE: Okay. Commissioner Marcus and then Commissioner Santamaria.

COMMISSIONER MARCUS: Commissioner McCarty, if Barbara, and Barbara's done this many times -- not many times, but when she feels like I'm doing something that or not doing something that I shouldn't, she doesn't -- you know, she picks up the phone, and she tells me, and then I -- and I do. I say I -- okay, I didn't realize that, because you know me, I'm all about process.

And if Barbara had heard this and saw this and said "shall not" and said, "Commissioner, you really can't do this because it says 'shall not,'" I would have said to them okay, let's figure out how we can do it and what the process would be. I would have taken a different tack.

It just wasn't expressed that way to me, and so I said, and they said we have discretion up here, so I -- that 's why I said to the applicant, who's been working on this for quite some time, to go ahead and move forward and, you know, it's just one house.

I know the area. It's not an evacuation problem, either because it's just not. They'll stay in their house. Most of the people over there on the river do stay in their houses in this -- in the storms.

So I feel -- I feel at least in their case they deserve the opportunity today because of the information that was provided through my office.

Commissioner Aaronson, I know you meet with constituents all the time, as do we all, and try to figure out how to make the process work, and if it's a policy change, then the policy change has to happen, and that isn't what was told to me.

So if we have prohibitions all through the Comp Plan, Mr. Banks, as you're saying, the "shall nots" are in there all over the place?

MR. BANKS: We'd have to look at the plan. I mean there are prohibitions in the plan, but there are lots -- there -- more cases where there's language that's interpretable, you know,

so I think you'll see, not today, but we have some Comp Plan amendments going through where staff's recommending denial and the Land Use Advisory Board unanimously is recommending approval because they just thought there was ambiguity in the policy.

And I think you face that with staff a lot where, you know, staff will say it's mid-block, and you don't -- you look at the same policy and say it's not mid-block.

So it's not --

COMMISSIONER MARCUS: I can't wait 'til we get 'til next month when we do Roan Lane (phon.) hotel/motel on a residential street with -- I mean and talk about evacuation issues, and yet the staff recommended approval on that one.

So it's -- I would just like for the Board to perhaps reconsider this today because of the message we sent to the applicant and then go back and ask and fix the policy on a case -- on a more clear basis. That is what I would ask the Board today.

CHAIRPERSON GREENE: Commissioner Santamaria.

COMMISSIONER SANTAMARIA: Yeah, another area I want a legal clarification is setting precedent.

You know, when we open the door for one applicant, when are we allowed to close the door for the second and the third? You know, that's an area that's --

MR. BANKS: Right.

COMMISSIONER SANTAMARIA: -- still not clear because I --

MR. BANKS: Every legislative session in a decision the Board makes is an individual decision, and it can be based on those facts and circumstances, but every time you make a decision it sets a precedent for the next applicant who comes before the Board and is going to use the prior case to move the line.

You know, we always see when you come in -- someone comes in for commercial at one corner, you know, we get commercial -- an application for commercial across the street at the next, you know, the next amendment round.

It's just how the -- how things go.

COMMISSIONER SANTAMARIA: I don't know, it's still not clear. When are we subject to a legal challenge when we open the door for one and then close the door on the next one?

MR. BANKS: Well, I can't offer you kind of -- it's -- making the decisions at the border, you know, extending borderlines, those are always the hard decisions, and the Board is ultimately

the one that says no. This is the, you know, here you can draw the line.

So ultimately it's a Board decision, but you can't say that one doesn't create a precedent for the next.

COMMISSIONER McCARTY: Well, you can't be arbitrary.

MR. BANKS: Right.

COMMISSIONER SANTAMARIA: Here's the question.

If I close the door on number one, do I have a stronger position not to allow number two to come in --

COMMISSIONER AARONSON: Absolutely.

COMMISSIONER SANTAMARIA: -- as opposed to the other way?

MR. BANKS: Yes.

COMMISSIONER SANTAMARIA: That's why I would be more reluctant to allow the first one in because I would then weaken my position on the second and third one.

CHAIRPERSON GREENE: Okay. The --

COMMISSIONER AARONSON: We voted on it.

MR. FITZGERALD: I'm the applicant here, and I was sworn in. I'd just like to make a comment, if I can.

I went and visited with all of the neighbors in the Rivercrest area, and not that this means much at this hearing, but none of them knew they were put in the hazardous A position. They didn't get notification. It wasn't in the newspaper. It wasn't anywhere. And I was creating a position for them to sign to get into have the County look at that.

My property has been taken out of the high hazard or hazardous A zone. All the properties on either side are at the same elevation. Mine happens to be three and a half feet above six-foot high mean tide, which means three and a half feet higher than the designation you need to be to be out.

The entire Rivercrest area should not be in the high hazardous zone.

COMMISSIONER McCARTY: You're mixing up the FEMA flood issue with the high hazard evacuation area. They're two separate issues, and we're basing our thing not on the FEMA, how high you are and the A, you should be B. We're not that -- that isn't even part of our consideration here.

MR. FITZGERALD: I understand that there are two considerations in the high hazard.

I think if one were to go back and look at it in total, that you may find that the area, or will find that the area isn't in there to begin with, and that's a key issue in all of this, and that's why I had mine done.

I don't feel that I ought to have to go back and do the surveys for each one of the neighbors to help them get away from the insurance cost and the additional mortgage cost when they try and sell their property. That's the point that I would like to make here.

The shall -- and where you're saying shall not, if it's in a hazardous A; is that correct?

COMMISSIONER McCARTY: No.

MS. ALTERMAN: It's not necessarily related to the FEMA designation. It's a line that's been drawn, I think in conjunction -- Isaac, I'm going to look to you -- with -- in conjunction with FEMA, but it's more of an evacuation issue than a --

COMMISSIONER McCARTY: Flood.

MS. ALTERMAN: -- high hazard coastal flooding issue.

MR. HOYOS: I mean the statutes is -- they are clear. The Coastal High Hazard Area is the area below of the Category 1 storm surge line as established by the Sea, Lake and Overland Surges for Hurricanes, computerized storm surge model.

So it's a model exclusively based on the storm one category, hurricane category, not based on FEMA.

MS. ALTERMAN: Not flood, not flood.

COMMISSIONER MARCUS: Like I said, if we'd have known it was this big of a deal, I would have told them not to come forward, if I'd have known the staff was going to feel this strongly and --

CHAIRPERSON GREENE: Any other comments?

MR. GARY: Could I make a couple of comments? I'm John Gary, attorney with Gary, Dytrych and Ryan. I represent Mr. Fitzgerald.

And the -- I'd like to just -- I know this is after the fact, but I'm hoping you will maybe reconsider this, is that the definition of the high coastal hazardous area comes from 163.3178(h) of the Florida Statutes.

Now, it is two different things. I agree with Commissioner McCarty that the high hazardous elevation is one thing and FEMA is something else; however, if you read the definition, the Coastal High Hazard Area is the area below -- now, this is right out of the statute that creates the Coastal High Hazardous Area.

The area below the elevation of Category 1 storm surge as established by Sea, Lake and Overland Surges from hurricane computerized storm surge model. Now, what the FEMA letter that we now have, and Commissioner Aaronson asked a question about FEMA earlier, we do have, and I believe y'all have been furnished copies of them, the FEMA letters that said we are above the Category 1 storm surge.

So you can make an argument that this property shouldn't even be considered in the coastal hazardous high area, and we should not be having to go through this now instead.

On the other hand --

COMMISSIONER AARONSON: I was asked that -- I asked that question, but I was -- it was explained to me that it had nothing to do with FEMA.

MR. GARY: Well, it -- and what I'm trying to say is I think the FEMA letter itself, while having a separate distinction from the Comp Plan, the FEMA letter itself shows that Mr. Fitzgerald's land is above the Category 1 elevation, and that by definition under 163 the only thing that's supposed to be in the Coastal High Hazard Area is land that's below Category 1.

Now, I'd also like to point out one other thing for your information. You have purchased land right up the road from here, several lots, for a park.

Now, obviously, I don't know this for sure. I don't know what study has been done on it, but you've spent quite a bit of money to create a park right up the road.

Now, if you -- I would assume that this park generates more impact, more traffic, whatever, than one, two or three houses, whatever you took. So whatever happens going forward, you may have the exact same thing --

COMMISSIONER McCARTY: John, we didn't increase density. There's no units, nobody living there. We lessened the density.

MR. GARY: You've increased -- you didn't increase density, but you increased the use, or you changed the use to park from residential, and I would suggest that that's an impact.

I would suggest that will generate more traffic.

COMMISSIONER McCARTY: Well, maybe an impact on traffic, but not for the purposes of this discussion.

It has to do with people living there. There aren't going to be people canoeing during a hurricane event.

MR. GARY: But it also -- it also comes to the issue of whether you have to address that and --

COMMISSIONER AARONSON: And in the event of a hurricane or a threat of a hurricane, we close the park, so --

MR. GARY: But without --

COMMISSIONER AARONSON: -- there's a big difference.

MR. GARY: Without getting into that, I would really -- I was doing that for more for informational purposes.

What I would like to ask is maybe -- I think everybody's acknowledged that Mr. Fitzgerald has been through a long march. It's been north of three years, I believe, since he purchased the property and started working on it.

If there's any way -- so that we don't find ourselves all the way back at square one, if there's any way to reconsider this and to grant a continuance of this process for some time until your staff can work on a language, and that then once that's done, you bring it back and we're able to come back and not have to go through all of the hearings and furnish all of the documents.

CHAIRPERSON GREENE: Well, that's up to the maker of the motion.

Commissioner Koons, before you speak, the question has to be presented to the maker of the motion.

VICE CHAIRMAN KOONS: Well, I was going to ask if staff would feel comfortable --

COMMISSIONER AARONSON: We voted on this already.

CHAIRPERSON GREENE: I know.

VICE CHAIRMAN KOONS: I just --

CHAIRPERSON GREENE: Yes, we did.

VICE CHAIRMAN KOONS: I was asking staff if they would feel comfortable with that process, and maybe there would be a motion for reconsideration to take what the petitioner wanted.

COMMISSIONER AARONSON: I don't see any need for reconsideration. I think we ought to go through the policy.

I'm not prepared to reconsider. It says "shall not." I'm going to live by the "shall not."

COMMISSIONER McCARTY: We don't have any idea whether or not we will change the policy or we can change it. We're willing to look at it.

CHAIRPERSON GREENE: Well, that's the maker of the motion. If the maker -- you made the motion?

COMMISSIONER McCARTY: I made the motion.

CHAIRPERSON GREENE: You made the motion?

COMMISSIONER McCARTY: Yeah, and I'm not -- I don't want to --

CHAIRPERSON GREENE: So this discussion is moot so we can move ahead.

MR. Mac GILLIS: We need a motion on Item 27 then, too.

CHAIRPERSON GREENE: Yes, sir.

COMMISSIONER AARONSON: On 27. Okay.

COMMISSIONER MARCUS: Can I ask a question?

Then the staff recommendation is for approval.

COMMISSIONER McCARTY: Yes.

MR. Mac GILLIS: Right.

COMMISSIONER MARCUS: So we can go ahead and give him an approval?

COMMISSIONER McCARTY: Yes.

MR. Mac GILLIS: You can do it, but it'd have to be contingent upon, obviously, the Comp Plan being amended --

COMMISSIONER MARCUS: But if we approve this, then they --

COMMISSIONER McCARTY: No.

MR. BANKS: No.

COMMISSIONER McCARTY: This is an approval based on their Comp Plan not being changed.

MR. Mac GILLIS: I'm sorry.

COMMISSIONER McCARTY: So let's -- let's move this.

COMMISSIONER MARCUS: I'd move approval.

COMMISSIONER McCARTY: Second.

CHAIRPERSON GREENE: You've heard the motion by Commissioner Marcus, second by Commissioner --

COMMISSIONER McCARTY: McCarty.

CHAIRPERSON GREENE: -- McCarty.

COMMISSIONER AARONSON: McCarty.

MR. BANKS: And this item we need disclosure on.

VICE CHAIRMAN KOONS: Need the what? Oh.

CHAIRPERSON GREENE: Disclosure.

COMMISSIONER AARONSON: I have met with the Gentile, Holloway and Glas.

COMMISSIONER McCARTY: Go.

CHAIRPERSON GREENE: No. I did? Okay. I did.

VICE CHAIRMAN KOONS: Yeah, I met with the petitioner, also.

COMMISSIONER MARCUS: I met with the applicant.

COMMISSIONER McCARTY: Commissioner Santamaria, did you meet with the applicant?

COMMISSIONER SANTAMARIA: No.

COMMISSIONER McCARTY: I met with the applicant.

And Commissioner Kanjian said he had met with them earlier.

COMMISSIONER KANJIAN: Yes, I did meet with the applicant.

CHAIRPERSON GREENE: Okay.

COMMISSIONER McCARTY: Okay. Call the question. Do it.

CHAIRPERSON GREENE: Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

MS. GLAS: Thank you for your time.

CHAIRPERSON GREENE: Twenty-eight.

MR. Mac GILLIS: Okay. Item 28, DOA/TDR2007-1398, Aspen Square Glen, Pages 342 through 374.

Staff is recommending approval, subject to 36 conditions on this application.

Autumn Sorrow will do a presentation for Zoning on this item.

MS. SORROW: Good morning. For the record, Autumn Sorrow, with the Zoning Division, to hear Application DOA/TDR2007-1398.

The applicant is requesting a development order amendment to reconfigure the site plan, modify conditions of approval associated with the project formerly known as Aspen Glen and to allow the transfer of development rights for 35 units at a reduced cost.

Aspen Glen was approved in 2004 for a residential PUD featuring 90 fee simple townhome units. Aspen Glen was never built, and the 11.85-acre site remains vacant.

The 11.85-acre site is located a half-mile south of Lake Ida Road on the west side of Sims Road, which is north of Atlantic Avenue.

The applicant is proposing to provide a multi-family development with a total of 171 units. Of the 171 units a total of 62 workforce housing units will be provided.

The applicant is also requesting the transfer of development rights for 35 units.

The preliminary master plan provides for six multi-family buildings, a 1.43-acre lake tract, a 0.43 civic site and a 0.18 recreation pod.

There are a total of 385 parking spaces and 43 guest parking spaces.

Access to the site is from the west side of Sims Road.

On February 7<sup>th</sup> the Zoning Commission heard this petition and recommended approval with a vote

of 7-0. The main issues raised at the Zoning Commission meeting were in regards to recreation and traffic.

The Zoning Commission raised concerns about the cash-out of the recreation area and wanted the applicant to provide the recreation on site, and Jean Matthews with the Parks Department is here to answer any questions regarding the recreation requirements.

Staff recommends approval of this petition, subject to 36 conditions of approval.

At time of publication staff has received 722 letters from the public, of which 708 letters are in opposition to the project, and 14 letters are in support of the project.

This concludes my presentation. I'll be happy to answer any question the Board may have.

COMMISSIONER McCARTY: All right, Jeff. You're running this meeting.

VICE CHAIRMAN KOONS: Oh, yes. Sorry. Yeah, the applicant, please.

MR. CIKLIN: Good morning. My name's Alan Ciklin, representing Aspen Square.

Other folks that are with me are Brad Morton of Morton and Associates, Ken Tuma, the land planner and Rob Renenbaum (ph), our traffic engineer, and they're here to answer any questions that you may have.

Aspen Square, as you've been told, is a voluntary workforce housing project, and the reason I emphasize the word "voluntary" is because by using the incentives provided in the Workforce Housing Ordinance it allows the development community, and this project in particular, to provide meaningful workforce housing.

Although I don't really like to quote from codes very much, what the Workforce Housing Ordinance says is that the program is intended to increase the supply of housing opportunities for persons employed in Palm Beach County and jobs that residents rely upon to make the community viable. And that's the cornerstone, of course, with the workforce housing program.

It provides housing for people that work in my office, that work for Palm Beach County and, of course, teachers, firemen, policemen.

By providing workforce housing, however, it doesn't mean that you have to sacrifice quality, and this project, which you will see in a little while when Ken Tuma goes through more of the details, is a quality rental project.

In the middle of the project is a large lake, which is the center of the development, and each of the units and the buildings surround the waterfront, providing waterfront views and amenities.

What is often found in real quality rental communities are accessory garages and storage facilities, and this development, proposed development, also provides those, and it provides a rec center, a fitness facility, swimming pool and tot lot, and as part of the exemplary PUD standards each of the buildings has four-sided architecture. In other words, it doesn't have those blank walls facing in any particular direction.

As Autumn indicated to you, the Zoning Commission was unanimous in their recommendation, 7-0, in recommending approval, but they also noted that there were some areas to provide additional recreational facilities, which we have done.

Specifically, they suggested that if possible we add a walking/jogging trail around the lake in the center of the project, and that we also consider adding some passive recreational facilities, such as barbecue pits and things like that.

We have been able to add the pathway around the lake. We've used a material which your own Parks and Recreation Department uses, which is a green type of material but is also ADA accessible.

Also, throughout the lakefront we have added barbecue pits and some workout stations so the whole jogging, running path, walking pathway, also becomes a par course, if you will.

As is indicated in the staff report the development is consistent with the Comprehensive Plan, the zoning code, the Workforce Housing Ordinance, the exemplary PUD standards, and perhaps most importantly in this case, the traffic performance standards.

The traffic performance standards provide in workforce housing developments a relaxed standard of review.

In this particular case the relaxed standard of review was not used. We used the typical, more stringent, traffic performance standards.

In addition, between the first Zoning Commission hearing and the second Zoning Commission hearing we did additional studies at Sims Road and the Atlantic Avenue intersection, and the conclusion is that Sims and the Sims and Atlantic intersection and Sims and Lake Ida intersection are operating at no more than 50 percent of capacity.

And I bring that to your attention specifically because that seemed to be an issue with area residents, but as you know, traffic is objectively quantifiable by your traffic performance standards, and, again, we're at 50 percent of capacity.

So the conclusion that I would like to leave with you before Ken Tuma gives you more detail is that Aspen Square provides 62 quality, deed-restricted workforce housing units.

It meets or exceeds all code requirements, including the Workforce Housing Ordinance, and I think perhaps most importantly from the Board's policy consideration it shows that the voluntary incentive-based Workforce Housing Ordinance can really work and provide something that's meaningful.

Again, it was recommended by the county staff in their staff report and the Zoning Commission by a 7-0 vote.

The conditions of approval are acceptable.

And with that, I'm going to invite Ken Tuma to the dais so he can give you a little more detail about the site plan.

MR. TUMA: Thank you, Alan.

For the record, Ken Tuma, with Urban Design Studio. Again, thank you very much.

We worked with the staff. This was a great project. It's been very exciting. As Alan had mentioned earlier, we are in agreement with all the conditions.

I'm going to give a really short presentation. It'll be graphical so it should go fairly quickly.

Just the site location, the site is located north of Atlantic Avenue. This is Atlantic Avenue west of Sims Road. It's an 11.85-acre site, and it's located on the west side of Sims Road.

Here's a blow-up of the site, some of the surrounding communities. This is a community known as High Point, and to the west, this is Aspen Ridge.

This is the subject site and you can see in the surrounding areas there are nurseries surrounding the site.

This is the future land use for the area and all the surrounding areas.

Our site is outlined in the red line. It's HR-8, but all the surrounding areas, all the areas in blue are future land use designation high residential density, eight dwelling units an acre.

Here's a blow-up of the site plan. The site area is 11.85 acres. It's a total of 171 units. Sixty-two are workforce housing, and 109 are market rate rentals.

How density works on these projects and incentive workforce housing is you set up a pre-application meeting with the County's Planning Department. You go in, you discuss it, and you come back, and the County calculates what the density is on the site.

As you know, the Workforce Housing Ordinance is complicated, and we work with the County, and the County calculated all the numbers, and we're able to walk through those for you if you want to know more detail later.

Here's the site plan. As you can see, the site plan has a center lake in the middle.

This is Sims Road along the easternly edge of the project. There's a northbound left turn lane into the site. The ingress and egress area and the left-bound turn lane are exactly the same as they were in the previous order.

This is a development order amendment and has stayed consistent.

As you enter into the site, you'll notice that there's a roundabout with lushly landscaped circle, and then there 's a leasing center. It's a 3800 square foot leasing, fitness, clubhouse center, and there's a pool around the back.

Then there are four -- excuse me, there are six three-story buildings wrapping the entire site. These buildings are a mix of 27 and 30-unit buildings. They're three-story flat over flat type structures, and they're an apartment complex between one bedroom and three bedrooms.

And as you -- obviously, the area along Sims Road is nicely landscaped. That's an upgraded landscaping.

You'll notice that there are four 16-car garages. These are full garages. They're not covered garages. They're full garages for people to have the opportunity to park in the garage.

And then in the southwest corner is an accessory structure. The accessory structure is for storage facilities and maintenance equipment. So basically the people who live here will have the opportunity to have an accessory structure to store their extra equipment.

We all have those garages that are full of stuff, and they'll be able to have an extra storage space.

As you work your way along the north part, you'll notice that there, again, is a landscape buffer along both edges, another garage facility and a tot lot.

An interesting thing is along the north property line when we first submitted, we submitted this with a fence section, and after meeting with the neighbors and going through the first Zoning Commission we reconsidered and we've gone ahead and put a six-foot concrete wall with landscaping on both sides.

Also, some of the other things that were kind of fun that Alan alluded to earlier, as we worked our way through the process, Zoning Commission had a couple of really great ideas.

They said why don't add a lake path. So we went ahead and put a lake path all the way around the site. That lake path we added, and one of the things that we did, we had some time to think about it, we spent some time and thought about well, what's that lake path really going to be. Well, it's going to be a fitness path.

So we added some different fitness areas, and you can see here are some kids playing and working out in different fitness areas. So along the lake path we've added some amenities to create some neat opportunities so people could have some area to recreate.

Also, the tot lot, a question came up, well, what's going to be in the tot lot. Well, it's going to be playground material for children from a wide variety of ages, from probably one to about 15.

And then we also went ahead and looked and took a look at what the pedestrian gathering areas are going to be. We went ahead and said okay, well, let's make this lake the real center of the community. Let's add some pedestrian gathering areas.

We've added some barbecues, some benches, just to make it feel like a really important thing.

Now, barbecues to me don't mean anything because I live in a single family house, but as -- when you live in an apartment complex, having gathering areas around barbecues are important because you don't have barbecues in an apartment complex.

The next slide, if it comes up, is the architecture.

Again, Alan had alluded to -- it's four-sided architecture. We have a blow-up here to show you, but just so you understand, there's a lot of articulations in the building. There's balconies, and there's all types of roof movement in the building.

Here's a view of the upgraded landscape along Sims Road, and then as Alan had alluded to, workforce housing -- yes, ma'am.

COMMISSIONER McCARTY: Is there an elevator in that building?

MR. TUMA: They are -- there are not elevators. It's a three-storied flat over flat building without an elevator.

It's pretty -- when you look at most of the apartment complexes in the area, that's generally how they're done, Commissioner.

What is workforce housing? Workforce housing is an incentive-based program that you folks passed in 2006. It's a great program. It's a visionary program, and what it does is it

provides housing for people between 35,000 and \$91,000 per year.

Alan had mentioned most of his office. Well, he excluded the attorneys.

I can tell you that from a planning office that most of my office absolutely is in that pay range.

And it's deed-restricted for 25 years. Yes, there's ups and downs in the market, but here we are, we have a program that's deed-restricted for the next 25 years.

What it's not, it's not bond financing, it's not tax financing, it's not HUD financing. It's a place for people that live and work. Who lives here, of course, is the teachers, the policemen, the firemen.

So, in conclusion, I won't take much of your time, we agree with all the conditions of approval and look forward to your input and your approval today.

Our whole team will be gathered here, and Alan and I request some time to rebut at a little bit later.

Thank you.

CHAIRPERSON GREENE: Thank you.

Comments. You all ready?

The first person is Ms. Jane West from -- does that mean that your company is Collins and West?

MS. WEST: Yes, Commissioner Greene.

CHAIRPERSON GREENE: Thank you.

MS. WEST: Thank you very much.

Jane West, from Collins and West. Good morning and thank you for having me speak here.

I'm here on behalf of the Sims Road Alliance and -- which consists of various organizations and neighborhood groups in the area, and if you don't mind, I see the time clock ticking away, if I could have a few more minutes because I represent this organization, I'd appreciate it.

First and foremost, the main issue here has been density all along. This is the highest density in the area, and it sets an exceptionally negative precedent in terms of the density in this already crammed area.

Basically, this is 171 multi-family units on 11.85 acres. The current density is eight units per acre, so there -- that would allow for 94 units. This is practically doubling that density, and that's all in the name of workforce housing.

And they've put on a great presentation about workforce housing, and I agree it's a good program, but the truth of the matter is, is that the rent is going to cost between 1200 to \$2100 a

month. I don't know about you, but I don't consider that workforce housing rent.

No one has a problem here with the concept of workforce housing. The neighbors don't have a problem with it. The neighbors are workforce housing, but the density is simply too high, and it does not seem to meet the requirements of a realistic workforce housing income.

Now, after the most recent P and Z hearing I reached out to opposing counsel and requested that we have a meeting to talk about my clients' concerns. Now that they have hired counsel and are officially organized as the Sims Road Alliance, I felt that it was probably in everybody's best interest to get together and meet.

Unfortunately, they rejected this request, and so I am going to ask that we postpone a decision here today in order to allow the parties to meet.

You have over 700 of your constituents --

COMMISSIONER AARONSON: Ma'am.

MS. WEST: Yes.

COMMISSIONER AARONSON: Madam Chair.

CHAIRPERSON GREENE: Commissioner Aaronson.

COMMISSIONER AARONSON: Who requested the meeting?

MS. WEST: I did.

COMMISSIONER AARONSON: Oh, of who?

MS. WEST: Of Alan Ciklin, and he got back to his client, and his client said no.

COMMISSIONER AARONSON: Are you aware that I met with the residents?

MS. WEST: I am aware of that, Commissioner Aaronson. That was prior to them hiring counsel and prior to them organizing as the Sims Road Alliance.

COMMISSIONER AARONSON: Fine. Thank you.

MS. WEST: Now, again, there were over 700 of your constituents, as you heard earlier today, that oppose this project.

I think it's only appropriate that a formal meeting between the attorneys and the organizations take place to air out some of the concerns, primarily with the density issue.

Now, the other aspect that I want to address here today is the few concessions that have been worked into the P and Z notes and staff approval. We want to confirm that they are actually going to occur here today.

So the concrete wall on the northern perimeter?

CHAIRPERSON GREENE: You have a few second left.

MS. WEST: Thank you. If I could just go through these conditions to make sure --

CHAIRPERSON GREENE: No. How long is that going to take, because everyone come up here and say they want the same amount of time that you had.

MS. WEST: I understand, Commissioner Greene. I do represent an entire organization consisting of several hundred --

CHAIRPERSON GREENE: I guarantee you every one of those people in that organization has filled out a card.

MS. WEST: Yes, I understand that.

COMMISSIONER KANJIAN: Madam Chair, I'd request an additional two minutes for this -- this applicant [sic].

MS. WEST: Thank you.

CHAIRPERSON GREENE: Okay. Two minutes.

MS. WEST: The concrete wall on the northern perimeter. Next door -- as a matter of fact, all the completely adjacent properties to this development are nurseries, and there are farm animals on those nurseries. So there's going to be a huge nuisance factor. So we would definitely like to make sure that a six-foot opaque concrete wall take place on the northern perimeter.

The fitness trail sounds great. We like it. It's a good idea. The site plan needs to incorporate that fitness trail, and it must also incorporate the 1.03 acres as opposed to buying out on the recreational aspect.

We had also discussed a PalmTran stop south of the entryway to the development. Want to make sure that gets in there, and the mature landscape buffering for compatibility in the neighborhood, we'd like that reflected, as well.

Keep in mind this is a quiet two-lane road adjacent on all three sides by nurseries.

And then also Sherry Hyman of the P and Z commission suggested that we put in a one to two-year traffic light contingency in order to make sure that the traffic estimates that are currently being put out there are actually complied with.

It was a good idea. Unfortunately, it was never reflected anywhere in the staff report. So we would like to have a discussion about this and also have that one to two-year traffic light contingency worked into the plan.

Thank you, Commissioners for your time. I do appreciate it.

CHAIRPERSON GREENE: Commissioner Aaronson.

COMMISSIONER AARONSON: Call the public.

CHAIRPERSON GREENE: You want to wait until all the cards?

Ms. Barbara -- is it K-a-m-h-i?

Okay. And the next person is Mr. Burton Birnbaum.

MS. KAMHI: Thank you very much for your time.

CHAIRPERSON GREENE: You're welcome.

MS. KAMHI: My name is Barbara Kamhi, and I will share a 500-foot common border with this new development.

I have attended both zoning hearings on this matter, met with County Commissioners graciously, read staff reports, studied site plans and continue to be baffled.

Why has Planning been unable to see what is so clear to those of us who live on Sims Road?

Unfortunately, I have learned zoning notices for public hearings are just a formality. Public sentiment carries little weight when brought to the bargaining table. Why has every means possible been allowed this developer to double existing density on a small piece of property on a small road?

TDRs, workforce housing and cash-out options to Park and Rec are valid programs when used properly, but if they are used in combination just to boost density for builder profit at the expense of green space and neighborhood compatibility, who is the real beneficiary of the County's gift?

I have submitted over 700 petitions opposing this project which are now part of staff report.

On this morning's news CNN stated again the struggling housing market is hitting all time lows. So this project will be built with high rents and few amenities. Apartments will remain vacant like so many others in our area.

I ask please that you consider some means to modify the density, provide more recreation space for those who will reside at Aspen Square, provide more of a landscape buffer for those of us who will be neighbors to this development. If the berm can't be larger, as we are told, plant taller landscape material.

I and all of my neighbors on Sims Road will live with the impact of your decision every day. Please hear our voice and please consider very carefully what you are about to do.

I thank you very much for your time.

CHAIRPERSON GREENE: Thank you.

Ms. Erin Hernandez, would you take this mic, please.

Mr. Birnbaum.

MR. BIRNBAUM: Hi. My name's Burt Birnbaum. I'm a partner of Barbara Kamhi.

Aspen Square has been my first experience with zoning and planning. It has been quite educational, enlightening and in many aspects disappointing.

I recognize that there are laws and conditions that we all adhere to, but coming from the business world my experience has been that logic prevails.

In the Aspen Square project I would like to congratulate both the Morton group and the Urban Design for finding and instituting the methodology of increasing the density from eight to 14.4 dwelling units per acre.

Finding space for 33 one-bedroom, 102 two-bedroom and 36 three-bedroom apartments, 385 parking space, minimal recreation space and an onsite leasing office was quite a feat.

Projecting 36 children in an apartment complex containing 345 bedrooms may be legal, but it's -- sure sounds to me illogical.

Hopefully, Planning and the developer are correct; however, if there are in excess of 150 children of all ages, a number that seems more logical and is backed by data obtained from the Internet, the current Sims Road residents will have to live with teenagers that do not even have a basketball court as an outlet.

The decision, as said by Barbara, is yours. I don't know what else I could say on that.

Thank you.

CHAIRPERSON GREENE: Thank you.

Ms. Vivian Wismayer, take this mic, please.  
Ms. Hernandez.

MS. HERNANDEZ: Yes, hi. My name is Erin Hernandez, and I live in the neighboring Pinewood Cove development that is just north of Atlantic Avenue off Sims Road.

Our community will be highly affected by this development, as well.

First and foremost, I want to thank you all for listening to our voices 'cause it is important that everybody hear our side of the story, as well, and thank you for meeting with us individually, as well.

I just also want you to understand -- all the Commissioners to understand that I do believe in workforce housing. I'm definitely -- I think it's a wonderful program for everybody that can -- that utilizes it.

My father himself was a firefighter. I am workforce housing myself, so I just want you to understand that we are not opposed to workforce housing at all.

As of today there are currently 311 single family home rental listings in the Delray Beach area on the market within a 10-mile radius of the Aspen Square project from the price range of \$900 to \$2300 a month, the same price range that Aspen Square is charging.

There are currently over 400 rental units available from rental apartment communities, again, in this same price range, most of them even lower.

Aspen Square will be charging from \$1100 for a one-bedroom, which doesn't seem that affordable at all to me, that's more than my mortgage, and up to \$2300 for a three-bedroom.

In fact, when I personally called one of the developments that -- one of the leasing offices in the nearby area, they kind of laughed and said, "What is this developer thinking, we can't even rent our apartments out right now." They're at a 75 percent capacity, which is the lowest they've ever been, and they've also had to keep lowering the rental rates to try to promote some renters.

How in the world can you convince me as a fellow community member off of Sims Road that this development is needed at a time of depressed home values, a glut of affordable rentals and houses for sale due to the enormous amount of foreclosures? We have four in our neighborhood of 59 homes right now, and the predictions for the next year also looks grim.

We are -- we -- why are we even proposing dumping 171 more rental units out into this already grim market? Doesn't anybody understand that this will -- what this will do to already unstable real estate market?

Yes, two, three years ago, I agree, we needed -- we definitely needed affordable housing; however, with the home values continuing to drop every month, trust me, there will be much more affordable housing in another year or so that everyone will be scratching their heads asking what are we doing with all of these vacant homes and apartments.

This development will continue to hurt the people in the area already trying to rent out or sell their homes and will also weaken their property values even further.

Consider this, with the 62 or so families that this workforce housing project will be trying to assist, in turn, you will be destroying possibly more than 62 other families' lives that currently reside in that area that are already trying to rent or sell their homes to avoid foreclosure, not to mention all the traffic congestion, nightmares that will most definitely arise out of this development.

I know I will be moving out of this area if this plan does go through, so there goes another home on the market.

I want to thank you for your time and just please consider your decision 'cause this will affect many lives.

Thank you.

CHAIRPERSON GREENE: Thank you.

Ms. Phyllis Stingo, will you take the next mic.

Ms. Wismayer.

MS. WISMAYER: Yes. I'm Vivian Wismayer. I'm representing High Point West, Delray Beach.

We have 1100 units, and we are not very happy with this situation, what's going on with the project, and I agree with all the representatives, what they have said to you.

I'm not going to repeat it all over again because I'm sure you're sick and tired of listening to us, but you should try and take this into consideration because there's going to be lots of problems with Sims Road at Atlantic and Atlantic Avenue and Lake Ida.

So we would really appreciate it if you would take this into consideration about the density.

Thank you very much.

CHAIRPERSON GREENE: Thank you.

Ms. Josephine Bennardo, would you take the mic, please.

Ms. Stingo.

MS. STINGO: Yes. Good morning, Commissioners. My name is Phyllis Stingo. I'm president of the HOA of Pinewood Cove, which is located on the corner of Sims and Atlantic and also a member of the Sims Road Alliance Group.

First I want to thank each and every one of you for having a private meeting with us prior to this hearing. We appreciate all the time you gave us.

I'm presenting my Sims Road reality aerial view since I don't have the sophistication of an artist rendering.

This is Sims Road. It is nine-tenths of a mile long. It's bordered by Atlantic and Lake Ida. It's a small area.

This is Pinewood Cove. This is the proposed development (indicating).

This is not Military Trail. This is not Atlantic Avenue. This is not Congress Avenue. It cannot absorb the density and extra traffic that this proposed development will bring.

Every day we're reading about foreclosures, vacant homes, rentals being lowered. Why do we feel the need for more housing, especially in an area like this?

Finally, after all is said and done, and we've repeated this so many times, if the Board finds this project must go through, I beg you have

the insight to ask for necessary concessions that we have requested, such as more recreation area for children, not the estimated 36 children, but the realistically about 150 children.

Our school buses are already full to capacity picking up children on Sims Road. Are there going to be more buses coming there to get the extra students?

Secondly, installing a higher berm and shrubbery to hide the parking lot from Sims Road.

Aspen Square is not compatible to the surrounding developments. It is a six, three-story structure. It is more like an asphalt jungle.

I took offense at a statement made to me by one of the commissioners that this project will be beautiful and nicer looking than any of our homes in the community.

Well, I live in a community where homes go for three and \$400,000, and they're beautiful. Aspen Ridge has even more beautiful homes.

I doubt very much that an apartment complex would be nicer looking.

Thank you for your time.

CHAIRPERSON GREENE: Thank you.

Ms. Jane Bocskai, take the mic, please.

Ms. Bennardo.

MS. BENNARDO: Hi. My name is Josephine Bennardo. I am the secretary for Aspen Ridge. I live -- I've been living in Delray Beach for the last 15 years.

I am opposed to this project all around.

As my Sims Road Alliance, Phyllis, said to you before, it's a small road. There are -- there is another development being built right in front of Aspen Ridge with 32 other townhouses.

Surrounding our area there are numerous rental dwellings and communities that are not filled yet, and there are more popping up.

You said something about setting a precedence. Is this going to set a precedence in our area?

As you saw on -- if I can have that up -- Phyllis, could you put that back up again?

Around this area where it's being built, Aspen Glen, you can see that there's a whole other at least five, 10 -- probably about another 25 acres of land that are now for landscaping use now.

Is this going to be a precedence that's going to be set around the area there, also? Are we going to have other rental communities, three-story high, coming onto this little road? Will the -- the traffic's going to be tremendous on that -- in that area.

There's also a church going up on Lake Ida about 500 feet away from Sims Road and Lake Ida.

So there's going to be a tremendous amount of traffic.

I moved to Delray, like I said, 15 years ago. I love our little community. I am all for workforce homes, the teachers that I know, the people that I know. I work for a living.

They want homes, not big homes, homes that they could afford, make roots in the community. We want to keep our teachers here. We want to keep our firemen here. We want to keep our policemen here.

We want to keep all these people here, but they don't want to rent. Everybody wants them to stay. Renting doesn't make people stay. A home makes them stay in our community.

That's all I have to say. Thank you.

CHAIRPERSON GREENE: Thank you.

Mr. Edwin Goldwasser.

Ms. Jan Bocskai, she didn't come to the mic?

Okay. Mr. Goldwasser.

MR. GOLDWASSER: Good morning. My name is Edwin Goldwasser. I'm a director of the Alliance of Delray Residential Association and a resident of Delray Beach at 7616 Mansfield Hollow in Delray. That's on Hagen Ranch Road.

Representing the Alliance I can say that the builder and the land site developer came before the Alliance, presented his plans, and upon his presentation of plans the Alliance of Delray voted to support workforce housing.

That is our position. That has been our position and will continue to be our position.

After the presentation it is customary when any developer presents a plan to the area, we try to arrange a meeting between the developer and the communities nearby that would be affected by it.

At the time we tried to arrange such a meeting, such a meeting would not take place. The parties did not want to meet.

Subsequently, when it looked like this project was going forward, the parties agreed to meet with Commissioner Burt Aaronson.

At that time they did not want the builder present. They insisted that the builder not be present, and it was stated that no such meeting would take place without the builder also being there.

A lot of the conditions that were put forward here this morning and subsequently at the Zoning Board have been met by the builder, and we of the Alliance of Delray fully support this project, and it was subject to the conditions that were set forth.

I believe there were 36 of them. Some of them have been incorporated into the presentation that was made this morning after the meeting with the Zoning Commission, and we stand in full support of this.

We represent 66 communities and over 60,000 people in the Delray area.

Thank you.

CHAIRPERSON GREENE: Thank you.

Ms. Lyndha Evensen.

Ms. Bocskai.

MS. BOCSKAI: Commissioner, I believe my card was marked that I would not speak, but while I 'm up here, I do want to take a moment to thank all the commissioners.

I actually represent Sims Road Alliance, and I want to thank the commissioners for taking the time to individually meet with us, and I did want to comment about the density.

We definitely are not against workforce housing. Our communities have people that are firemen and teachers and people that are workers, but what I'm very concerned about is the density going from eight to 14.4 per acre, and I believe that with the agricultural land still available on Sims Road that there could potentially be precedents set with allowing of 14.4 per acre for this particular building, and I would like to hope that you take that into consideration.

And I thank you very much for your time.

CHAIRPERSON GREENE: Thank you.

Mr. Paul Garfinkle is last.

Ms. Evensen.

MS. EVENSEN: Thank you, Commissioner.

I marked that I didn't really want to speak, but I am here. I didn't think I would be here, and I thank you very kindly for calling me to the podium.

I would suggest, and that's what I put on my card, that the commission consider rolling this density back to 10 units, which is more compatible with the area.

The person who spoke for the Delray Beach Alliance speaks for 60,000 people of which approximately in the community that is impacted are 154 homes on one side of Sims Road, and I believe 300 on the other side of Sims Road.

All of the people impacted have banded together in the Sims Road Alliance because if the warrant -- if the road capacity is showing 50 percent of warrant right now and the builder wants to introduce 171 new residents [sic] into the area, which is over and above 154 and does not take into account 30 townhomes being built right in front of Aspen Ridge, I can -- logic would say -- now I can't guarantee it, but logic would

say that instantly upon residence being established, the building being built, the residents coming in there, we will be at capacity, and we will be at warranty.

You can't put a signal by law at this time at Sims Road and Atlantic Avenue because there's a signal within 1250 feet on Atlantic.

You could consider one at Sims Road and Lake Ida, but another consideration beyond the fact that this person who wants to help so much has not included elevators for the handicapped in these buildings, is the consideration that this road that he is building on has no streetlights at night.

You're going to increase capacity tremendously, and I would just suggest that perhaps a little compromise would be advantageous for all of us.

Thank you.

CHAIRPERSON GREENE: Thank you.

I forgot your name.

MR. GARFINKLE: Paul -- my name is Paul Garfinkle. I've been a resident at Pinewood Cove for approximately 15 years. I'm a former president of the Pinewood Cove Homeowners Association.

Pinewood Cove is landlocked with its only entrance and exit at Sims Road just north of Atlantic Avenue.

The traffic conditions currently trying to get onto Atlantic Avenue are horrendous. Whether or not the developer says we're at 50 percent of warrant or some other number, it takes several minutes to try and turn either from Sims into Atlantic or from Atlantic into Sims.

I personally witnessed several accidents at this intersection. People are getting seriously hurt. How much more traffic can we afford to put into this bottleneck without somebody then having to address the future issues?

Another issue that has not been raised by anybody is there is a nursing and assisted living home just north of our development called the Heritage Park -- Heritage Park Nursing and Assisted Living Facility.

At that facility we have got many elderly residents who are out in wheelchairs who are trying to walk in the area. A lot of them are Alzheimer's patients who wind up walking or rolling their carts past this proposed development, wind up in the middle of the street.

I've had several that have wound up in my driveway where I've had to assist them back to the nursing home and seen that they were -- that there was safety.

I don't think that there's any way that we can just ignore the needs of all of these people.

As you previously heard, there are over 700 residents in the area that are in opposition to this proposal.

This proposal of Aspen Square sits on six separate parcels of land which have been combined for one 11-acre presentation; however, by Florida Statute, by putting these six parcels together it allows the residents of this County to request a valid initiative to have this property put on the ballot for a vote of the public.

I would suggest that before this Commission winds up with looking at ballot fights and everything else, that maybe the suggestion of Jane West to meet with the developers, meet with the County Commissioners or the land developers be given strong consideration so that additional resources of money on all sides is not wasted, and we wind up with a ballot initiative in the final analysis.

Thank you.

CHAIRPERSON GREENE: Thank you.

That's the last of the cards. Any comments? Commissioner Aaronson. Oh, he -- I'm sorry.

MR. CIKLIN: I'm the lawyer for -- you had left the room, Commissioner.

I just have a couple of comments in rebuttal. It'll take about 90 seconds.

First, Ms. West indicated that I had refused to meet with her, and she's telling the truth. I did. And the reason I gave her was that prior meetings had really not been very productive.

The first time a request was made there was a meeting scheduled at High Point, and Mr. Morton and Urban Design Studio received an e-mail saying that they were not welcome, and if they set foot on the property, that they would be trespassing.

Only after Commissioner Aaronson was good enough to organize a meeting did they actually get to the -- come to the table.

We agreed to several conditions which we still agree to. What they had agreed to didn't come to fulfillment.

The officer from the Delray Alliance explained to you that difficulty. I explained all of that to Ms. West and indicated that I didn't think further meetings would be productive.

A couple issues. Traffic seems to be the overriding issue. Actually, density relates to traffic.

Mr. Rogers will tell you if you ask him that traffic capacity on Sims Road and at the two intersections, Lake Ida and Atlantic, is at 50

percent of the capacity. So -- and that takes into consideration not only this project, but other projects, other approved projects and future development as well.

The number of children, according to the School Board, is 36, not 150, and we have added onto the recreational facilities. So from a practical standpoint we in fact have over an acre of recreational facilities, and we are also -- Mr. Morton is contributing \$123,000 to the Parks Department, which you will hear about, which is going to be used for a park, an expansion at Lake Ida park that will service physically challenged children.

So we're doing both. We've added to the rec facilities, and we're also making the contribution.

As far as the landscaping on Sims, done. We said we'd do it. It's done. We're doing it, it 's part of the conditions.

The wall along Ms. Kamhi's boundary, we've agreed to it. It's part of the conditions. We've done it.

The rents. Everybody says the rents are too high, they're not really workforce housing. These are not our rents, and Ms. Baker can tell you a little more about that in a moment.

Those -- the rents that have been discussed are the maximum rents that the Workforce Housing Ordinance allows.

I can tell you that the primary concern of the developer here is to fill up all of these units. He wants 100 percent occupancy, and he is going to charge rents that allow him to do that.

Sixty-two of these units have to be workforce housing. They have to be for people that earn between 36 and \$90,000. So those rents are -- have to match their income level, and, obviously, in order to make this project a success he's going to do it.

So we meet all the requirements. We've addressed all their concerns and would request your approval if you think it 's appropriate.

COMMISSIONER AARONSON: Excuse me.

The Zoning Commission, the first time they heard it, they requested that the -- they postponed their decision based upon having the residents meet with the developer.

The developer wanted to meet with the residents and the Alliance, and what the Alliance stated is true. The residents never at that time called me to meet with me, and they refused to meet with the developer.

As a result, Bob Schulbaum, the president of the Alliance, called me and asked me if I can get a hold of somebody and have a meeting.

I spoke to the residents. Bob Schulbaum spoke to their president, and I said that I would have a meeting in my south County office.

At that time the residents did not want the developer to be at the meeting, either, at which point I said no, if we're going to have a meeting to straighten things out, all parties have to be at the table. There's no point in segmenting it, meeting with one group, another, let's have everybody at the table, at which time we did.

The density problem came in, you know, we're going to have so many people over there, the 171. I explained to them that the reason they got the density was because of the BCC, the Board of County Commissioners' decision on affordable housing.

We are the ones who gave them the right for the density to do workforce housing. So it's the County Commission's policy that made the 171 units possible; is that correct? Okay.

MR. Mac GILLIS: Yes, Commissioner.

COMMISSIONER AARONSON: Okay. Then we spoke about the traffic. I have the same reports from staff that the staff gave to the developer, and I'll ask Mr. Rogers now, tell me whether Mr. Ciklin was correct on the traffic that will be going onto Sims Road.

MR. ROGERS: With one minor correction. I believe my statements at the Planning Commission public hearing was that the expected traffic volumes on Sims Road would be about 50 percent of the traffic that would be needed to warrant a traffic signal at that intersection.

COMMISSIONER AARONSON: Okay. So we spoke about a traffic signal, and your comment was, I believe, that there's no need for a traffic signal. It probably wouldn't meet the standard for a traffic signal for many years to come.

MR. ROGERS: My testimony at that hearing was that the traffic volumes were below the minimum warrants that the Florida Department of Transportation requires in order to install traffic signals, and that in our estimation, based upon both the traffic report that was submitted by the developer and our own -- and the Traffic Division's own projections, is that we did not think that the traffic volumes on Sims Road would ever be sufficient, based upon the approved development along Sims Road to require -- to warrant the traffic signal, and, therefore, we did not think that it was a possibility --

COMMISSIONER AARONSON: And the statement was correct then. It would ever be enough to warrant it.

MR. ROGERS: Based upon the number of units that are proposed along that road, that's correct.

COMMISSIONER AARONSON: Then another thing came up when I met with the residents, and that was all the conditions that have been approved, the six-foot wall, the pathway that they wanted, which was not in the original plan, and I asked, and the Alliance asked for them to put in a pathway which the developer agreed to.

They asked for a three-foot berm instead of a two-foot berm, and we're looking at a two and a half foot berm if it's possible, because sometimes when people want a berm, it's not possible; is that correct?

MR. Mac GILLIS: Correct. You need a certain width to accommodate the berm.

COMMISSIONER AARONSON: Right. And if it's possible, we said we'd get them the two and a half to three-foot berm, but we also got the plantings that they wanted, the landscaping and the trees to a certain height which satisfied them at that meeting.

So they were satisfied with the wall. They were satisfied with the walkway. They were satisfied with the landscaping.

And when we walked out of that meeting, I was convinced, and Bob Schulbaum with the Alliance was convinced that everybody were happy campers, and then they went ahead, and which they have a perfect right to do, hire an attorney.

Now, having said all that, I've tried to look to improve whatever we could for the residents, but I'm not about to go ahead and deny workforce housing there, which is what the BCC has given all builders a right to apply for to get the additional 64 units that they now have gotten.

I can't go ahead in my own mind and justify anybody saying well, look at what the housing market is today. I guess when they bought the property, the builder, and decided to go forward, they didn't know that the housing market was going to deteriorate, but we all know that at some point in time the housing market will come back; otherwise, we're all in a lot of trouble if it doesn't come back some day.

The fact of the matter is I can't base my judgment and my feelings based upon what the housing market is.

I think Mr. Ciklin explained that the reason for the prices that are there is strictly because that's what's allowed by law, but that doesn't mean that a developer or any developer is not going to be cognizant of the fact that the market rate that's out there today, if they want to rent their place -- you know, you read about it every day.

People own homes, single family homes, and rent it out for less than it cost them on their

mortgage just to make -- to have money coming in so the developer is probably going to do the same thing, and if not, he'll have -- people won't have to worry about the traffic because nobody would be moving in there.

So you have all these situations. The fact is the conditions of approval, the 150 children that will be living there, that 's their assumption.

The School Board says 36. I'm not an expert on that, but when the School Board comes forward and anticipates how many people will be living based upon the numbers that we crunch, the way we do it, I guess pretty much of the time they're right; otherwise, they'd be changing their methodology.

So saying that you're going to have 150 people there, you know, anybody wants to argue a case can always say why 150, why not 300 children.

The fact is, I see no reason the Zoning Commission, after knowing that we did have the meeting, the Zoning Commission approved it seven to nothing; correct?

MR. Mac GILLIS: Correct.

COMMISSIONER AARONSON: Okay. The staff, who I've met with -- Ms. Baker, can you tell me what your opinion is, because you were involved in a lot of this.

MS. BAKER: I believe that the project is a good project for us. We have been working with the industry over the last two and a half years, as you know, and this is a solid project as far as I'm concerned and does provide the housing that's necessary.

The rents that we're looking at, again, we work within the HUD guidelines to come up with our maximum amounts per category. So we feel the rents could be lower, but this is the maximum amount. Even if the market changes, this is the maximum amount that they can charge for these type units and categories for now and in the future.

They could always be lower, but they -- this is the maximum amount it --

COMMISSIONER AARONSON: So staff has come forward, and staff has recommended it. The Zoning Commissioners recommended it.

I sat with the applicant, and I sat with the residents and tried to get as much as I could for the residents in the way of landscaping, the way of recreation and all the things that were needed, and I will tell the Board that, as the Board had said to me once before on other occasions and we ask each County Commissioner to do the same, is try to work out the differences between the developer and the applicants.

I see no reason that I could go against this and certainly I want to disclose that I met with both sides, the developer and the residents, so I'm making full disclosure on that now.

CHAIRPERSON GREENE: Before I call Commissioner Koons, we'll do disclosure.

I know I met with the applicant.  
Commissioner Kanjian.

COMMISSIONER KANJIAN: I met with the applicant, as well as some of the concerned citizens.

CHAIRPERSON GREENE: And as well as concerned citizens.

Commissioner Koons.

VICE CHAIRMAN KOONS: I met with the applicant and the petitioner.

CHAIRPERSON GREENE: Commissioner Marcus.

COMMISSIONER MARCUS: I met with the applicant and the concerned residents.

CHAIRPERSON GREENE: Commissioner Santamaria.

COMMISSIONER SANTAMARIA: I don't believe I have.

CHAIRPERSON GREENE: Commissioner Marcus -- McCarty.

COMMISSIONER McCARTY: I met with the applicant and residents that were concerned.

COMMISSIONER AARONSON: There's one thing that I forgot to mention.

There's a gentleman with the applicant -- not with the applicant, with the homeowners, who did a very, very good job, he was very diligent. He came to my office the other day and showed me a map and counted out all the parking spaces, and there's one short. Did all of you see it?

There's one parking spot missing. He counted them out with me in my office. He had the piece of paper, the schematic of the parking lot, and there's one parking space short.

MR. Mac GILLIS: Okay.

COMMISSIONER AARONSON: None of you know about it?

CHAIRPERSON GREENE: I'm sure they --

MR. Mac GILLIS: No.

CHAIRPERSON GREENE: Now they do.

MR. Mac GILLIS: I think it'll -- if it wasn't caught here, it would have gotten caught at the final DRO hearing.

COMMISSIONER AARONSON: Every space was counted by this gentleman who did a very, very good job, and one portion of the parking lot which shows six spaces, okay, which shows six as the number, only has five parking spaces there.

So if you want to go ahead, I'll get that piece of paper from Mr. Birnbaum again and show it to you, and the developer has to find one

additional parking space because when you say you have -- I think it's 485 -- it's only 484, I think the number may be right, but there's one that's missing.

CHAIRPERSON GREENE: They believe you.

MR. Mac GILLIS: She found it.

COMMISSIONER AARONSON: You found it?

MR. Mac GILLIS: Yeah.

COMMISSIONER AARONSON: Okay.

CHAIRPERSON GREENE: Okay.

COMMISSIONER AARONSON: He found it before you did.

CHAIRPERSON GREENE: Commissioner Koons.

VICE CHAIRMAN KOONS: Commissioner Aaronson, I don't know if you made a motion, but I will make a motion to approve staff recommendations with the updated conditions.

CHAIRPERSON GREENE: You've heard the motion by --

COMMISSIONER AARONSON: I'll second it.

CHAIRPERSON GREENE: Three motions. Oh, okay. Gotcha.

Before we go to the second motion, I forgot.

Commissioner Santamaria.

COMMISSIONER SANTAMARIA: I, too, believe in workforce housing. I would really want to approve this project, but I have to make some statements based on my personal experience and 30 years as a developer-builder in Palm Beach County.

The statements I heard by a number of residents in the immediate vicinity of the project I believe were reasonable statements and requests. Among them are that the density is excessive.

I have to agree that the 4.4 [sic] units per acre is excessive. You know, I would join them in the request to reduce the number of units.

A project can be profitable with lesser units. I have been able to do it with lesser units on multi-family.

At this point I won't argue the affordability of the rentals from 1287 to 2173 per month and the selling prices from 164 to 304. The market will dictate it, but I know for a fact that we really have not seen true success in the last few years on what we claim to be affordable housing and those parameters that we have set.

I, too, am a landlord with some 26 units, and let me tell you, my three bedrooms are renting for 1100 a month, and I do have vacancies. And, by the way, they are 1800 under air.

But then I'm not -- I'm not -- I'm going to let the market dictate. I mean if they feel they can get the numbers -- if whoever set up those parameters feel they're affordable, let the market dictate, but I think they're high.

The -- so I would join those 700-some immediate residents in the immediate vicinity of the project, of the development, to request additional buffering and additional recreation.

So it's my opinion, again, based on my own personal experience that, you know, some further concessions should be made by the applicant.

CHAIRPERSON GREENE: Thank you.

Commissioner Kanjian.

COMMISSIONER KANJIAN: Thank you, Madam Chair. Just a quick question.

Mr. Ciklin mentioned that the additional recreational space was included.

Does that hit the 1.03 acres?

MR. CIKLIN: Actually, the additional recreation space is more than that. So we're adding back in recreation in excess of the 1.03, and we're paying the 123 for Lake Ida Park.

COMMISSIONER KANJIAN: And that would be -- that's part of what we have, 'cause I didn't see that in here as one of our stipulations.

MR. Mac GILLIS: There -- I was actually just going to bring it to your attention.

The applicant came up here.

Staff had -- Zoning staff after the Zoning Commission had put a condition on here that there would be no cash out, but after -- I think Jean Matthews is here from the Parks and Rec to outline that they have a rec parcel, plus they're using part of the civic site. They've purchased that, plus they're going to -- they wanted to use the cash-out option to use it for a park in that vicinity for the therapeutic park that the commissioner's doing.

So I think it's Park's call. They felt it did meet all the requirements so I would ask her to address that.

MS. MATTHEWS: Hi. Jean Matthews from the Parks and Recreation Department.

Actually, they are providing point only -- they're not providing the whole acre of rec. They're using their civic site for rec, and then using 1.8 acres for rec.

The trail -- or we asked them to put a pathway around the lake and also exercise stations, but there's a minimum width requirement of 50 feet, and it doesn't meet it. So the acreage around the lake doesn't really count in.

But we thought in the Parks and Recreation Department the pool, the fitness center and the tot lot, the walking trail would meet the needs of the community.

But by code they're --

COMMISSIONER KANJIAN: Yeah, someone -- somebody clarified that, and so --

MS. MATTHEWS: -- technically meeting it, but they're not meeting it.

COMMISSIONER KANJIAN: -- if you measured it out, it's over an acre, but we don't -- certain parts we don't count in our code because it just doesn't meet the 50 feet.

MS. MATTHEWS: Correct.

COMMISSIONER KANJIAN: But it's over the acre. Okay.

And this change is part of what you're including here. So even though it doesn't qualify, it is going to be included as a requirement if we pass this; correct?

MR. Mac GILLIS: Correct.

COMMISSIONER KANJIAN: Okay. Then I'm satisfied. Thank you.

CHAIRPERSON GREENE: Okay. Thank you.

Commissioners, we take each one of the motions individually, right?

VICE CHAIRMAN KOONS: Yeah. I just want to make clear that my motion -- I said the new conditions, so I -- I was --

CHAIRPERSON GREENE: Okay. We have the motion on the floor by Commissioner Koons, seconded by Commissioner Aaronson.

Ready for the question.

All in favor.

COMMISSIONER KOONS: Aye.

COMMISSIONER AARONSON: Aye.

COMMISSIONER MARCUS: Aye.

COMMISSIONER McCARTY: Aye.

COMMISSIONER KANJIAN: Aye.

CHAIRPERSON GREENE: Aye.

All opposed.

VICE CHAIRMAN SANTAMARIA: Aye.

CHAIRPERSON GREENE: Ayes have it seven --

COMMISSIONER AARONSON: Six-one.

CHAIRPERSON GREENE: It's 6-1.

COMMISSIONER AARONSON: Thank you.

Madam Chair, I have an emergency phone call I have to take right now.

CHAIRPERSON GREENE: Okay.

VICE CHAIRMAN KOONS: Okay. To adopt a resolution approving development order amendment to reconfigure site plan and modify conditions of approval.

CHAIRPERSON GREENE: You're doing transfer of development rights?

VICE CHAIRMAN KOONS: No, I'm doing the one above.

COMMISSIONER MARCUS: No, the TDRs.

COMMISSIONER KANJIAN: That was the first one.

VICE CHAIRMAN KOONS: Oh, that was the first. I'm sorry. I'm doing TDRs. I apologize.

CHAIRPERSON GREENE: Okay.

You've heard the motion by Commissioner Koons --

VICE CHAIRMAN KOONS: Thirty-five units and designate this area as receiving zone.

CHAIRPERSON GREENE: Right. Second --

COMMISSIONER KANJIAN: Second.

CHAIRPERSON GREENE: -- by Commissioner Kanjian.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it --

VICE CHAIRMAN KOONS: Third motion is to approve --

CHAIRPERSON GREENE: Wait, wait.

Ayes have it now four -- 5-1 -- 6-1?

COMMISSIONER MARCUS: Are you voting for the TDRs?

VICE CHAIRMAN KOONS: Five-one with Aaronson missing.

COMMISSIONER SANTAMARIA: For the TDRs?

VICE CHAIRMAN KOONS: Yeah.

COMMISSIONER SANTAMARIA: Yes.

COMMISSIONER MARCUS: He is, so it's unanimous.

CHAIRPERSON GREENE: Okay. 6-0.

VICE CHAIRMAN KOONS: 6-0.

Madam Chair, last motion would be to approve the reduction of the cost to one dollar for the unit for the transfer of development rights.

CHAIRPERSON GREENE: You heard the motion by Commissioner Koons.

COMMISSIONER KANJIAN: Second.

CHAIRPERSON GREENE: Second by Commissioner Kanjian.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 6-0.

MR. Mac GILLIS: This will bring us to Item 29, the last item on the agenda.

This is an administrative inquiry, 2008-001.

This is one of those items where it's not clear in the code, and --

COMMISSIONER MARCUS: Move -- move approval.

MR. Mac GILLIS: Okay.

CHAIRPERSON GREENE: Okay. I have --

COMMISSIONER KANJIAN: Second.

CHAIRPERSON GREENE: I have two cards.

One, Mr. Tom Connors, does not wish to speak, but he supports, and the other card is -- oh, Collene Walter.

MS. WALTER: We're just here for questions if you have any.

COMMISSIONER MARCUS: They're just sharing the space for a -- while they finish their site plan, so --

MR. Mac GILLIS: For 18 months they're going to use the site --

COMMISSIONER MARCUS: Right. Okay.

MR. Mac GILLIS: -- to the south, the Palm Beach Post site.

Just -- they may be coming in for a time extension on the development order so I just wanted to make you aware, so --

VICE CHAIRMAN KOONS: I just want to thank the staff for working with this. I had one -- one new car place in my district. I just want to thank the staff for trying to accommodate it.

It's really tough to store cars when you're restoring, so I just appreciate the work on that.

MS. WALTER: Commissioner Koons, I'd like to echo that on behalf of the Auto Auction. We really appreciate staff taking this into consideration and working quickly.

CHAIRPERSON GREENE: Thank you.

Is there a motion?

COMMISSIONER KANJIAN: Yes, and a second.

CHAIRPERSON GREENE: A motion by Commissioner Kanjian --

COMMISSIONER MARCUS: No, I --

CHAIRPERSON GREENE: Motion by Commissioner Marcus.

COMMISSIONER MARCUS: Right.

CHAIRPERSON GREENE: Second by Commissioner Kanjian.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 6-0.

There are no more cards.

CHAIRPERSON GREENE: Comments. Attorney Banks.

MR. BANKS: No.

CHAIRPERSON GREENE: No comments? Zoning Director.

MR. Mac GILLIS: No comments.

CHAIRPERSON GREENE: Planning Director. (No response)

CHAIRPERSON GREENE: And commissioners. We do have comments.

Commissioner Santamaria.

COMMISSIONER SANTAMARIA: I would like to initiate -- I would like to initiate a future land use amendment for the 08-1 round.

Portions of the Santa Rosa Groves subdivision are currently the subject of a privately initiated amendment in this round of amendments; however, instead of doing a piecemeal land use change for this area, it would be more appropriate to take a complete and comprehensive approach and initiate the land use change from RR-10 to RR-5 for the whole subdivision.

Planning staff supports the initiation as new data demonstrates that the amendment would be consistent with the Future Land Use Policy 1.4-b. This policy allows the County to initiate an amendment to designate qualifying subdivisions as RR-5.

The future land use change to RR-5 would potentially create 16 new lots, and based on preliminary analysis by the County Engineering staff there would not be a significant impact on transportation.

COMMISSIONER MARCUS: Madam Chair.

CHAIRPERSON GREENE: Commissioner Marcus.

COMMISSIONER MARCUS: This is in an evacuation zone, and the staff is -- I'm just being facetious.

Can we, though -- 'cause I don't have a map in here, so if it's possible when this comes back, you 'll show us the location, and Commissioner Santamaria has described it somewhat for me. It's outside of The Acreage?

MS. ALTERMAN: Correct, just outside of The Acreage area.

COMMISSIONER MARCUS: But I would just raise that precedent question, also, so when we look at it, we could make sure we address that, too.

CHAIRPERSON GREENE: Thank you.

We don't need a motion on this or anything?

COMMISSIONER MARCUS: Yeah, we do.

CHAIRPERSON GREENE: We do? Okay.

There's a motion by Commissioner Santamaria.

VICE CHAIRMAN KOONS: Second.

CHAIRPERSON GREENE: Seconded by Commissioner Koons.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7 -- oh, his request.

While he's reading that request, the second comment, Commissioner McCarty.

COMMISSIONER MARCUS: We haven't voted on it, though.

CHAIRPERSON GREENE: We didn't vote on it?

COMMISSIONER MARCUS: You had to decide if he was voting on it.

CHAIRPERSON GREENE: No, his -- the vote was 7-0.

He just read it. He's a fast reader.

COMMISSIONER McCARTY: At the last Organization of Economic Development Programs meeting, which is OEDP, which Commissioner Greene and I co-chair, there -- and Ms. Baker, also, staff's -- were you there at that meeting, the last one? Okay. Oh, Shannon. Okay.

And, anyway, there was a presentation given to that committee about the possibility under an economic development discussion of having perhaps biofuel production out in the EAA, and they talked about the jobs that could be created.

And there is currently a partnership going forward with some research being done by University of Florida whereby grasses and anything that's grown, not just limited to sugar cane or vegetables, but anything that's grown could be converted into biofuels.

And there was a lot of enthusiasm on the part of the committee, and Commissioner Greene was sort of leading the enthusiasm parade, and they asked that -- they made a recommendation that the County Commission ask the Zoning Commission -- Zoning staff to look at the EAA and the possible production of biofuels and see if that is compatible, if it's allowed. If not, if it's desirable, what changes need to be made.

And so if there is no objection from this Board today, I would like to ask that staff be directed to investigate the issue of biofuels, and, certainly, there was about a 40-minute presentation that was given to the OEDP to explain all of the issues, environmental issues, or lack of environmental issues, and economic development potential, that certainly if the staff be given the ability to investigate this, that when they come back with their report, then we can also get the presentation that the OEDP had the benefit of.

But there was lots of enthusiasm. It was kind of like what can we do, how can we get this going.

Because of the severity of the unemployment rate in the Glades this is something that could really, really help in that regard and yet be a help to the environment.

So if there is no objection, I would like to -- and if Commissioner Greene would like to add anything to that -- would like to ask that the recommendation of the OEDP be followed up on by staff.

I don't know that there's a motion -- I'm just asking that there be direction go look into it.

VICE CHAIRMAN KOONS: I think we need to make the motion, direct staff to bring that forward.

So I'll second that.

CHAIRPERSON GREENE: You've heard the motion by Commissioner McCarty, second by Commissioner Koons.

COMMISSIONER MARCUS: And under --

CHAIRPERSON GREENE: Commissioner Marcus.

COMMISSIONER MARCUS: So we're asking the staff to make sure that you can actually do that in the EAA?

COMMISSIONER McCARTY: Right, and if we can't, is it something that would be desirable.

COMMISSIONER MARCUS: Okay.

COMMISSIONER McCARTY: And if it's desirable, how then can we.

COMMISSIONER MARCUS: Okay.

COMMISSIONER McCARTY: What changes would we have to make.

COMMISSIONER MARCUS: Okay.

VICE CHAIRMAN KOONS: Correct.  
CHAIRPERSON GREENE: You've heard the motion.  
Ready for the question.  
All in favor.  
COMMISSIONERS: Aye.  
CHAIRPERSON GREENE: All opposed.  
(No response)  
CHAIRPERSON GREENE: Ayes have it, 7-0.

CHAIRPERSON GREENE: Commissioner Marcus.  
COMMISSIONER MARCUS: Yes, ma'am, Madam Chair. I just handed you out a memo requesting a ULDC change to prevent people from parking more than -- you have a picture, it's not real clear in the backup you have of -- there's a 10-acre piece of property out in Jupiter Farms where they have close to 39 cars parked, and our code does not -- because they're all operable.  
COMMISSIONER McCARTY: No, I totally agree. We need to do this.  
COMMISSIONER MARCUS: We can't cite them. You can see the pictures of them.  
COMMISSIONER McCARTY: We need to do this.  
CHAIRPERSON GREENE: Oh, I agree.  
COMMISSIONER MARCUS: I can pass it around. This is -- this is in somebody's --  
COMMISSIONER McCARTY: You think you should be able to have as many cars piled up on a piece of property as possible?  
CHAIRPERSON GREENE: I agree. I agree.  
COMMISSIONER McCARTY: Oh, you agree.  
Good.  
COMMISSIONER MARCUS: And because the code is silent on -- which I still want to investigate with the County Attorney's office, 'cause the code is silent on them not being prohibited, I -- we need to change the code that specifically says that it's prohibited, even though I think --  
VICE CHAIRMAN KOONS: That's a Google map of the Auto Auction.  
COMMISSIONER MARCUS: He's -- he --  
VICE CHAIRMAN KOONS: That can't be the --  
COMMISSIONER MARCUS: We think he's running a business out there, so I'm hoping maybe Code

Enforcement can look at it from that perspective. We've got the neighbors sort of counting the cars and stuff like that, but, yeah, this is on site.

COMMISSIONER McCARTY: Yeah, it's --

COMMISSIONER MARCUS: And they all work, so I would make a motion that we give the staff the direction to amend the code to deal with 39 cars on a residential lot.

CHAIRPERSON GREENE: You heard the motion by Commissioner Marcus --

COMMISSIONER KANJIAN: Madam Chair, we just -- let me make a comment on that.

We've just had in front of us today a few places where we say our policies have a glitch in it, don't make sense, some things.

When we instruct staff to do this, we have to be very precise, because if somebody has a party, which I've been to parties out in Jupiter Farms and there's 50 cars out in Jupiter Farms because they're having a party, do we mean we're going to tell people they can't have a party and have 50 cars there? We're going to say it can be a certain period of time, but I think we should give staff very, very specific information as to what it's going to be.

Because it also makes Code Enforcement's job very difficult to decide what is what. So, hopefully, we're going to give them very specific instructions.

COMMISSIONER MARCUS: They have specific language attached in the memo that Jon Mac Gillis wrote to me where they would make specific changes that would address that.

It's not intended to stop parties out there. It's really to -- what you've got out there, but he says less than 10 parking spaces on a lot.

MR. Mac GILLIS: Ten --

COMMISSIONER KANJIAN: Nobody's got parking spaces out there.

MR. Mac GILLIS: We never had a problem in the past, so we came up with the number 10 being -- somebody could have a property as long as they had a garage and a driveway that 10 is not an unreasonable with a large family or a large home.

Anything greater than 10, then we're going to set some standards.

CHAIRPERSON GREENE: Wait, wait. You said 10 cars is not --

MR. Mac GILLIS: We have a lot of properties in the county that actually accommodate a garage for up to 10 cars and then a parking --

CHAIRPERSON GREENE: It's different if cars are parked in a garage --

COMMISSIONER MARCUS: Right.

CHAIRPERSON GREENE: -- but 10 cars parked on the property?

MR. Mac GILLIS: Well, we just -- we need to be careful because we don't want to create a lot of non-conformities --

COMMISSIONER AARONSON: Absolutely. I think --

MR. Mac GILLIS: -- in the county because if we do restrict this, you'll end up --

COMMISSIONER AARONSON: I think there's a big difference by having an open lot with a lot of people --

CHAIRPERSON GREENE: Right.

COMMISSIONER AARONSON: -- with cars parking on it and a difference if somebody having an affair at their house and having five or six or seven or eight cars within their driveway or the proximity of their home.

MR. Mac GILLIS: Correct.

COMMISSIONER AARONSON: I think that's a tremendous difference in that.

You know, we've all gone to political events where the president comes in or the vice president and the streets are loaded and many people have valet service and others don't. That's one thing.

But when you take an open lot and put 50 cars on it, that's something different.

COMMISSIONER KANJIAN: Just make sure. I mean one of the things they just pointed out that maybe they have a business, they have other things. If we have existing regulations already there --

COMMISSIONER MARCUS: I'm still pursuing --

COMMISSIONER KANJIAN: -- that would help us, that's a whole lot better than just making more laws and --

CHAIRPERSON GREENE: She said some are --

COMMISSIONER KANJIAN: -- make sure we just don't create more.

COMMISSIONER MARCUS: I'm trying to continue to pursue that, too, but in case I can't find that option, then we're going to go ahead and -- we've been directed to do this, so --

CHAIRPERSON GREENE: Commissioner Marcus, I'm glad you're doing it because I'm working with a friend of mine who's running for political office, and people are literally using cars as storage. I kid you not.

MR. Mac GILLIS: This will be brought back in 2008-01 round.

COMMISSIONER MARCUS: Right, and the residents out there are obviously very concerned, and we'll sit down and meet with them, too, to make sure that -- what we come up with.

CHAIRPERSON GREENE: Thank you.

Commissioner -- who made the motion?  
COMMISSIONER MARCUS: I made the motion.  
VICE CHAIRMAN KOONS: I think it was  
Aaronson maybe was second, I thought I heard?  
CHAIRPERSON GREENE: Okay.  
COMMISSIONER AARONSON: I second it.  
CHAIRPERSON GREENE: Okay. Commissioner --  
seconded by Commissioner Aaronson. Sorry about  
that.  
Commissioner Koons.  
VICE CHAIRMAN KOONS: Yes. In my comments  
I'd like to initiate a TCA -  
COMMISSIONER MARCUS: Did we vote? We  
didn't vote.  
VICE CHAIRMAN KOONS: Oh, we didn't vote?  
Okay.  
CHAIRPERSON GREENE: Oh, we didn't? Oh.  
Ready for the question.  
All in favor.  
COMMISSIONERS: Aye.  
CHAIRPERSON GREENE: All opposed.  
(No response)  
CHAIRPERSON GREENE: Ayes have it, 7-0.

VICE CHAIRMAN KOONS: Madam Chair, I'm  
bringing this with the concurrence of staff to  
initiate TCA agreement for Westgate CRA, which is  
the target of our overlay district, in order to  
clarify the number of trips associated with the  
TCA and modify the allowable land use ratios,  
potentially increase the land use pool associated  
with the TCA.

It's my understanding the total number of  
trips was proposed, but the pool was not made part  
of the Comprehensive Plan.

I'm bringing this forward with the  
concurrence of staff.

COMMISSIONER McCARTY: You know, it'd just  
be helpful if you'd give us that ahead of time.

VICE CHAIRMAN KOONS: I thought I --

COMMISSIONER MARCUS: He did.

COMMISSIONER McCARTY: Oh, did you? I  
didn't get any --

COMMISSIONER MARCUS: Yeah.

COMMISSIONER McCARTY: Oh, we have a Koons thing? Okay.

COMMISSIONER MARCUS: Yeah, under my comments.

CHAIRPERSON GREENE: He did.

VICE CHAIRMAN KOONS: Yeah.

COMMISSIONER McCARTY: Okay. I'm sorry. I must -- it must be in my stuff.

CHAIRPERSON GREENE: Okay.

COMMISSIONER McCARTY: I apologize.

CHAIRPERSON GREENE: You've heard the motion by --

COMMISSIONER McCARTY: I just didn't want to pick on one commissioner and not another. I wanted to pick on everybody equally.

VICE CHAIRMAN KOONS: You're picking on my staff. I -- did you send this out? Yes.

COMMISSIONER AARONSON: You're very good --

COMMISSIONER McCARTY: Not picking on your staff. I'm leaving your staff out of it.

COMMISSIONER AARONSON: You're an equal opportunity employer.

CHAIRPERSON GREENE: You heard the motion by Commissioner Koons --

VICE CHAIRMAN KOONS: I freaked out for a minute. What? What the --

CHAIRPERSON GREENE: You better let us vote for this so we can leave.

VICE CHAIRMAN KOONS: Yeah.

CHAIRPERSON GREENE: You heard the motion by Commissioner Koons, seconded by Commissioner -- somebody.

COMMISSIONER MARCUS: Second.

CHAIRPERSON GREENE: -- McCarty.

Ready for the question.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON GREENE: All opposed.

(No response)

CHAIRPERSON GREENE: Ayes have it, 7-0.

We have no other comments.

MS. ALTERMAN: I have one thing. I apologize.

But in light of our discussion this morning about the shall nots in the Comp Plan, I just want to inform you that we have an application for a land use amendment for a church west of State Road 7 in the Ag Reserve, which is a shall not.

But in accordance with what we had been doing, we were allowing it into the process, and, you know, clearly staff recommendation was going to be denial.

I'm looking for some direction because I believe that the discussion this morning about shall nots was kind of don't even bring them to us unless there -- if there is a shall not, and it's very clear.

COMMISSIONER AARONSON: Madam Chair, my opinion is as long as it says "shall not" on the west side of 441, it says "shall not."

Now, you know, I don't know whether it's a synagogue or a church or whatever it may be --

VICE CHAIRMAN KOONS: It's -- it's --

COMMISSIONER AARONSON: -- but if it says "shall not" --

COMMISSIONER McCARTY: It's only -- 'cause these churches don't have a lot of money. I wouldn't want to send them through, and then we're stuck not being able to help them.

COMMISSIONER MARCUS: I would say --

MS. ALTERMAN: Well, and, again, it was one of those where we told them absolutely we were clearly going to recommend denial.

I guess the agent was advising his client not to come in, but the client, you know, sometimes they believe they want to.

MR. BANKS: Right. They did postpone at the Planning Commission and --

MS. ALTERMAN: Zoning Commission.

MR. BANKS: -- are exploring some other sites that people are --

MS. ALTERMAN: But I just want to let you - - so if that's the case, then we will just tell them not to come -- we'll refund their money or whatever and tell them not to come in at this -- west of State Road 7 unless the Board changes the policy.

Okay. Thank you.

CHAIRPERSON GREENE: Commissioner Kanjian, your light's on?

COMMISSIONER KANJIAN: Yeah, my lights were on because I met with these folks, and that wasn't the indication, again, that was given, so I -- I hope that we figure this out and maybe review the code well because I'm going to tell you right now if you are going to say "shall not" is "shall not," then we can pretty much -- we don't have to come here too much anymore, because most of -- a lot of things we do aren't within that.

COMMISSIONER McCARTY: Well, and again,  
if --

VICE CHAIRMAN KOONS: I agree with that.

COMMISSIONER McCARTY: -- if they -- if --  
they can come forward or ask a commissioner to  
bring forward to re-look at the policy west of  
441, and if there's four commissioners that want  
to re-look at that policy, I might be one, then  
let's do that.

But to have them come forward before that  
policy is changed is a waste of their time.

COMMISSIONER KANJIAN: Well, they're well -  
- I mean they're, again, they're well into this.  
In fact, I thought this was going to be here  
beforehand, and they're well into this process.

It's not going to be well, we should tell  
them not to do it, spend the money. They've  
already spent the money.

COMMISSIONER AARONSON: I think what we  
have to do is take a look at the policy real fast  
and decide whether or not we want to change the  
policy and not let it drag on for another year,  
and that's one of the reasons when some  
commissioners say well, let's have a Comp Plan  
change every year, you may be digging your own  
hole. Sure.

VICE CHAIRMAN KOONS: Well, was that the  
District Commissioner asking us to take a look at  
what we're authorized west of --

COMMISSIONER KANJIAN: Yeah, I would like  
to vote to re-look at that.

When it comes to me, I had a homeowner  
association meeting right down the street from  
this particular location last night. I brought it  
up with them, and I said as far as I'm concerned,  
a church is very different than 50 houses --

COMMISSIONER AARONSON: I agree.

COMMISSIONER KANJIAN: -- and so I -- I'd  
prefer there to be a bunch of churches out there  
than 50 houses everywhere.

So, yeah, I'd like to re-look at that if  
that's the -- if that's the --

COMMISSIONER AARONSON: Okay. And there is  
a difference, and I'll tell you what the  
difference is.

If you want to look at it for a purpose  
that benefits the public for a public purpose,  
such as a church, a school, things like that, we  
should look at public purpose much differently  
than we look at residential, and as church is a  
public purpose.

CHAIRPERSON GREENE: Residential will bring  
you money.

Commissioner -- well, Commissioner Marcus'  
light was on before your --

COMMISSIONER MARCUS: Well, I just think that before we even discuss or debate, we need to have all the folks here. We need to know exactly what we're talking about 'cause if it's in the Ag Reserve, I think that's a whole different story.

COMMISSIONER McCARTY: Yeah, but we could -- we could ask the staff to workshop the issue and discuss the policy.

COMMISSIONER MARCUS: Well, that's what I think that we're doing is bring the policy back so we can look at it, and that's it.

COMMISSIONER KANJIAN: Yeah, I'd prefer that what we had happen this morning shouldn't happen.

COMMISSIONER AARONSON: Right.

COMMISSIONER KANJIAN: So if it's a policy issue, that policy should be in front of us with a this is what you have to do beforehand so we don't look bad in front of everyone.

COMMISSIONER MARCUS: When you bring the Ag Reserve policy back, you're going to bring the coastal construction policy back, too?

COMMISSIONER KANJIAN: Along with the thousand others that's going to happen if the "shall" is "shall."

COMMISSIONER MARCUS: Well, those are the two that have been pointed out.

MS. ALTERMAN: Let us look through -- I think what we want to do is look through the plan, bring all of this back to you. Maybe we can workshop it at one time, or if there's too much, we can split it up, but at least we'll bring it back.

COMMISSIONER AARONSON: Why not just go through everything that says "shall not" and bring back a list of everything that says "shall not", and I'll bet you you don't find that many shall nots.

CHAIRPERSON GREENE: Commissioner Koons.

MS. ALTERMAN: We have to look hard.

VICE CHAIRMAN KOONS: So let me -- let me get this clear.

Right now we're going to ask to take a look at west of State Road 7, particularly could be public purpose, right, so we're -- I mean I know this has been kind of dangerous to look at this. There's been other occasions. There's a group that bought 10 acres out there that's looking at a mosque.

COMMISSIONER AARONSON: Public purpose service. Look, we did a public purpose --

VICE CHAIRMAN KOONS: So I'm -- I'm fine with that. I just -- but it's very narrow, public purpose, schools, churches --

COMMISSIONER McCARTY: Fire stations.

VICE CHAIRMAN KOONS: -- fire stations.

COMMISSIONER AARONSON: Police stations. I mean, you know, you narrow it down to public purpose.

CHAIRPERSON GREENE: Okay.

VICE CHAIRMAN KOONS: Okay. That's -- I'm fine with that.

CHAIRPERSON GREENE: Motion to adjourn.

(Whereupon, the meeting was concluded at 12:10 p.m.)

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**C E R T I F I C A T E**

THE STATE OF FLORIDA )

COUNTY OF PALM BEACH )

I, Sophie M. (Bunny) Springer, Notary Public, State of Florida at Large,

DO HEREBY CERTIFY that the above-entitled and numbered cause was heard as hereinabove set out; that I was authorized to and did report the proceedings and evidence adduced and offered in said hearing and that the foregoing and annexed pages, numbered 6 through 73, inclusive, comprise a true and correct transcription of the Board of County Commissioners hearing.

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 7th day of March, 2008.

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Sophie M. Springer, Notary Public.

