

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Friday, January 5, 2007
9:05 a.m. - 12:06 p.m.
Jane M. Thompson Memorial Chambers
301 North Olive Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

Sherry L. Hyman, Chairperson

Frank Barbieri, Vice Chairman

Don Dufresne, Commissioner

Allen Kaplan, Commissioner

Alex Brumfield, III, Commissioner

Bob Banks, Assistant County Attorney

Barbara Alterman, Executive Dir., PZ&B

Maryann Kwok, Chief Planner, Zoning

Carrie Rechenmacher, Senior Planner, Zoning

Ora Owensby, Senior Planner, Zoning

Ron Sullivan, Senior Planner, Zoning

Anthony Wint, Planner II, Zoning

Whitney Carroll, Zoning Consultant

Donna Adelsperger, Site Plan Tech

Patrick Rutter, Chief Planner, Planning

Bryce Van Horn, Planning Department

Bryan Davis, Senior Planner, Planning

Ken Rogers, Dir. of Land Development

Jim Choban, Land Development

Allan Ennis, Asst. Dir. Traffic Division

Robert Kraus, ERM

Courtney Shippey, Health Department

Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

CHAIRPERSON HYMAN: We're going to call the meeting to order.

Could we have the roll call, please.

MS. KWOK: Yes. Good morning, Commissioner. Happy New Year.

CHAIRPERSON HYMAN: Happy New Year.

MS. KWOK: Commissioner Barbieri.

VICE CHAIRMAN BARBIERI: Here.

MS. KWOK: Commissioner Hyman.

CHAIRPERSON HYMAN: Here.

MS. KWOK: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Here.

MS. KWOK: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MS. KWOK: Yes, we have a quorum.

CHAIRPERSON HYMAN: The Zoning Commission of Palm Beach County has convened at 9:00 o'clock a.m. in the Jane M. Thompson Memorial Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach, Florida, to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments and other actions permitted by the Palm Beach County Unified Land Development Code and to hear the recommendations of staff on these matters.

The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing in these chambers at 301 North Olive Avenue, West Palm Beach, Florida, in the Jane M. Thompson Memorial Chambers, 6th Floor, at 9:30 a.m. on Thursday, January 25th, 2007, to take final action on the applications listed below.

We'd like to recognize that Alex Brumfield has joined us. Thank you.

COMMISSIONER BRUMFIELD: Good morning.

CHAIRPERSON HYMAN: Good morning. Do we have proof of publication?

MS. KWOK: Yes, ma'am.

CHAIRPERSON HYMAN: Do we have a motion to receive and file.

VICE CHAIRMAN BARBIERI: So moved.

COMMISSIONER DUFRESNE: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

Thank you.

Okay. Zoning hearings are quasi-judicial and must be conducted in such a way to afford all parties due process. This means that any communication with commissioners which occurs outside of the public hearing must be fully disclosed at this hearing.

In addition, anyone who wishes to speak at the hearing will be sworn in and may be subject to

cross examination.

In this regard, if any group of citizens or other interested parties wish to cross examine witnesses, they must appoint one representative from the entire group to exercise this right on behalf of the group. Any person representing a group or organization must provide written authorization to speak on behalf of the group.

Public comment continues to be encouraged, and all relevant information should be presented to the Commission in order that a fair and appropriate decision can be made.

I'd like to ask all those of you who wish to speak today to please stand and be sworn in by our Assistant County Attorney.

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

MR. BANKS: Thank you.

CHAIRPERSON HYMAN: Thank you.

For the opening prayer and Pledge of Allegiance we'd like to call on Commissioner Kaplan.

COMMISSIONER KAPLAN: Would you all rise, please.

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

CHAIRPERSON HYMAN: Do we have any disclosures?

COMMISSIONER KAPLAN: Yes, Madam Chair.

CHAIRPERSON HYMAN: Put your mic on, please.

COMMISSIONER KAPLAN: It's on.

CHAIRPERSON HYMAN: Okay.

COMMISSIONER KAPLAN: Item 17 and 18 I spoke to the petitioner's agent.

CHAIRPERSON HYMAN: Anyone else?

VICE CHAIRMAN BARBIERI: Yes, Madam Chair.

On Item 17 I spoke to the petitioner's representative, PDD/ZV2006-708, and I met with the agent and the petitioner on Item 18, Z2006-952.

CHAIRPERSON HYMAN: I, too, have spoken with petitioner's agents on 15, 17 and 18. I met with petitioner's agent on one of those, as well. I think it was 18.

CHAIRPERSON HYMAN: Okay. Postponements.

MS. KWOK: Yes. Before I do postponement, I'd like to take this opportunity to introduce one of our new Zoning staff members, Whitney Carroll to my right. She's our zoning consultant, and she was responsible for reviewing most of the variance

applications for this month.

CHAIRPERSON HYMAN: May I make a -- welcome, by the way.

MS. CARROLL: Thank you.

CHAIRPERSON HYMAN: With regards to the variance applications is there any reason why we don't get a site plan with them?

MS. KWOK: Some of these applications do not accompany site plans. They just have the survey. Depends on the nature of the variance.

CHAIRPERSON HYMAN: Okay. Maybe if you take a look at it.

MS. KWOK: Sure.

CHAIRPERSON HYMAN: I thought in some of them it would be helpful to see, you know, exactly what you were talking about.

The other thing that I wanted to ask, and I don't know why I didn't notice this before, on the zoning correspondence sheets you list some items but not all items and some items don't have any correspondence so I was wondering why all items weren't listed, but --

MS. KWOK: We'll double check that list. Thank you.

MS. KWOK: All right. This will bring us to the postponement item. We have four postponement items as staff has indicated on the agenda, and we need a motion for each of these item.

And, in addition, we also have one on the add/delete which is Item No. 16, and we'll get to that when we're done with the regular item, postponement items.

The first one is CA2005-477. We need a motion for each one of them.

CHAIRPERSON HYMAN: Is there anyone here to speak on this item? It's called the Levy Learning Center. It's 2005-477.

VICE CHAIRMAN BARBIERI: Madam Chair --

COMMISSIONER KAPLAN: There being none, Madam Chair, I'll move to postpone for 30 days, February 1st.

CHAIRPERSON HYMAN: Is there a second?

VICE CHAIRMAN BARBIERI: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

Thank you.

MS. KWOK: Item No. 2, 2006-733, Dryden Apartments, postponement to March 1st, 2007.

CHAIRPERSON HYMAN: Is there anyone here to speak on this item? It's Dryden Apartments, 2006-733.

(No response)

COMMISSIONER KAPLAN: Madam -- there is somebody that raised his hand.

CHAIRPERSON HYMAN: You are here to speak on this?

UNIDENTIFIED SPEAKER: It's being postponed.

CHAIRPERSON HYMAN: Yes. Do you have -- okay. You have no problem with postponement? You do.

UNIDENTIFIED SPEAKER: No.

CHAIRPERSON HYMAN: You don't. Okay. Good.

Do we have a motion?

COMMISSIONER KAPLAN: Madam Chair, since no opposition I move we postpone 2006-733 --

CHAIRPERSON HYMAN: Allen, I think you're going to have to speak up.

COMMISSIONER KAPLAN: -- to March 1st, 2007.

CHAIRPERSON HYMAN: Okay. Is there a second?

VICE CHAIRMAN BARBIERI: I'll second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

MS. KWOK: Okay. Item No. 3, DOA2006-185, Boynton & Lawrence Office MUPD, postponement 30-day to February 1st, 2007.

CHAIRPERSON HYMAN: Is there anyone here to speak on this item?

It's called Boynton & Lawrence Office MUPD. It's 2006-185.

(No response)

COMMISSIONER KAPLAN: Hearing none, Madam Chair, I move to postpone 30 days on Item DOA2006-185.

VICE CHAIRMAN BARBIERI: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

MS. KWOK: Item No. 4, 2006-1751, Liberati Variance, also requesting for a 30-day to February 1st, 2007.

CHAIRPERSON HYMAN: Is there anyone here to speak on this item?

It's called Liberati Variance, 2006-1751?
(No response)

COMMISSIONER KAPLAN: Not hearing any I'll move that we postpone for 30 days to February 1st, 2007.

VICE CHAIRMAN BARBIERI: Second.

MS. KWOK: Okay.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

MS. KWOK: Okay. There is a last minute request from the applicant, Mr. and Ms. McKenzie. This is a variance application, 2006-1746, Item No. 16.

They're requesting for a 30-day postpone to February 1st, 2007.

CHAIRPERSON HYMAN: Is there anyone here to speak on this item, McKenzie Variance, 2006-1746? You would like to speak on it?

MS. MCKENZIE: (Off mic)

CHAIRPERSON HYMAN: You are the petitioner and would like to be postponed. Okay. Thank you. Is there a motion?

COMMISSIONER KAPLAN: Move to postpone for 30 days to February 1st, 2007.

VICE CHAIRMAN BARBIERI: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

Thank you. It's postponed.

MS. KWOK: Okay. This would bring us to the consent agenda, and we have -- this is on Page 4.

The first one is Item DOA2006-344, Rainberry PUD Pods A and B.

We got a request this morning for -- to pull off from consent to discuss Engineering conditions, and I believe those Engineering conditions are on your add/delete.

CHAIRPERSON HYMAN: Okay. So do we need a motion to reorder the agenda to put that into --

VICE CHAIRMAN BARBIERI: So moved.

CHAIRPERSON HYMAN: Okay.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Okay.

Thank you.

MS. KWOK: Item No. 6, 2006-1744, Sunrise Detox Center.

We need the agent to come up to the podium to agree to all the conditions of approval.

MR. HACKETT: Good morning, Commissioners.

For the record, James Hackett, with Gentile, Holloway, O'Mahoney & Associates.

CHAIRPERSON HYMAN: Okay. You may want to speak up a little bit next -- thank you.

Okay. Is there anyone else here to speak on this item? It's 2006-1744.

(No response)

CHAIRPERSON HYMAN: The only comment I had was that I thought the justification statement, quite frankly, was just -- I don't want to -- I don't know how else to say it, but I think it's self-serving.

You know, when you ask for a justification statement, it should be a justification statement, and when you just repeat what you're supposed to -- what the justification is, what the Code provision says without giving a backup as to why it satisfies that, to me that's not helpful.

MR. HACKETT: Okay.

CHAIRPERSON HYMAN: But in any case, I think staff supported this.

Does anybody else have any comments?

(No response)

CHAIRPERSON HYMAN: No comments? Do you have any --

CHAIRPERSON HYMAN: Do you agree to comply with the provisions --

MR. HACKETT: Yes, ma'am.

CHAIRPERSON HYMAN: -- conditions?

VICE CHAIRMAN BARBIERI: Madam Chair, move to adopt a resolution approving a Type II zoning variance to allow a reduction in the required number of parking spaces.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

Thank you.

MS. KWOK: Okay. The next item is No. 7, 2006-1745, Williams Variance.

We do have a revised motion on your add/delete. Basically, we wanted to eliminate the word, "to allow the shed to encroach." This is just an encroachment of the single family dwelling into the required front setback and also the side interior setback.

CHAIRPERSON HYMAN: So what happened to the shed?

MS. CARROLL: It's been removed.

CHAIRPERSON HYMAN: Oh. Okay.

Is the petitioner here on this item? It's 2006-1745, the Williams Variance.

(No response)

CHAIRPERSON HYMAN: Anybody have any -- anybody -- she's coming.

Okay. Anybody else here on this matter?

(No response)

CHAIRPERSON HYMAN: My only comments -- under No. 2 where it says, "Special circumstances and conditions do not result from the actions of the applicant, which is an essential element of granting a variance," clearly, wasn't the enclosing of the carport what created the need for the variance, or wasn't that created by the applicant?

I know it's -- listen, I know it's hard in these variances because very often, you know, it is imposed or self-imposed by the applicant so I know you have a very tough job, but, clearly, you know, when we say it -- when you're analyzing the variance standards and you say yes, which means that you met -- you satisfy that particular criteria, but isn't -- wasn't it really no

because -- wasn't it the applicant who enclosed the carport, or maybe it was somebody before the applicant. I don't know.

MS. WILLIAMS: It was the applicant.

CHAIRPERSON HYMAN: It was the applicant.

And then the other question I had was have we given the applicant -- under the condition we've given the applicant 'til June 5th of this year to file for the building permit.

Why do we give them six months to do that?

Why so long if it's not in compliance? Do they need that long?

MS. WILLIAMS: Well, I've already made --

CHAIRPERSON HYMAN: Can you say your name and --

MS. WILLIAMS: All right. My name is Betty Williams. I'm the applicant for this.

I've already made arrangements with Mr. Meyers for my building permit because at the time that this structure was enclosed I was ignorant of the fact that it was not up to Code or no permit or -- I just relied on someone else to do this for me.

CHAIRPERSON HYMAN: Okay. All right. Do you need until June 5th to apply for a building permit?

MS. WILLIAMS: Actually, I had already applied for a building permit, and this is -- all this sort of came about as a result of --

CHAIRPERSON HYMAN: Of applying for the building permit.

MS. WILLIAMS: So --

CHAIRPERSON HYMAN: No good deed goes unpunished.

MS. WILLIAMS: Right. So I'm -- I don't know how long it'll take Mr. Meyers to process this.

CHAIRPERSON HYMAN: Okay. Well, I would just bring the -- you know, push the date up in terms of the condition to something more reasonable, and since she's already applied, it's not going to be onerous on the petitioner.

You know, I'd say by, you know, February 15th or something like that.

Having said all that, anybody else have any comments?

VICE CHAIRMAN BARBIERI: Madam Chair, adopt -- move to adopt a resolution approving a Type II zoning variance to allow the existing single family dwelling to encroach into the required front setback and into the required side interior setback.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

Thank you very much.

MS. WILLIAMS: Thank you very much.

I'm through?

MS. KWOK: Okay. Item No. 8, 2006-1747, Gollin Variance.

We're recommending approval, subject to a condition.

CHAIRPERSON HYMAN: Okay. Is the petitioner here?

MR. GUNDERSEN: Yes.

CHAIRPERSON HYMAN: You want to step up, please.

And anybody else here to speak on this item?

(No response)

CHAIRPERSON HYMAN: Okay. There is a typo, staff, under the staff summary. On 41 we talk about 35 feet, but it's -- I think it's 85 feet.

I know that was just a test to see if we read this stuff, but -- and -- okay.

And this one, this was another one. Under the analysis you state that they do not -- the petitioner does not meet the second condition, which is the self-imposed condition, and yet you're recommending approval.

I'm not sure I have a problem with the petition, but how do you recommend approval when you acknowledge they don't satisfy the second condition?

VICE CHAIRMAN BARBIERI: I have the same question.

I -- my understanding from what you told us last month was that you had to meet all seven of these requirements --

CHAIRPERSON HYMAN: You do.

VICE CHAIRMAN BARBIERI: -- in order to get a variance? So how can you put a no and tell us to recommend approval?

MS. KWOK: You can answer.

MS. CARROLL: I think that was a misprint. It should have been yes because they did address -- that was addressed, so we didn't have any problem with that.

VICE CHAIRMAN BARBIERI: Okay. So the record --

CHAIRPERSON HYMAN: Okay. So --

VICE CHAIRMAN BARBIERI: The record should reflect that that's a yes on these instead of a no.

MS. CARROLL: Right.

CHAIRPERSON HYMAN: Even though it really is going to be completely, I guess, self-imposed.

MS. CARROLL: Right.

CHAIRPERSON HYMAN: But -- but No. 2, it should -- No. 2 is definitely a yes? You think that they've satisfied the second condition?

MS. CARROLL: Yes.

CHAIRPERSON HYMAN: Staff, you feel right about that?

MS. KWOK: Yeah, we do.

CHAIRPERSON HYMAN: Okay. All right. Is there any comments, questions, motions?

VICE CHAIRMAN BARBIERI: Recommend a motion to adopt a resolution approving a Type II

zoning variance to allow a proposed expansion of a single family home to encroach into a side interior setback.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Oh, and before we do that, petitioner agrees to the condition, right?

MR. GUNDERSEN: Yes, I do. For the record, Kirk Gundersen.

CHAIRPERSON HYMAN: Thank you.

Okay. All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

All right.

MS. KWOK: Okay. Item No. 9, 2006-1748, Stuart Ledis.

This is a recommendation for approval for the Type II zoning variance.

We do have a concurrent zoning application that the applicant filed as of yesterday so we're going to bring this rezoning application to you in about three, four months time, and at that time we're going to put in -- place in conditions of approval.

So we're -- we're recommending approval.

CHAIRPERSON HYMAN: Okay.

MS. KWOK: There's no condition tied to this project.

CHAIRPERSON HYMAN: Okay. Is there anyone here to speak on this item? Petitioner?

MR. KOLINS: I am. Good morning and Happy New Year to you all.

CHAIRPERSON HYMAN: Happy New Year to you.

MR. KOLINS: Ron Kolins, from Greenberg, Traurig.

CHAIRPERSON HYMAN: Thank you.

You agree to the condition?

MR. KOLINS: There are no conditions so, yes, we agree to no conditions.

CHAIRPERSON HYMAN: That's a good thing. Zero conditions. Okay.

Do we have a motion?

VICE CHAIRMAN BARBIERI: Madam Chair, motion to adopt a resolution approving a Type II zoning variance to allow a variance from the minimum lot depth.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

MR. KOLINS: Thank you very much.

CHAIRPERSON HYMAN: Thank you.

MS. KWOK: Okay. Item No. 10, 2006-1752, Stonebridge Country Club.

We are recommending approval subject to a couple of conditions.

CHAIRPERSON HYMAN: This is -- who -- who's initiated this petition? It's not the developer, right? It is the developer?

MR. MCGINLEY: For the record, Kevin McGinley.

MS. CARROLL: The Homeowner's Association.

MR. MCGINLEY: Yes, it is. It's the Stonebridge Country Club itself.

CHAIRPERSON HYMAN: Oh, the Stonebridge Country Club.

MR. MCGINLEY: Country club, not the developer --

CHAIRPERSON HYMAN: Not the original developer.

MR. MCGINLEY: -- the original developer.

CHAIRPERSON HYMAN: 'Cause I know the original developer, but I don't think he's still involved in this.

MR. MCGINLEY: No, it's the country club, and a generator for the country club.

CHAIRPERSON HYMAN: Okay. Do we have anybody else here to speak on this item?

(No response.)

CHAIRPERSON HYMAN: Okay.

VICE CHAIRMAN BARBIERI: Madam Chair, we have the same issue on this one. We need to have staff tell us if that's a yes under Item 2, and not a no.

CHAIRPERSON HYMAN: Yes, we do.

MS. CARROLL: I'm sorry. It is a yes.

VICE CHAIRMAN BARBIERI: Okay. In that case I'll move to adopt a resolution approving a Type II zoning variance to allow a generator to be placed between the front, the side and the right-of-way.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: And you agree to all the conditions?

MR. MCGINLEY: Yes, we do. Thank you.

CHAIRPERSON HYMAN: Okay. Thank you.
 All in favor.
COMMISSIONERS: Aye.
CHAIRPERSON HYMAN: Opposed.
 (No response)
CHAIRPERSON HYMAN: It's unanimous.
 Thank you.
MR. MCGINLEY: Thanks.

MS. KWOK: All right. Item No. 11, 2006-1755, Boynton Beach Self Service Storage, the bank site.

We're recommending approval, subject to conditions.

CHAIRPERSON HYMAN: Okay. Is there anyone here to speak on this item?

MR. BARRY: Yeah.

CHAIRPERSON HYMAN: Petitioner. Are you the petitioner?

MR. BARRY: Yeah, Chris Barry, with Jon Schmidt & Associates.

CHAIRPERSON HYMAN: Excuse me?

MR. BARRY: Chris Barry, with Jon Schmidt & Associates.

CHAIRPERSON HYMAN: Okay. I have a card from a Joan Meyer. Are you here on some other item? You're here on this item? Do you want to speak on this? You don't. Okay. Thank you.

Okay. Do you agree with the conditions?

MR. BARRY: Yes, we do.

CHAIRPERSON HYMAN: All right. Let's take a look a second.

VICE CHAIRMAN BARBIERI: Madam Chair, I move to adopt a resolution approving a Type II zoning variance to allow encroachment of easements into the landscape buffers --

COMMISSIONER KAPLAN: Second.

VICE CHAIRMAN BARBIERI: -- for the north and west property lines.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: All opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.
 Thank you.

MS. KWOK: Okay. Item No. 12, 2006-1764, Koch Generator.

I believe we do have cards on this project.

VICE CHAIRMAN BARBIERI: Yes, we do.

CHAIRPERSON HYMAN: While we're going through those, you know, the pictures that come with the applications, you know, they don't come out in our packet. So I'm not sure it's worthwhile making the copies.

Either we need to get copies that look like you can read them or don't include them, I think. Okay.

UNIDENTIFIED SPEAKER: We have photos with us today that might be a little bit larger than yours and in color.

CHAIRPERSON HYMAN: Okay. We were talking about the last item. Thanks.

Who's that strange man in the audience? Okay.

We're on Item 2006-1764. It's Item No. 12. I do have some cards.

MS. KWOK: Right. Before we move to the hearing on this application, we do have four other items that we wanted, you know, put on consent, and these items are on your add/delete.

Do you want to go through those first before we hear Item No. 12?

CHAIRPERSON HYMAN: Okay. Let's -- do we have a motion to reorder the agenda?

VICE CHAIRMAN BARBIERI: So moved.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

Let's go to the remaining consent items.

MS. KWOK: Okay.

MS. KWOK: Yeah, these are items -- there are four items on your add/delete to be placed on consent, Item 15, 2006-1757, Mini-Assemblage, we're moving to consent, and as amended with a Condition 3 being deleted, and the revised motion is on your add/delete memo, too.

CHAIRPERSON HYMAN: Well, I have a problem with moving 15 to consent. I mean we've already moved it to consent, but I -- I'd like to pull it off of consent.

MS. KWOK: On Mini-Assemblage?

CHAIRPERSON HYMAN: Yes.

MS. KWOK: Okay.

CHAIRPERSON HYMAN: Okay. And what's the next item?

MS. KWOK: Item 17, 2006-708, Sykes Commercial.

CHAIRPERSON HYMAN: Okay.

MS. KWOK: This is subject to two newly added revised Engineering conditions on your add/delete.

CHAIRPERSON HYMAN: Okay. Item one -- on Page 145.

Okay. Anyone here to speak on 2006-708, Sykes Commercial?

Okay. Good morning.

MR. CARPENTER: Good morning. David Carpenter, representing the applicant.

CHAIRPERSON HYMAN: Okay.

MR. CARPENTER: We accept the conditions.

CHAIRPERSON HYMAN: You accept all the conditions as modified?

MR. CARPENTER: Yes ma'am.

CHAIRPERSON HYMAN: Anyone else here to speak on this?

(No response)

CHAIRPERSON HYMAN: Anybody have -- you have -- you're not the petitioner?

MR. HARDMAN: No. Mike Hardman(ph). I own the building, six houses on Okeechobee Boulevard.

CHAIRPERSON HYMAN: Next to it?

MR. HARDMAN: Right.

CHAIRPERSON HYMAN: Okay. So you'd like to discuss this.

MR. HARDMAN: Well --

CHAIRPERSON HYMAN: Perhaps we should take it off the consent, also. It's okay, 'cause we're only going through the consent.

MR. HARDMAN: Okay. I -- I'm not objecting or not objecting to it.

CHAIRPERSON HYMAN: Oh.

MR. HARDMAN: I just didn't get any -- we didn't get enough information to make any decision if we have anything to object to.

CHAIRPERSON HYMAN: Okay. Let's pull it off consent, and, David, please talk to this gentleman and try to inform him, and then we'll come back to you.

MR. HARDMAN: Okay.

MS. KWOK: Okay. The next one is Item No. 18, 2006-952, Cobblestone Square. We're recommending approval and subject to the revised conditions on your add/delete.

CHAIRPERSON HYMAN: Okay.

MS. KWOK: We need the agent come up to the podium to agree to the conditions.

CHAIRPERSON HYMAN: Is there anyone here to speak on this item? It's Item No. 18, Cobblestone Square. It's 2006-952.

(No response)

VICE CHAIRMAN BARBIERI: Madam Chair, recommend approval of official zoning map amendment from the Neighborhood Commercial and the Multifamily Residential zoning districts to the General Commercial zoning district with a Conditional Overlay Zone.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: Does petitioner agree with all the conditions?

MR. BROPHY: Yes. For the record, Jeff Brophy of Land Design. We do agree.

CHAIRPERSON HYMAN: Okay. Thank you.

MS. KWOK: Okay.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

MS. KWOK: Okay. The last item to be placed on consent is 19, DOA2006-955, Lake Worth Self Storage.

Again, we're recommending approval with an amended condition on your add/delete.

CHAIRPERSON HYMAN: Okay. Is there anyone here to speak on this item?

(No response)

CHAIRPERSON HYMAN: No. 19, Lake Worth Self Storage, 2006-955.

(No response)

CHAIRPERSON HYMAN: Okay. I see no one here.

VICE CHAIRMAN BARBIERI: Petitioner?

CHAIRPERSON HYMAN: Yes, I'm ready for a motion.

You're the petitioner?

MR. HACKETT: Good morning again. James Hackett, for the record, with Gentile, Holloway, O'Mahoney.

CHAIRPERSON HYMAN: You agree with all the

conditions?

MR. HACKETT: Yes, we do.

CHAIRPERSON HYMAN: Is there a motion?

VICE CHAIRMAN BARBIERI: Madam Chair, recommend approval of a Development Order Amendment to reconfigure the site plan, reduce square footage and modify conditions of approval.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: Okay.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: All opposed.

(No response)

CHAIRPERSON HYMAN: Thank you. Okay.

CHAIRPERSON HYMAN: All right. Back to Item Number, is it 12?

VICE CHAIRMAN BARBIERI: Five.

MS. KWOK: Would you like a presentation on this or do you want to go right to the --

VICE CHAIRMAN BARBIERI: We still on consent?

CHAIRPERSON HYMAN: No, we're --

MS. KWOK: No. We're on Item No. 12.

VICE CHAIRMAN BARBIERI: What about Item --

MS. KWOK: 2006-1764.

VICE CHAIRMAN BARBIERI: What about Item 5? I thought we pulled Item 5?

Item 5, we didn't handle Item 5.

MS. KWOK: Yes, Commissioner, you're correct.

It's Item No. 5, Rainberry PUD Pods A and B. Would you like a presentation, brief presentation, or can we go right into the conditions, engineering conditions?

CHAIRPERSON HYMAN: All right. Petitioner.

MR. TERRY: Good morning.

CHAIRPERSON HYMAN: Now, we pulled this off because of -- oh, the Engineering conditions, yes. Okay.

Well, let's go to Engineering and hear what the story is.

Engineering.

MR. ROGERS: Based upon the submittal that was made by the applicant there have been changes -- I'm sorry.

The application before you is for a relatively benign change to the site plan. They're adding a very small accessory use

building; however, there have been some significant changes to the site plan, to this campus. One is at one of the two main entrance points to this project has been closed for security reasons, and now all of the traffic for this use is being directed to one entrance off of 95th Street South.

And the other thing is, is that there is a stated request by the petitioner to move the gatehouse or the gatehouse that is there, to construct a roundabout and to eventually abandon a portion of 95th Street such that that would then become a private road and be internal to the campus.

Right now there is a public road going into this campus.

CHAIRPERSON HYMAN: Okay.

MR. ROGERS: Based upon the closing of one of these entrances, the traffic has been rerouted, and there is need for additional intersection improvements at the intersection of Glades Road and 95th Street South.

In order to accommodate the amount of traffic that is there now and that will be as the other approved uses on this campus, which have not been built, will get built. When they get built, there'll be additional need for these improvements.

CHAIRPERSON HYMAN: So you have additional Engineering conditions you want to add?

MR. CHOBAN: They're already shown.

MR. ROGERS: They're already shown.

CHAIRPERSON HYMAN: Okay.

MR. ROGERS: The other thing is that in the moving of the gatehouse and as part of the abandonment of the public road there needs to be adequate turnaround provisions for the public before they get to this gatehouse that, such that if they are denied access into this campus, they have the ability to turn around, and so we are asking for that to be constructed, also.

CHAIRPERSON HYMAN: Is that already included in your conditions?

MR. ROGERS: These are in the conditions that we recommended as part of this rezoning application, that's correct.

CHAIRPERSON HYMAN: Okay. But you're not adding anything new?

MR. ROGERS: Well, these conditions are new conditions as part of this application, that's correct.

CHAIRPERSON HYMAN: But nothing new from our materials.

MR. ROGERS: Well, you have all this information.

CHAIRPERSON HYMAN: Okay.

MR. ROGERS: That's correct.

CHAIRPERSON HYMAN: So, Petitioner, you have no problems with all these conditions?

MR. TERRY: We do, actually.

For the record, Brian Terry, with Land Design South.

And I apologize. My computer is not cooperating at this moment.

I did have a short presentation, but I think that -- and Mr. Rogers did explain well exactly what those conditions are.

From our perspective the Federation -- again, what -- we're representing the Jewish Association for Residential Care, which is specifically the JARC facility. It's associated and on the campus of the Jewish Federation of South Palm Beach.

What we're looking to do, again, is add just 672 square feet of storage facility.

What our original request is for is to modify one condition of approval, and that is Condition P.1, and it's in the existing resolution.

That existing resolution limits the square footage of the building size for the resource center of the JARC facility. This addition exceeds what that limitation is.

The building was built slightly below what was approved in a resolution but still that limitation will not accommodate the 672 square feet.

So that was what our request was for. It was a development order -- again, just real briefly, if you're aware of what the JARC facility is, it's a not-for-profit group.

They provide services, housing and vocational, educational tools to -- for adults with disabilities for the Jewish community, as well as just the community at large, and what these -- the services they provide, they're -- they needed some expansion again, looking for a small storage facility.

And unfortunately, because of the condition, we have to come through this process, which is quite costly and time consuming, obviously, for a not-for-profit organization.

At this -- the Engineering conditions which -- once we received the proposed modifications to the resolution, we noticed the two new Engineering conditions, and as Mr. Rogers stated, we did actually show the roundabout which he spoke of.

This has to do with -- let me try to jump through -- try to get you -- just so you can graphically see it. It's -- it'll help, I think, visualize.

This is also some background, its location. I don't know if everyone's aware of where the site is, but to the north -- let me back up one. You can see here the location map. Glades Road is to our north. State Road 7 is to the west, Lyons Road obviously to the east, and our primary access is from 95th Avenue, as you can see, sort of in the center, into the Federation campus. It's approximately 100 acres located there in between those roadways.

The Federation campus itself includes a variety of different uses. Again, what I'm doing

is trying to show you the overall campus. There's quite a few -- there's the Hillel school, and the primary use on the site right now is down in the southwest corner of the existing Federation. That's the JCC and Donna Klein School.

Our site is right in the center. That is the JARC facility. It's two and a half acres sitting in the very center of the site.

What Mr. Rogers was also speaking of is the future development of this site. As you can see, we have identified elementary, middle and high school site. That was approved for a certain number of students, certain number of youths, and that is a future development potential on the property.

Again, I was just briefly going through the Federation. It was established in '79, not-for-profit organization. It is a -- primarily a fund raising and services-oriented facility that provides a lot of different great aspects for the community.

They provide a lot of educational services. They do not only schools for K through 12, but also providing opportunities for adult studies. Some of these uses are on the Federation campus. Others are off the campus but still are provided services and funding through the Federation as a whole.

A lot of the social services -- it's probably the longest list, and -- but in summary, really just they provide a lot of different community service programs, family and group counseling, after school programs, adult daycare.

I'm just kind of giving you a brief overview of really what this not-for-profit organization stands for, and the residential services, again, for disabled elderly low income and -- of which JARC is the facility we're speaking of today.

CHAIRPERSON HYMAN: So you're asking for additional space for storage, and I guess the question is why does that then initiate the additional conditions.

MR. TERRY: That's correct.

CHAIRPERSON HYMAN: What's the nexus between their request and the additional conditions?

MR. TERRY: That's correct, and I'll just real quickly -- I'll show you.

Here's our site plan. This is the existing resource center. Here's the housing component, two and a half acres. We're looking at about 46,000 square feet on the site.

As you can see, we're asking for 672 additional in the orange on the north side of the resource center.

CHAIRPERSON HYMAN: Where's orange?

MR. TERRY: It's just above the yellow. It's kind of -- fades away pretty rapid.

CHAIRPERSON HYMAN: Is it a darker yellow?

MR. TERRY: Yeah, above the darker yellow,

just above the yellow.

CHAIRPERSON HYMAN: Does that look orange to anybody, or am I color blind?

MR. TERRY: It's a perpendicular --

CHAIRPERSON HYMAN: I was worried.

MR. TERRY: I'm sorry. It's a rectangular little piece just north of the labeled Pod A building.

CHAIRPERSON HYMAN: All right. So -- so Ken, why does that request require the additional conditions? How does --

MR. ROGERS: This is part of a much larger project. This JARC center is -- we are not coming in here to approve just the JARC center. We are here to modify the approval for a much larger project.

It is the much larger project that is generating this.

When -- as a history, a little bit further history, Donna Klein School had been there for many, many years, and 10 years ago, 12 years ago, the Federation bought some additional land and decided to go with this more campus approach.

At that time the Donna Klein School, basically their only access was off of State Road 7 via -- was it Central Park or Park Central? I never can remember which the order of those words.

About six or seven years ago, maybe eight years ago now, there was a major security issue about the safety of the children of that school, and a decision was made to close the entrance off that led directly to State Road 7 and to utilize only the entrance off of Glades Road or 95th Street South.

Over the last several years the traffic congestion at the intersection of Glades Road and 95th Avenue South has gotten worse.

CHAIRPERSON HYMAN: Okay. So it's --

MR. ROGERS: And it has now gotten to much more of a critical standpoint, and it is now time to address the action that the applicant made in closing one of the entrances to this project.

CHAIRPERSON HYMAN: Okay. So --

MR. ROGERS: And it's now time that we address that.

CHAIRPERSON HYMAN: Okay.

MR. ROGERS: We are not tying these --

CHAIRPERSON HYMAN: I got it.

MR. ROGERS: -- improvements to the construction of this accessory use, but we are putting the applicant on notice that they now have to remedy the impacts that they are making by the decision that they made in order to modify their access.

CHAIRPERSON HYMAN: Frank.

MR. ROGERS: Now, we are not saying that we want them to reopen the other access. We understand --

CHAIRPERSON HYMAN: I got it.

MR. ROGERS: -- the need for security, but they have to address their impacts.

CHAIRPERSON HYMAN: Frank.

VICE CHAIRMAN BARBIERI: Yeah, my question basically to the petitioner.

Is JARC the owner of that whole, are you just that one little component all by yourself?

MR. TERRY: Just that small two and a half acre component itself.

VICE CHAIRMAN BARBIERI: So my question is, Ken, do we have another opportunity -- I can't see making JARC pay for those improvements when that huge campus they're only one little piece of -- whoever closed the entrance should have been told at the time that they did that, and I agree that that entrance should have been closed for security purposes, but they should have been told if you're going to close this entrance, then in the future when you develop the rest of your project, we have issues with 95th Street, and at that point you need to make the improvements.

MR. ROGERS: Well, once again, this is an approval -- I'm sorry.

This is a condition that we are placing on the entire petition, which the actual petitioner is the Federation.

VICE CHAIRMAN BARBIERI: So that this -- JARC won't have to pay for this is what you're saying.

MR. TERRY: I can tell you --

VICE CHAIRMAN BARBIERI: How can we bind -- how can we bind somebody that's not standing before us today to a new condition?

MR. ROGERS: We are not tying this condition to any improvement on the JARC site. We are saying that to the overall developer of this, which is the Federation, that this is something that they need to address.

They -- this is not anything new to the Federation. We have been talking to the Federation's engineer about these things for, I'm guessing, close to a year now, and -- but this is the first time that the application has come through, and so this is our first opportunity to revise those conditions of approval.

CHAIRPERSON HYMAN: Okay. Remind me again that the conditions are what, a traffic signal at 95?

VICE CHAIRMAN BARBIERI: There's no traffic signal there.

MR. ROGERS: A second turn lane on Glades Road to turn left into 95th Street.

CHAIRPERSON HYMAN: A second turn lane. Is there room for a second turn lane?

MR. ROGERS: Presently, no. I -- right-of-way is going to have to be acquired.

CHAIRPERSON HYMAN: Well, we're making a condition that they can't do?

You're -- are you going to require them to buy the property, or is the County going to condemn the property?

How are they going to do the turn lane if there's no room?

MR. ROGERS: The developer -- I'm sorry. Our initial assessment is that right-of-

way would have to be acquired. There may be a design solution that right-of-way will not have to be required; however, no one has gone in and approached that design yet to make that determination.

CHAIRPERSON HYMAN: I don't have -- okay. Barb.

MS. ALTERMAN: I just wanted to -- if it gives you any assurances, that in order to bring this forward, the consent of the --

CHAIRPERSON HYMAN: Oh, I know.

MS. ALTERMAN: Okay. So you understand this.

CHAIRPERSON HYMAN: Yeah, I understand.

MS. ALTERMAN: They're not standing here on their own --

CHAIRPERSON HYMAN: No, I -- and I understand that, you know, once you subject yourself to the process, you know, you're in the process and the owner consents to the petition, and if there's any deficiencies, they're going to nab you at this time.

VICE CHAIRMAN BARBIERI: That was my only concern, Madam Chair.

CHAIRPERSON HYMAN: So I --

VICE CHAIRMAN BARBIERI: I just wanted to make sure JARC wasn't getting stuck with the bill for this when the campus is much larger than JARC, the owner of that campus should pay for it.

CHAIRPERSON HYMAN: My problem is how do you impose a condition that you know that they can't satisfy.

MR. TERRY: If you don't mind, I -- a couple of other additional comments I wouldn't mind making, and it did explain sort of what happened, the pre-9/11, post-9/11 for the campus and what they had to do from a security standpoint to shut off their access.

And, real brief, this is what the modification is for the Condition E.19, and it's to take the existing guardhouse which you see just north of the JARC site and relocate it further north on 95th.

Now, our engineer and the Federation's engineer, and the Federation themselves do realize that this is an issue, and it's something that they want to rectify.

They appreciate -- and Engineering Division has been working with us. We've been looking at different design options on how we can accommodate for that.

What we're stating is that currently the Federation -- we can't agree to have the condition placed on the project at this time. I mean we know that we need to work with --

CHAIRPERSON HYMAN: Which condition are you talking about now?

MR. TERRY: This is E.19. This is for the relocation of the roundabout. I'm just going to hit on that one, then if you don't mind, I'd like to --

CHAIRPERSON HYMAN: Okay. So --

MR. TERRY: -- touch on the Glades Road.

CHAIRPERSON HYMAN: Okay.

MR. TERRY: So this is -- this is the relocation --

CHAIRPERSON HYMAN: Wait a second.

Ken, where do you want the roundabout to be?

MR. TERRY: Where we're showing the red dot is where we have -- we have worked with Engineering. We looked at an option that our consultant did develop, and it was requested by the Engineering Division that we include that onto our site plan.

We did do that as showing what -- how that future guardhouse and roundabout would look, and then we would obviously have to abandon the section south of where the big red dot is so that we privatize the road system internal to the campus.

And just, again, we show that there's a -- there's obviously a cost associated with that, and, again, that's something that the Federation knows they have to work with. The question is, is does it have to be placed as a condition at this time.

Unfortunately, they are a board. We -- at this time I cannot agree to the condition. We can most certainly work with Engineering and work with the Federation Board once they have an opportunity to meet, and we can look at --

CHAIRPERSON HYMAN: Okay. Let's take it one at a time because we've just -- I'm just confused.

We have two different Engineering conditions --

MR. TERRY: Right.

CHAIRPERSON HYMAN: -- that you want to impose.

Let's talk about the first one, which is the additional turn lane.

MR. TERRY: Okay.

CHAIRPERSON HYMAN: Yeah, let's not talk about the other one yet.

The turn lane. I understand the need for the turn lane if now, for whatever reasons, and they're good reasons, all the traffic is being routed through 95th Avenue.

And how do you condition it if they can't get it? So what do we do?

I mean I don't want to impose something that stops the project if we're in agreement with the project.

MR. ROGERS: There is nothing -- if the final determination is made that additional right-of-way has to be acquired, there is nothing stopping the developer from entering into an agreement to -- with the County for the County to use its powers of eminent domain to acquire the necessary additional right-of-way that is needed for that improvement.

CHAIRPERSON HYMAN: So it would force them to reimburse the County for whatever cost the

County incurs in condemning the additional right-of-way?

MR. ROGERS: Actually we would require a payment up front, yes, but the developer would be paying for the cost of the acquisition, that is correct.

CHAIRPERSON HYMAN: And that would be from that residential development that's right there?

MR. ROGERS: Until a design solution is made, I can't tell you where the additional right-of-way would come from.

MR. TERRY: I'm sorry. Can I interrupt?

MR. ROGERS: There are design possibilities or options, and until someone does the analysis to determine which is the most effective way of putting that turn lane in there, I can't tell you that it's going to come off one park property or the other.

CHAIRPERSON HYMAN: You want to say something about that?

MR. TERRY: I do. I just want to make a couple statements in that we did -- as part of the application we were required to do a revised traffic study, and it's showing all the traffic movements, and at that time our traffic study, which was eventually approved, does not require the additional turn lane.

It is a -- we meet TPS. Because the majority of the uses on the site are schools, there is -- there is an allocation of additional 30 percent, and that it allows additional trips to occur.

We meet TPS. We're not required the turn lane. From a -- and our approved traffic study says that, and at this point I think that --

CHAIRPERSON HYMAN: Okay. Well, that's a valid comment.

MR. TERRY: -- it's very difficult for us to --

CHAIRPERSON HYMAN: So, staff, what do you way about that? If they meet the traffic performance standards, then how do we require it?

MR. ROGERS: This is basically a site-related improvement which is not necessarily reflected in the TPS.

I know this is going to be very difficult for someone that's not familiar with our rules and regulations and our processes to understand.

TPS deals with the overall issues. There are certain offsets, exemptions in TPS for uses. There are also site-related impacts.

This is considered to be a site-related impact, as opposed to a TPS requirement.

CHAIRPERSON HYMAN: But would the site-related impact -- if it truly impacts the site, wouldn't it be reflected in the traffic performance -- in the traffic report?

MR. ROGERS: Not necessarily.

CHAIRPERSON HYMAN: But if it's not reflected in the traffic report, then it was --

MR. ROGERS: There are two different traffic reports that are required, and I don't

want to spend a lot of time in this. One is a TPS report, and that is to say whether or not you can get into the system.

CHAIRPERSON HYMAN: Right.

MR. ROGERS: There is a second report, which is a site-related report, which is additional information which is more specific to the actual impacts right around that site as opposed to the -- whether or not there is enough capacity on the through system of the roadway network around it.

Needless to say, this is -- we can concur that their traffic report, based upon the information that is required to meet the Traffic Performance Standards Ordinance, there are no improvements required at this intersection.

However, we can tell you that based upon the site-related information that this improvement is required.

CHAIRPERSON HYMAN: Did you want to say something?

MR. ENNIS: Yes. Allan Ennis, from the County Traffic Division.

Just to further expand upon what Ken has said, and I think he's explained the difference very well, this would be a site-related impact which would require more detailed analysis.

And just based on the guidelines that we use in the Traffic Division, the capacity of a single left turn lane is roughly about 200 cars in the peak hour.

The traffic volume that they have projected is over 500 cars in the peak hour for that left turn movement from Glades Road onto 95th Avenue. So it's way beyond the capacity of a single left turn lane, and, you know, if they did the more detailed analysis, I think it would show that the left turn lane would back up into the through lanes on Glades Road and would impede the movement of those through lanes.

MR. TERRY: I'd like to make one statement, however --

CHAIRPERSON HYMAN: One second. Hold on one second.

MR. TERRY: Sure.

COMMISSIONER DUFRESNE: I have a question. Ken, help me bridge the gap between the \$675 -- 675 square foot storage facility and all this traffic impact.

CHAIRPERSON HYMAN: Well, he -- 'cause the project comes in for modification.

COMMISSIONER DUFRESNE: Oh, but I want to hear it -- because are you saying that we've reached our peak on this project until we address these other issues, and it's not really the 675 square foot storage facility, but it's just --

MR. ROGERS: We --

COMMISSIONER DUFRESNE: -- time that anything you want to do in this entire project?

MR. ROGERS: I think there are two issues, one is that we are not trying to tie these improvements to the construction of the 670 square

foot accessory building, the storage area, at all.

CHAIRPERSON HYMAN: Can I make --

MR. ROGERS: They will go get that building -- after this approval go get that building permit.

What we're saying is that there have been changes to the site plan and changes to the operation of this overall project that have been made, and that those impacts, up until this time --

COMMISSIONER DUFRESNE: Have not been addressed.

MR. ROGERS: -- have not been needed to be mitigated. However --

CHAIRPERSON HYMAN: Okay.

MR. ROGERS: -- those changes have now made the traffic situation out there to a point that it is now time that we address those, and this was our first opportunity to do that.

CHAIRPERSON HYMAN: Okay. Can I make a suggestion?

It sounds like the -- first of all, if I was the petitioner, I would say it's not worth it to build the additional storage area if I have to put in, you know, a turn lane and pay several hundred thousand dollars, or maybe more, to acquire property for a turn lane.

So we probably, by conditioning it with this, would kill the whole request, and we'll go back to where we are now without the additional turn lane, and they'll withdraw their petition.

Why don't we take a postponement on this, give you guys a chance to work out to see if there's some way of resolving it where, you know, we get the -- the County's satisfied to address some of these site impacts and also where the petitioner, you know, might agree to some additional conditions because they're not agreeing with them now which means they're going to withdraw.

So I would suggest a postponement for you guys to try to work this out, especially since you don't even know where you would acquire the additional right-of-way, and maybe between now and the next meeting you can resolve this.

MR. TERRY: Sure, we'll --

CHAIRPERSON HYMAN: Okay.

MR. TERRY: We'd be happy to take a postponement --

CHAIRPERSON HYMAN: Okay.

MR. TERRY: -- and obviously work with staff to --

CHAIRPERSON HYMAN: Okay. Is there a motion?

MR. TERRY: -- try to work out our issues.

VICE CHAIRMAN BARBIERI: I'll move the postponement for 30 days.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: All opposed.

(No response)

CHAIRPERSON HYMAN: Yes.

VICE CHAIRMAN BARBIERI: Question for Mr. Ennis.

Explain a little further, would you -- are we already at the point where that lane is not enough -- it doesn't have enough capacity to handle the traffic that's turning in there, or at some point in the future are we going to be at that -- when they build additionally onto the property?

CHAIRPERSON HYMAN: Excellent question.

MR. ENNIS: Yeah. Let me look at the traffic study for just a second. I don't have the numbers memorized, but I believe the --

CHAIRPERSON HYMAN: That's an excellent question, and that's -- can we make sure that gets answered next time?

VICE CHAIRMAN BARBIERI: Yeah, I just want to make sure that if that is the situation, we're already over capacity in that lane, that we do definitely need to add the lane then.

You know, it's going to have to be added 'cause we have the same exact situation, when I spoke to Mr. Ennis about this morning, in front of the shopping center on 441 where the capacity -- the left turn lanes are over -- overfilled now, and traffic is backing up. So we're going to have to have an answer on that next month.

CHAIRPERSON HYMAN: All right. Thank you.

MR. TERRY: Thank you.

CHAIRPERSON HYMAN: We'll see you next month.

CHAIRPERSON HYMAN: Next, Item No. 12, Koch Generator.

MS. KWOK: Okay.

CHAIRPERSON HYMAN: Is the petitioner --

MS. ALTERMAN: Did you vote on the postponement?

CHAIRPERSON HYMAN: I think so.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: All opposed.

(No response)

CHAIRPERSON HYMAN: Didn't we vote? It's unanimous to postpone.

MS. KWOK: Yeah.

CHAIRPERSON HYMAN: Anyone here on 2006-1764? Petitioner, please step up.

Are you the petitioner? Step to the mic, please.

And I think -- do we have cards on this?
We have cards.

Okay. This is 2006-1764, zoning variance, and, staff, you want to introduce it?

MR. CERRITO: Good morning. I'm Tom Cerrito, from Cerrito Electric.

CHAIRPERSON HYMAN: Okay. Thank you. Staff is just going to make a few comments.

MS. KWOK: Whitney.

MS. CARROLL: Okay. This was a request to allow for a generator to be placed between a street side facade and the right-of-way.

There is a correction to your -- to the staff report. Actually, it is not a single family residence, but it's an attached unit on one side, and so we would consider that a townhouse unit.

The applicant has demonstrated to us that the location of the generator is appropriate, and we base that decision based on the rear yard is primarily built out with decking and pool, and the home has, like I said, is attached on one side so it really has no side interior lot, or side interior lot, and the other side of the dwelling faces a roadway.

In addition, the location of the generator is being proposed to be adjacent to existing air conditioning equipment, and -- which is currently hedged.

As a condition of approval I have discussed with the applicant that a four-foot masonry wall would be required that is consistent with the architecture of the home, and that would, of course, be dependent on the approval of the homeowners association, and the applicant has agreed to that condition.

So --

CHAIRPERSON HYMAN: Okay. Thank you. Petitioner, you have anything to add? Otherwise, we'll go to the two cards that we have.

MR. CERRITO: The only thing that I would add is if there is a situation with the wall being built, and it will match the house exactly.

We could always go back to the hedge situation, what we've done throughout the County already and have had no -- no negative response at all.

CHAIRPERSON HYMAN: Perhaps you haven't, but we have.

MR. CERRITO: Sorry to hear that.

CHAIRPERSON HYMAN: Yeah. Okay. Let's -- let's hear from the people who submitted cards.

You have something else you want to add?

MS. CARROLL: I just wanted to add something, that another reason for justifying this variance was that the -- our staff is proposing ULDC amendments that will allow a generator to be allowed in a side -- I'm sorry, between a side facade and the right-of-way, as well as in the front facade and a right-of-way, providing that they meet certain criteria.

One of those criterias will be the -- would be a fence or a wall, and that's why we are basically conditioning it to have the wall.

CHAIRPERSON HYMAN: Right. I think you said that. That's good.

Okay. June Banfield, and then Howard Alterman, if you guys would just --

MR. CERRITO: Sure.

CHAIRPERSON HYMAN: -- take a seat for a moment.

Ms. Banfield.

MS. BANFIELD: Good morning.

CHAIRPERSON HYMAN: Good morning.

MS. BANFIELD: I have a few comments.

CHAIRPERSON HYMAN: Pull the mic down to your --

MS. BANFIELD: I have a few comments about this -- this --

CHAIRPERSON HYMAN: Do you live in this community?

MS. BANFIELD: I am a resident at Cypress Island.

CHAIRPERSON HYMAN: Okay.

MS. BANFIELD: We feel -- I feel that this is not a unique situation. The whole island has many unique situations in lot acreage.

There is a very large back yard with a pool and whatnot and cannot understand why there wouldn't be room there, but the four-foot wall might be a concern in that it would affect the aesthetics, and it's sort of in a prominent location.

It is an attached home and do not know what the proximity is to the attached home, what the laws are about, you know, footage and whatnot of their neighbor, and that's primarily what I have to say.

I have a -- I have a map here that shows exactly where this house is in proximity to all of the others if you'd like to see that.

CHAIRPERSON HYMAN: We -- we have one. It's actually very hard to see so I'd like to see yours if you wouldn't mind.

MS. BANFIELD: Can I bring this right up then?

CHAIRPERSON HYMAN: This is a great community, by the way. Little secret.

On this drawing which we'll pass around, where did you -- did you show where they're trying to put the generator? Is there any way you can -- somebody can locate it? Okay.

All right. Thank you.

The next speaker is Howard Alterman. Howard, you're our County Attorney's husband. We're not going to hold that against you.

MR. ALTERMAN: I was when I left this morning.

VICE CHAIRMAN BARBIERI: She's not the County Attorney.

CHAIRPERSON HYMAN: I mean -- I'm sorry, former County Attorney.

Go ahead.

MR. ALTERMAN: My better half.

I'll try and keep my remarks brief. I'm a homeowner at Cypress Island. We live at 14330 Cypress Island Circle. I'm also the chairman of the Architectural Review Board at the Cypress Island community.

Two minor matters that should be addressed. This is not a zero lot line community, and this is an attached home.

The air conditioning unit that has been referenced was installed in roughly 1998 by the developer, and it sits behind some hedges and next to the garage.

We have tried to eliminate any further development on the -- so when people drive through the community, they don't see the air conditioners, and they don't see generators.

We have approved approximately a half a dozen generators thus far, and they have all gone in the back yards.

Some of the homeowners have even brought in cranes to get them into the back yards because they felt that that's what they wanted, and we had no objection. There was no damage.

This particular situation, we have a pool that was installed by the homeowner. We have a deck that was installed by the homeowner. They can remove part of their decking, because their back yard is extremely large.

There's no valid reason why they can't put this unit in the back yard.

The ARB had an emergency meeting this week when we knew that a four-foot wall was being considered because initially, a year ago in January of 2006, we approved this matter, subject to County approval.

At that time none of the people on this -- our committee are land use experts. I have zero knowledge, and the other folks aren't even lawyers.

We were relying upon the County to impose any restrictions that are appropriate.

We then -- had we known back then in January of 2006 that a wall would be required, we would have rejected the application. That is not in keeping with the aesthetics of the community.

If this is approved, what prevents another homeowner from saying we want to put our barbecue, our outdoor kitchen, out along the side of the garage because we have our mechanical equipment there, and we'll enclose it with a wall, or we want to use it to store bicycles, and we'll enclose it with a wall, or we're going to use it for additional storage of other items.

We think it lends to a very bad precedent.

There is no reason why this homeowner can't put the unit in their back yard.

What we would have if this homeowner is approved is a situation when people drive down the street, they're going to see a wall, they're going to see a hedge.

As you know, in Florida we have change of

seasons where sometimes the shrubbery is damaged or removed due to unnatural causes, and then everything is out in the open.

We don't want to have a situation where we have to go to the homeowner and say we had a hurricane, your wall is still showing, it's been five months; I can't get the landscaper out, my generator isn't working, I don't want to do that until we do this or the wall was damaged.

It's just a bad precedent for the entire community, and this is the only homeowner that has requested to place a generator in a location that is unsuitable.

The back yard is suitable. They can remove some of the decking. They have grass in the back yard. There's no reason, except they don't want to spend the money to run the lines.

But on the other hand, they also have their pool. They have their propane, and they heat it. So, you know, that's not really a good argument.

CHAIRPERSON HYMAN: Well, it seems to me, I mean if the staff's recommendation is for approval, subject to the ARB approval and the ARB is saying they're not going to approve it, then it's futile for us to approve something that we know can't get approved by the homeowners association.

COMMISSIONER DUFRESNE: Mr. Alterman.

MR. ALTERMAN: Yes, sir.

COMMISSIONER DUFRESNE: In your letter you discuss placing it, and an acceptable place would be the south side of the residence along the wall by the garage. Is that where the air conditioner is?

MS. KWOK: Yes.

MR. ALTERMAN: Yes, sir. I have a photo.

I think you've seen them.

COMMISSIONER DUFRESNE: I'm just trying to get clarification.

MR. ALTERMAN: Yeah.

COMMISSIONER DUFRESNE: Are we talking about --

MR. ALTERMAN: On the south side would be where the garage is, but it's an adjacent garage.

You have the Koch garage, and then you have their neighbor's. They're attached.

So the air conditioning units sit in front of the garages. Now we have a homeowner who wants to put a generator next to the air conditioner.

So that would not preclude the next home -- the homeowner to their west from saying, well, I want to put a wall up, too.

CHAIRPERSON HYMAN: And so the Architectural Review Board of your homeowners association's requiring that all generators go in the rear yards?

MR. ALTERMAN: Yes, ma'am.

CHAIRPERSON HYMAN: I think that's definitive. You know, I think that that makes the decision easy.

MR. CERRITO: Excuse me. There are

generators in that area now on the side of the homes. So I think he's got his information a little incorrect.

We know that for a fact because we've done some installations in that area. They're not in the back of the home.

CHAIRPERSON HYMAN: Were they done with permits?

MR. CERRITO: Yes, ma'am.

CHAIRPERSON HYMAN: How do you know that?

MR. CERRITO: Because you can't do a generator without a permit. It has to have a service change, and the power has to be shut down, and FP&L has to be notified.

COMMISSIONER DUFRESNE: But I guess what I'm still trying to get answered, Howard, is how -- it sounds like it's okay to put a generator on the side of the house. You just don't want the wall, and I don't know what's better or worse. I'm trying to figure that out from your letter.

MR. ALTERMAN: We don't want the generator on the -- on the side of the house facing the street.

Now, one homeowner has it, because of the configuration of her house -- this is her daughter.

CHAIRPERSON HYMAN: Who is her?

MR. ALTERMAN: This is -- this is Rusty La Scala. Eileen La Scala, her mother had a generator installed. Mrs. La Scala was responsible for the installation. She handled it for her mother and can address that particular issue as to its location.

CHAIRPERSON HYMAN: Just give us your name again.

MS. La SCALA: Eileen La Scala, resident at Cypress Island.

CHAIRPERSON HYMAN: Before you leave, would you please do a car for us.

MS. La SCALA: Sure, be glad to.

I have two properties there, and one property does have a generator installed in a side yard. There are generators installed at Cypress Island in the side yard, side or back yard, and there's no generators installed from the -- aesthetically from the street side, the front viewing area.

CHAIRPERSON HYMAN: Okay. So we don't understand.

I mean -- so you're saying that some side yards are not visible from the street and some side yards are visible --

MS. La SCALA: That's correct.

CHAIRPERSON HYMAN: -- from the street?

MS. La SCALA: That's why this is not a unique situation. There's a lot of small yards. There's a lot of large yards. There are some yards that probably would not be able to have a generator at all.

So there's a lot of unique lot line situations in Cypress Island. I'd have to --

CHAIRPERSON HYMAN: Okay. Barbara.

MS. ALTERMAN: Let me just clarify. The proposal before you is actually to put it between the house and the street. The ones that are on the side are on the side of the unit behind an existing privacy wall that exists already or back on the side of the residence.

And I think you probably -- I don't know if we have any pictures that would show that, but in fact this is between the street and the front of the house.

CHAIRPERSON HYMAN: Okay. To me, if we're saying that it's only okay if the POA says it's okay and the POA says it's not okay, then I don't see how I can support the petition.

VICE CHAIRMAN BARBIERI: Madam Chair, I don't understand why -- how we can consider what the POA wants to do when we're looking at a variance.

I mean I -- I have no issue with the POA deciding they don't want this there if that's their decision, but I don't think the County should be bound by what a private homeowner association says they will or will not allow.

If staff is telling us that this meets the requirements for a variance, then we have to grant the variance, I would think. Other -- I mean I don't think we can deny it based on the fact that the architectural control committee of a private homeowner association says they won't allow it.

Obviously, after we approve the variance, this guy's going to have to go back and ask for the wall, and they're going to say no, you can't have it, and then he's not going to be able to build it. So I don't think it's up to us to have them tell us whether or not we should approve it.

CHAIRPERSON HYMAN: I think --

MR. BANKS: If this Board --

CHAIRPERSON HYMAN: -- what they're saying is there are no special circumstances that would warrant this --

MR. BANKS: If this Board wants to deny a variance, it has to look at the criteria and then make a finding that one of the criteria for a variance is not met, and then we'll prepare a resolution --

CHAIRPERSON HYMAN: And they're giving us -- they're giving us testimony that they don't satisfy the criteria, at least number two, that special circumstances do not exist, and perhaps they don't satisfy, you know, the -- some of the other criteria, as well.

MS. GUTKIN: Excuse me, if you don't mind my interrupting. I just want to correct Mr. Alterman.

I'm Jean Gutkin.

The generator was approved June '06, not January '06.

COMMISSIONER DUFRESNE: Right.

MS. GUTKIN: We first applied for it in June. So this hasn't been a year long process.

CHAIRPERSON HYMAN: You're the owner?

MS. GUTKIN: I'm the owner.

CHAIRPERSON HYMAN: Why can't you put the generator in the back yard?

MS. GUTKIN: Because I don't have grass, because it's next to a bedroom, and I understand you're not --

CHAIRPERSON HYMAN: In the back yard, you know, back by the pool.

MS. GUTKIN: There is -- there's very little room, and the analogy of why can't people use a barbecue, I'm asking for an emergency facility -- a piece of equipment.

CHAIRPERSON HYMAN: What are you going to do if you get the variance, and then your POA says you can't do it, anyway?

MS. GUTKIN: Well, they originally said I could do it.

CHAIRPERSON HYMAN: Okay. But now --

MS. GUTKIN: But they turned -- they turned me down because in the paperwork coming from Palm Beach County, it said that I asked for a four-foot wall. I asked -- I'd like a hedge. I don't want a wall.

CHAIRPERSON HYMAN: I don't think that we do hedges around generators because what happens with hurricanes is that the hedges go away.

MS. GUTKIN: Again, it's a unique --

CHAIRPERSON HYMAN: So what --

MS. GUTKIN: It's a unique island. If you saw the houses, you would understand why --

CHAIRPERSON HYMAN: I know, I'm familiar with it.

MS. GUTKIN: You would understand why the generator would be so perfect here 'cause it's next to a garage where people do not live.

CHAIRPERSON HYMAN: Could somebody show us on a site plan that we can actually see exactly where this generator is being proposed?

MS. KWOK: Actually, I just want to provide some clarification.

We didn't make our recommendations based on the approval of the HOA. Actually, we did reference the letter on Page 71 of the staff report. This is coming from the Architectural Review Board.

They did give them the options of either putting this generator on the south side of the residence along the wall by the garage or east side of the residence along an exterior wall of the residence, or the third option, in the back yard.

VICE CHAIRMAN BARBIERI: Maryann, is the south side --

MS. KWOK: So they're -- if you look at Page 70 on the site plan, it's not a good site plan, but the generator, proposed generator is on -- I believe on the south side.

VICE CHAIRMAN BARBIERI: Okay. That's --

MS. KWOK: South side of the building.

CHAIRPERSON HYMAN: We have this drawing.

COMMISSIONER DUFRESNE: Yeah.

CHAIRPERSON HYMAN: We just can't read this drawing.

COMMISSIONER DUFRESNE: Can't make heads or tails of it. Yeah.

CHAIRPERSON HYMAN: We can't read this drawing.

MR. CERRITO: Excuse me. The reason for the location, we also have guidelines with the Code, as you guys know. We have to be 10 feet away from any habitable windows so the exhaust fumes don't go inside the home, and that's why the ideal space for anybody to put a generator is always next to the garage 'cause it's a non-habitable space.

We weren't going to encroach on the neighbor's garage. We were keeping it towards the Koch resident's garage, and it was approved all down the road until, you know, we came across that -- the house is in a unique situation 'cause the road goes all the way around the house.

CHAIRPERSON HYMAN: That's what it looks like. You're on the point there.

MR. CERRITO: Yes.

CHAIRPERSON HYMAN: So you're asking to put the generator in the front of the house.

MR. CERRITO: It's actually the side of the house. The front of the house has the walkway coming up.

CHAIRPERSON HYMAN: Well, it's -- it's a side fronting street.

MR. CERRITO: Yes, that's correct.

CHAIRPERSON HYMAN: I don't know how we allow that. How do you allow that?

MR. CERRITO: Well, it meets all the guidelines of the Code. It's under 48 inches high, and it's about approximately the size of an air conditioner where there are two already there located.

That's where the mechanical equipment should go because of the non-habitable space.

CHAIRPERSON HYMAN: But when staff -- first of all, we have -- we don't have the provision yet that you're talking about passing, and I think when you're considering passing a provision allowing for the placement of the generators, you'd have to take into consideration situations where you have, you know, sides and fronts of houses.

Depends on, you know, what fronts a street.

COMMISSIONER DUFRESNE: Oh, I have another question.

MR. CERRITO: We considered the other front because it had the driveway and the walkway.

MS. KWOK: It's at the --

CHAIRPERSON HYMAN: The fact that the owner considers the side of the house -- if the house has two or three sides on a street, then they really have three front sides of the house, even though technically two are considered sides.

MR. CERRITO: Correct. But on the last --

CHAIRPERSON HYMAN: Hold on.

COMMISSIONER DUFRESNE: Hang on. What is the objection of having a generator next to the

air conditioner, Howard? Is there any objection to that?

I mean you've got the A/C unit sitting there already.

MR. ALTERMAN: We've revisited this matter, and the community doesn't -- has taken the position they do not want the generators visible from the street under any conditions.

COMMISSIONER DUFRESNE: But that's not what your letter says.

MR. ALTERMAN: The letter was written awhile ago. We have revisited it when we realized that the County requires a variance to put up a wall to enclose this.

You're going to move it 10 feet out from the -- from the garage, then you're going to have to put a wall around --

MR. CERRITO: Three feet.

MR. ALTERMAN: Three feet. Okay.

CHAIRPERSON HYMAN: Please -- please let him talk.

Go ahead.

MR. ALTERMAN: And we have some very nice estate homes directly across the street from the Koch residence. I don't think they would like to have a wall visible when people come to their homes.

CHAIRPERSON HYMAN: Okay. If there are other locations that are possible for this, then it does not satisfy, in my opinion, the criteria for a variance.

MR. CERRITO: There is no other location.

It's -- behind the house there's not enough room.

CHAIRPERSON HYMAN: What do you mean, there's not enough room?

MR. CERRITO: Yeah, because the lot is -- becomes a zero lot line along the back of the home.

CHAIRPERSON HYMAN: Okay.

MR. CERRITO: So I can't --

CHAIRPERSON HYMAN: There's a huge deck that I can see from this survey around the pool.

MR. CERRITO: So we --

CHAIRPERSON HYMAN: It's not different from my own home situation.

MR. CERRITO: So what you're saying is that you would want a generator by your pool? I just think there's guidelines --

CHAIRPERSON HYMAN: My generator is by my pool behind a wall.

MR. CERRITO: Okay. But there's also guidelines that we have to be so many feet from the pool.

CHAIRPERSON HYMAN: Sure.

MR. CERRITO: I just want you to understand that, as well.

CHAIRPERSON HYMAN: I think we understand that.

VICE CHAIRMAN BARBIERI: I have a question.

CHAIRPERSON HYMAN: Yeah.

VICE CHAIRMAN BARBIERI: Is there a place

in the back yard for you to put the generator that's far enough from a window --

CHAIRPERSON HYMAN: Yes.

VICE CHAIRMAN BARBIERI: -- far enough from the pool that it can be placed in the back yard?

Is there a place in the back yard to do that?

MR. CERRITO: I don't believe so.

CHAIRPERSON HYMAN: You're -- you --

VICE CHAIRMAN BARBIERI: Are you the contractor? Are you the contractor?

MR. CERRITO: Yes, I am.

CHAIRPERSON HYMAN: Why don't you think so? And, by the way, you know --

MR. CERRITO: Well, we have -- we have a 10-foot rule also we have to stay off the property line. So by staying off the property line at 10 feet we're going to be right next to the pool, the generator.

I'm just trying to follow all the guidelines that we've been given through the Building & Zoning, and it's getting more and more --

CHAIRPERSON HYMAN: I guess I would have to see that. I would have to see that that's true. It does not look like that's true from the survey.

COMMISSIONER DUFRESNE: Well, maybe I'll follow up on Frank's question.

Tom, are there any other locations on the property, other than this one, where the generator could go?

MR. CERRITO: I don't believe so, and I -- I can revisit that and actually meet with somebody in Building & Zoning, and if we can come up with another location -- we've been spending six months on this already, and I've gone to everybody, from John Smith to some of the field inspectors, and they agree that that's the only location it could go.

CHAIRPERSON HYMAN: How big is the back yard?

MR. CERRITO: The back yard where the pool is?

CHAIRPERSON HYMAN: Yeah. What's the size of your lot?

MS. GUTKIN: I'm not familiar with the size of my lot, Your Honor.

CHAIRPERSON HYMAN: Give me an idea.

MS. GUTKIN: My husband passed away last month, and I have no numbers in my head. He would know.

CHAIRPERSON HYMAN: I'm so sorry. Do you have any idea?

MS. KWOK: It's 0.2 of an acre, and the lot dimension is roughly 139 by 58 feet.

VICE CHAIRMAN BARBIERI: Why don't we take a postponement on this, Madam Chair, and let them come back to us next month and show us if there's any other place definitively to put the generator so that this commission knows that that's --

whether or not that is the only spot on the property where the generator can be located.

CHAIRPERSON HYMAN: Is there a second?

MS. GUTKIN: And the estate home people -- the estate homeowners are not here today, and they -- I'm sure they received the same letters everybody else did.

CHAIRPERSON HYMAN: Okay. There's a motion to postpone this item.

COMMISSIONER DUFRESNE: Second.

CHAIRPERSON HYMAN: And there's a second.

MR. CERRITO: Can I just add one other thing?

CHAIRPERSON HYMAN: We're talking about a motion to postpone it.

MR. CERRITO: Okay.

CHAIRPERSON HYMAN: Is there any -- all in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: I think you need to take the month to -- it's passed.

You need to take the month to try to resolve this, and if you're going to come back and stay in the same location, you need to show us that it's the only location.

MR. CERRITO: Okay.

CHAIRPERSON HYMAN: So that you can satisfy all the criteria for a variance.

MR. ALTERMAN: We would just like access to the back yard to photograph it so that we can have the same --

CHAIRPERSON HYMAN: I can't -- we can't do that.

MR. ALTERMAN: Okay.

COMMISSIONER DUFRESNE: And Whitney, can you -- Whitney.

MR. CERRITO: Thank you.

CHAIRPERSON HYMAN: Yeah, and can you make this -- make this survey a little bit clearer if you could. Okay.

MR. CERRITO: Sure.

COMMISSIONER DUFRESNE: Whitney, can we get better -- I mean this is --

MS. KWOK: We'll improve the graphics, you know, for the variance applications.

CHAIRPERSON HYMAN: It's hard. I mean I know you're making thousands of pages, but -- okay.

CHAIRPERSON HYMAN: Item No. 13, Hippocrates.

MS. KWOK: Actually, the -- it's Item No. 15 that you pulled from consent, Mini-Assemblage --

CHAIRPERSON HYMAN: Oh, that sounds like moi.

I guess there were requests for three variances. Now it's down to one variance.

MS. KWOK: Right, because --

CHAIRPERSON HYMAN: This is a --

MS. KWOK: -- we're recommending denial for the two other variances, and we talked to Kevin Ratterree on that, and then after that he decided to withdraw those two -- the two variances, and --

CHAIRPERSON HYMAN: The petitioner here, and is there anyone else here on this matter?

Okay. Petitioner, you can come up.

My concern was that how is this not completely self-imposed? This project hasn't been built. How is it not completely self-imposed?

They're asking for a variance and it hasn't been built. I mean it's totally within their control to comply or not to comply. How do you satisfy that one criteria? You can't. You can't.

Kerry.

MR. KILDAY: Yes. Let me just for the record, Kieran Kilday, representing the petitioner.

As we indicated to you, indicated earlier, we have withdrawn two of the variance requests as they related to two other models, and in fact this is the site plan.

This is the Hagen Road Assemblage. This is the Hagen Road School actually existing up here in one of the areas where we'll need the variance.

It will be relocated and built in this location here, and the -- and what we have done is gone for the minimum variance allowed, and that now only will apply to these two pods. It will only apply to the single story buildings.

In the old days the single story buildings would be allowed this 10 percent flex setback without coming through a variance process through a flex regulation.

At the time we did this approval we did it at a different circumstance in terms of the building going on out here. Our single story units, and this only relates to a single story building, were generally about three percent of the overall project. Now they're 10 percent of the project because a single story unit is the cheapest unit on the project.

What it's meant is that in the cases of the pink lots, because of the size of the property, and this is where we talk about the self-creation, is this long strip, which was the Hagen Road Elementary School, has only got a very limited north-south because we got Bethesda Medical complex on the north and a canal on the

south.

When you start measuring in the minimum lot sizes in terms of minimum lot depth, minimum street sizes, minimum widths required on the lake sizes, you end up having less depth than we'd want, and if we could have more depth in the lot, you wouldn't see us here at all.

So what we've done is we've been able to minimize every variance requested except as it relates to the pink lots and as it relates to the single family -- the single story building, and the issue is that the single story building, in addition to being the lowest price unit, is also a unit that people come and need that unit because they can't have two stories for various -- age, ailments, et cetera.

And so what we're asking for on the variance is that within this pink lot area if a buyer wishes to put a single family -- a single story home on those lots, that they be allowed the two and a half foot variance, which is the 10 percent that used to be an administrative process two years ago as far as getting a flexible regulation allowance on it.

So from that standpoint I would say that the self-imposed variance really is the -- because of the dimensions of the property, which we have no control on, the property is what it is, the canals are set, the adjacent owners which started the ball rolling.

But I think what we've done is -- and then the staff report goes through all seven items and says that we do meet it as it relates to our Type I unit is that we've minimized it so that the variance could apply to just these lots shown on the site plan, and this can be made of record as far as the approval, and they won't all apply because if somebody chooses a two-story unit here, they'll meet the setbacks.

It'll be only if a one-story unit happens to choose one of these lots.

Why we want it, we want the ability to be able to break up so we don't just have rows of two-story units, and so that would allow it within this area.

CHAIRPERSON HYMAN: I think that's a great argument.

MR. KILDAY: Why, thanks.

CHAIRPERSON HYMAN: But I don't buy it because this project hasn't been built. Sure, it's a narrow piece of property, and they're lucky they have this piece of property. Okay.

They just have to redesign to accommodate the setback, so, oh my gosh, they get a few less units. I don't --

MR. KILDAY: If it was a -- I'd agree with you if we were in here asking for a side setback because -- and that was our issue because in that case you'd say take out a lot, and then you'll have your side setback.

My problem is why we're in here is because of this north-south dimension of the property. I

can't make my lots deeper. So the variance only applies to that, so it's not take out a lot or two, it's take out entire row of lots --

CHAIRPERSON HYMAN: How awful.

MR. KILDAY: -- across the entire frontage of the property.

CHAIRPERSON HYMAN: What a novel idea. Reduce the number of units.

MR. KILDAY: And part of what we've been doing on this project is bringing a project in at an affordable level --

CHAIRPERSON HYMAN: Is there workforce --

MR. KILDAY: -- and this is the most affordable unit. This is 309,000, so it's at the upper end of the workforce housing, which goes up to 306,000.

CHAIRPERSON HYMAN: But is this workforce housing? There is no workforce housing in this project.

MR. KILDAY: No. This is priced -- this is priced, as I said --

CHAIRPERSON HYMAN: So will you agree to do workforce housing?

MR. KILDAY: Well, no. I mean we agreed to lower our prices to -- so that we're meeting it. Are we going to put a deed restriction --

CHAIRPERSON HYMAN: Okay. So --

MR. KILDAY: -- on it for 25 years? No.

CHAIRPERSON HYMAN: So here's a project -- wasn't this one of the -- this is in the Ag Reserve; right? Wasn't this part --

MR. KILDAY: No, this is --

CHAIRPERSON HYMAN: -- of the Ag Reserve thing?

MR. KILDAY: This is on the east side of the Florida Turnpike.

CHAIRPERSON HYMAN: East side of the Florida Turnpike.

MR. KILDAY: Yeah.

CHAIRPERSON HYMAN: Okay. But it doesn't -- because it was filed later, you know, it doesn't have the workforce housing. It's not built yet. They can redesign the site plan any way they want, and you've got the most creative site planner in the county here, and they just want to put more units on.

Your arguments are great, okay, but I think they can redesign so that they comply and even though it's a minute difference, 25 to 22½ feet, it's like really insignificant, how -- I don't see how you satisfy the criteria for a variance.

MR. KILDAY: I think you need to look at it from a perspective of our other option is to walk out of here, and all of these lots get built because they all comply with Code with all two-story units.

So it's not a situation that it won't get built like this. It will get built like this.

It is a situation of trying to make some provision for the lowest price single floor unit --

CHAIRPERSON HYMAN: But isn't that a market call?

MR. KILDAY: -- to fit on these lots.

CHAIRPERSON HYMAN: I mean you're doing that for market demand.

MR. KILDAY: We're doing it for both an aesthetic and a market demand, and we put that in our justification.

CHAIRPERSON HYMAN: Okay. I've said what I had to say.

Anybody else have anything to say?

VICE CHAIRMAN BARBIERI: I want to hear what Kevin has to say.

MR. RATTERREE: I want to reiterate something that Kerry said.

This is not an issue -- excuse me. For the record, Kevin Ratterree, with GL Homes.

This is not an issue with us redesigning the project. We've already opened two pods of this community. We've represented the site plan to the buyers of this community, what the site plan's going to look like for the overall community, the 552 units.

This was the community that got all the airing in the papers with regard to the sell-out in three to four hours of the initial pod, which is Pod A on the southwestern side, and Pod C-1.

The \$311,900 unit is the single story unit. If the variance is not approved, then all it simply means is on those lots that are red, that particular unit won't be eligible to the buyers for those particular lots.

We're not redesigning the community. We're not changing the configuration.

CHAIRPERSON HYMAN: And why is that, because you --

MR. RATTERREE: The two-story houses fit on those lots. We would simply restrict those lots to be two-story houses.

CHAIRPERSON HYMAN: So the one-story can't be made a little bit smaller to fit?

MR. RATTERREE: The one-story house from a design standpoint is a 1700 square foot house under air. We start taking two and a half --

CHAIRPERSON HYMAN: It can't be 1690 feet?

MR. RATTERREE: -- feet off the house, it changes the configuration of the bedrooms.

You're trying to make a functional house that's a buyable house from a market standpoint --

CHAIRPERSON HYMAN: Okay. But all it would take would be a redesign of the single story house to fit. And they don't want to redesign.

MR. RATTERREE: Commissioner, if you redesign a house to where you have bedrooms that are no longer sizable bedrooms that people want, or a dining room where you can't pull the chairs out or a kitchen where you can't get the doors open, it's not a successful redesign.

It's a single story house. It's 1700 square feet. We had nine percent in the first two pods that went for sale that went for the cheapest house.

We're simply trying to make as large a number of lots as possible available to a single story house. If it's not approved, we simply don't offer those houses on those lots. It's that simple. It's not a redesign.

We've represented this plan to 200 buyers already that have bought and entered into contract. We're not going to change the site plan.

CHAIRPERSON HYMAN: Anybody have anything else -- other comments?

(No response)

CHAIRPERSON HYMAN: Okay. Anybody else here to speak on this matter?

(No response)

CHAIRPERSON HYMAN: Okay. Ready for a motion.

MS. KATZ: We put in the cards. You didn't ask me to speak, but we put in --

CHAIRPERSON HYMAN: Oh, you did put in a card? I'm sorry.

MS. KATZ: We support this.

VICE CHAIRMAN BARBIERI: Sorry.

CHAIRPERSON HYMAN: Can I see the cards? Sorry, we got buried here.

Barbara, you don't want to speak, and you support -- COWBRA supports it. Okay. Thank you.

Is there a motion?

VICE CHAIRMAN BARBIERI: Madam Chair, I want to give GL a break on this because I feel that we need to keep the prices as low as possible based on what's happening in Palm Beach County with pricing, even though it doesn't have affordable housing.

So I would move for a resolution approving a Type II zoning variance to allow the setback reduction from 25 to 20 for Pods C-1, D and E for models 5 and 7 and to allow the setback reduction from 25 to 22½ feet for Pods C-1, D and E, for model 1.

CHAIRPERSON HYMAN: No, no.

MS. KWOK: Excuse me. Actually the motion has been revised.

It's only -- the variance request currently is only for the model number 1, and it's 25 feet to 22.5 feet.

VICE CHAIRMAN BARBIERI: To adopt a resolution approving a Type II zoning variance to allow the setback reduction from 25 to 22½ feet for Pods C-1, D and E for model 1.

COMMISSIONER KAPLAN: Second.

COMMISSIONER DUFRESNE: Second.

CHAIRPERSON HYMAN: All those in favor.

VICE CHAIRMAN BARBIERI: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER DUFRESNE: Aye.

COMMISSIONER BRUMFIELD: Aye.

CHAIRPERSON HYMAN: All those opposed.

Moi. Okay.

MR. RATTERREE: At the very least you're consistent.

CHAIRPERSON HYMAN: I just -- and I'll

just say I did -- I voted against it 'cause I don't think it satisfies the criteria, at least the second criteria, for the variance.

MS. ALTERMAN: Madam Chair, I think that we're kind of getting some feedback from this Board that we need to be evaluating the criteria a little more closely and looking at things like self-imposed hardships and things like that, and I just want to assure you that we will be doing that --

CHAIRPERSON HYMAN: I know you will.

MS. ALTERMAN: -- in the future.

CHAIRPERSON HYMAN: And I know it's hard. I know it's hard to do this.

VICE CHAIRMAN BARBIERI: We're learning.

CHAIRPERSON HYMAN: Okay.

CHAIRPERSON HYMAN: Hippocrates.

MS. KWOK: Did we also pull Item No. 17, Sykes Commercial, from consent?

COMMISSIONER DUFRESNE: Yes.

MS. KWOK: Yes.

CHAIRPERSON HYMAN: Okay. So 17.

MS. OWENSBY: This is Item 17.

CHAIRPERSON HYMAN: Oh, okay. Okay.

MR. HARTMAN: I have no objection.

CHAIRPERSON HYMAN: You have no objection.

This was on consent. We had nobody else here, we had no cards.

Is there a motion?

VICE CHAIRMAN BARBIERI: Recommend approval of official zoning map amendment from the General Commercial zoning district to the Multiple Use Planned zoning district.

CHAIRPERSON HYMAN: All those -- is there a second?

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: All those opposed.

(No response)

VICE CHAIRMAN BARBIERI: Motion to adopt a resolution approving a Type II zoning variance to not allow direct access from arterial/collector and to allow wall signs not facing a right-of-way.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

Thank you.

MR. CARPENTER: Thank you very much.
David Carpenter, representing the applicant.

CHAIRPERSON HYMAN: The gentleman --

MR. HARTMAN: Michael Hartman.

CHAIRPERSON HYMAN: Michael Hartman.
Thank you.

VICE CHAIRMAN BARBIERI: We're on 13 now.

MS. KWOK: Yes. Item No. 13,
PDD/DOA/2006-189, Hippocrates PUD.

Anthony Wint will give you a brief presentation on the project.

MR. WINT: Commissioners, good morning.
Anthony Wint, Planner II, for the record.

Proposed is a development order amendment for the Hippocrates Congregate Living Facility.

CHAIRPERSON HYMAN: We had this last time, right, and we had a presentation?

MS. KWOK: Yes.

CHAIRPERSON HYMAN: Is there anything changed?

MS. KWOK: That's correct. The reason why we postponed it 30 days because there's discrepancies on the square footage, on the total square footage, so after that 30-day we have fixed the total square footage because there's a lot of existing buildings on the site and adding land area, but, you know, the land area already has existing facilities.

So the agent has actually come up with something, and -- but just minor discrepancies on eight buildings in Pod B, but we met as of yesterday to try to get those numbers correct, and Bradley Miller is going to give us a new plan on -- just on Pod B to make sure those square footage is correct.

CHAIRPERSON HYMAN: Okay. So, staff, thank you, but --

MS. KWOK: Right.

CHAIRPERSON HYMAN: -- we'll go straight to petitioner.

MR. MILLER: Technology is a wonderful thing. Happy New Year.

For the record, my name is Bradley Miller, of Miller Land Planning Consultants, and actually before I start my presentation I want to say thanks to the staff.

This has been a long and complicated application because of prior approvals, existing

uses, adding property, and, hopefully, I can try to simplify all that.

Anthony Wint's been great to work with and the Zoning staff through the whole thing, I appreciate that.

What we're doing here, the Hippocrates Health Institute is located -- it's on the west side of Skees Road, a little bit north of Belvedere. There's about 30 acres there now that they either own or operate.

About -- I'm going to say about half of that, it's not quite -- actually, it's a little more than half, they have prior approvals on for CLFs.

The purpose of this is to put a ribbon around all of their property that they own and operate into one zoning district and try to simplify the whole zoning matters. I'll try to go through this quickly to try to get the explanation.

It is -- the application is a request to combine it as a PUD with a CLF as a conditional use for 113 residents as part of the CLF.

Just a little bit on Hippocrates Health Institute. It's a facility where they provide healthcare and education in a holistic and naturalistic way. They've actually been there in the northwest quadrant of the aerial that you see on the screen. They've been there since around 1987. So it's nothing new to the area.

This is our site plan, and just to go around it. Pod A is their main campus. That's where they've been since 1987. Pod B is the other portion that's already approved as a PUD for another 70 units on there. They were separated as two different PUDs. Both Pod A and Pod B are now platted as one parcel.

Pod C and Pod D are the new property that we're adding into the project. It, you'll see, is a breakdown, each of these pods. There's existing houses in Pod C and Pod D that they're using for their residents.

This is a photograph of Pod A, an aerial photograph. You can see the existing structures there, and if we pull in our site plan, you can -- and take it back out again, you can see that there's really no change there.

We're -- the only modifications that we're making to that are very minor buildings, some new bathroom facilities around. Again, this is their main campus where they have some residents there.

There are 17 residential beds on this particular pod, and they have their spas and their classrooms, et cetera, that are there, part of their kitchen, as well.

Pod B is -- actually started under construction, and then they were stopped. Part of it was because of Code Enforcement issues that have been cleaned up, and actually the approval of this PUD will wrap up the last code violation that they have in use of the single family homes in Pod C and D.

You can see that they started with the construction of the drainage and actually the underground work of utilities in the circle that goes around it.

To plug in the site plan there's -- the residential units are the small units that wrap around it. The -- which are these (indicating).

This is a multi-purpose building at the northwest quadrant where they'll have multi-purpose uses. There's an office building here (indicating). This is a little athletic building around.

This plan was approved in the mid-1990s and has kind of been going through the permitting process and working through these Code issues to get to this point.

The square footage issues, we did meet yesterday. I think we've got those under control.

Actually, the plan that -- the ultimate proposal is already in the Zoning's office. So that's resolved.

Pod C and Pod D, again, are -- there's three single family homes. This is Pod C -- I'm sorry, there's four structures on this parcel where, again, they use them as residential units.

They use the rooms there for their guests that come to the facility.

Again, this is Pod C with the site plan overlay. The only addition here was a pavilion building in this area that they'll be able to use.

One of the things that they encourage and part of their whole philosophy is the natural environment. If -- I know some of the staff has been out there. It's actually a beautiful walk just to walk the property there, and they invite you to do that if you're interested.

So you can see that there's quite a bit of open space which they want to maintain.

And, finally, Pod D, which is the southwest quadrant to the project, again, there's a couple of houses here that they use for their guests in the site plan.

So really what we're trying to do is, I've used it from the get-go, is try to put a ribbon around this, a zoning ribbon, if you will, for all of the Hippocrates property.

I -- when I first presented this to staff, I said I would like to say that we want to put a ribbon around this thing and leave everything else alone. Well, about -- that was about nine, 10 months ago, and so here we are. So this is the big crescendo for the day.

CHAIRPERSON HYMAN: Okay. So reason why you were postponed from last time?

MR. MILLER: The reason for the postponement was to work on these -- the square footage discrepancies, that we talked about.

CHAIRPERSON HYMAN: Okay. Have we resolved all those?

MR. MILLER: Those are resolved. There are two conditions I would like to talk about.

CHAIRPERSON HYMAN: Okay.

MR. MILLER: One is -- it's an Engineering Condition 5, which is asking for drainage along Skees Road.

I've met with Mr. Rogers on that, and we're going through a study to determine the actual impacts on that. I just wanted to put that on the record that we're moving forward with that, and we'll continue working with him on it.

The other one is Condition 9.A where the Zoning staff is asking for on the buffers along the west and the south property lines to include a six-foot wall.

The area -- the only area that's -- that we're proposing any new substantial construction is this northeast quadrant of the project, but what our preference would be would be, as I just said a moment ago, would be to leave the west property line and the south property lines alone.

Now, Mr. Kraus is here, and as soon as I say there's Australian pine there, he's going to stand up and say they got to come down.

Our desires would be to leave it alone, but even with the Australian pine, I think by putting a wall in there it really contradicts on the philosophy of the whole environment.

CHAIRPERSON HYMAN: Why do you need a wall? You're surrounded by residential.

MR. MILLER: We --

CHAIRPERSON HYMAN: Why is staff asking for a wall?

MR. MILLER: When we proposed the application, our detail included a fence, slash, wall. There's a fence there now. There's landscaping there now.

CHAIRPERSON HYMAN: Show us where you're talking about.

MR. MILLER: That's along the -- this west property line (indicating).

CHAIRPERSON HYMAN: Okay.

MR. MILLER: So I think what staff has done is they've taken it to the next level. We would -- we would prefer to -- we have no problem doing -- keeping a chainlink fence or replacing the chainlink fence and doing the landscaping, working with the existing vegetation that's there to try to keep it as natural as possible.

The other part of it that -- and part of the reason for buffering was you got to look to the other side.

Let me go through these quickly. This gives a little detail. You can see -- there's about a 200-foot separation there from Golden Lakes to the west with the lake in between.

So I have photographs in here but I don't know if I need to go through them.

CHAIRPERSON HYMAN: No.

MR. MILLER: So our request would be to modify that condition to allow us to do the fence and the landscaping and not be required to do a panel wall.

CHAIRPERSON HYMAN: Anybody have a problem

with that?

(No response)

CHAIRPERSON HYMAN: Yeah, I can't even imagine putting a wall up there.

I have been out to this site, not related to this petition, years ago. I always thought if, God forbid, I got sick, I'd go there. I think it's a --

MR. MILLER: It's a great --

CHAIRPERSON HYMAN: -- fabulous facility.

But I don't -- I don't see a need for a wall at all. I don't like chainlink fences. I think it should be a more natural type of barrier though, so it wouldn't, you know, perhaps a wood fence or something and landscaping.

Okay. Any -- anything else?

MR. MILLER: No, that completes my presentation. Be happy to answer any questions.

CHAIRPERSON HYMAN: Anybody else have anything to add on this?

(No response)

CHAIRPERSON HYMAN: If not, I'll entertain a motion.

VICE CHAIRMAN BARBIERI: Madam Chair, recommend approval of official zoning map amendment from the Agricultural Residential and the Residential Transitional zoning districts to the Residential Planned Unit Development zoning district.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: Subject to all the conditions as modified?

VICE CHAIRMAN BARBIERI: Yes.

CHAIRPERSON HYMAN: Okay. With the revised condition regarding the wall. Get rid of the wall.

All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

MR. MILLER: Thank you.

CHAIRPERSON HYMAN: Thank you.

VICE CHAIRMAN BARBIERI: Recommend approval of a development order amendment to add land area, add square footage, add residents, reconfigure the site plan and modify the conditions of approval to the Hippocrates Planned Unit Development.

CHAIRPERSON HYMAN: Second?

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

VICE CHAIRMAN BARBIERI: Recommend approval of the abandonment of the special exception to allow a congregate living facility.

CHAIRPERSON HYMAN: Second?

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

MR. MILLER: Thanks.

CHAIRPERSON HYMAN: Okay. We have been asked to take a few-minute break so we'll come back at 10 to 11:00.

(Whereupon, a short break was taken in the proceedings.)

CHAIRPERSON HYMAN: Okay. I want to bring the meeting back to order.

MS. KWOK: Ready? Item No. 14, 2006-936, Goddard School.

Carrie Rechenmacher will do a presentation for us.

CHAIRPERSON HYMAN: Okay.

MS. RECHENMACHER: Did you want a brief presentation or --

MS. KWOK: Yes.

CHAIRPERSON HYMAN: I think this was -- we heard this last time, right?

MS. RECHENMACHER: No.

CHAIRPERSON HYMAN: No?

MS. RECHENMACHER: No, this was not heard. I'll just do a --

MS. KWOK: This is a previously postponed item --

MS. RECHENMACHER: Yeah, it was postponed but we did not hear it.

CHAIRPERSON HYMAN: Okay. Go ahead.

MS. RECHENMACHER: Okay. All right. This is a request for a general daycare center for 161 children on 1.77 acres.

To the north -- I'll tell you what, we've had a number of letters of objection. My staff report is not correct. It said only two, but it was updated recently to 37, and last night we got another 20 letters faxed in opposition to this request based on that the residents feel it's not compatible with the adjacent area.

A half a mile to the north is Wellington View, a civic parcel that's vacant, and also half a mile to the south is Forest Hill High School, so -- and there is a number of new residential areas, Wellington Agradex - Wellington View, which is Agradex PUD with the Zoning Division, is to the west.

And so staff was recommending approval, subject to 26 conditions.

CHAIRPERSON HYMAN: Okay. Is the petitioner here? Oh. All right.

Did you want to -- Ellie, did you want to make any comments before we go to the public, or do you want us to go to the public first?

MS. HALPERIN: I would like doing -- unfortunately, I do not have an aerial. Usually it's part of the PowerPoint, and I typically would allow the staff to make the presentation and not be repetitive.

So I have to rely on the staff report as given to you as far as showing that it is a compatible use. It's consistent with the site plan. It meets all the requirements of the Code, and, unfortunately, I don't have an aerial to show you the general area.

What I do have is a site plan.

CHAIRPERSON HYMAN: Go ahead and put your name on the record for our court reporter.

MS. HALPERIN: I'm sorry. Ellie Halperin, counsel for the applicant.

CHAIRPERSON HYMAN: That's good.

MS. HALPERIN: The site is located on the corner of Dillman and Lyons Road at a roundabout.

It is in an agricultural zoned district right now with a land use of LR-2, and we are requesting that it be rezoned to residential transitional, as well as with the special use for a daycare center.

During the site plan process several changes were made to the site during the application process in anticipation of some of the concerns recognized by staff and some neighborhood objection letters, and that was to put the entrance on Dillman, rather than on Lyons Road.

It is a little over a 10,000 square foot daycare center. It's going to have up to 161 students from infant to age five.

When looking for a location the Goddard School, which is, I believe, based out of New Jersey, did some demographics and looked at the area to see where the best location was for their entrance into Palm Beach County.

They looked at this area, and they try and look for a population of 1,000 within at least a three-mile radius. Within a three-mile radius of this site, the population is 3,200. And the population in this area in general has grown over 55 percent over the last 20 years, and we know there's tremendous growth in this area. So it meets the demand.

There are several daycare facilities within a reasonable radius, and they are all full and in high demand so this seems an appropriate location.

The rezoning to residential transitional is also appropriate as it fits in as if it were in a PUD and there was a required civic site dedication, and as you know, the allowable uses on these are things like libraries, daycare centers, churches, things that fit in with a residential community.

It is not neighborhood commercial. It

does not reach the commercial level, and it does not have any intensity of a neighborhood commercial use. It is a residential transitional civic use that serves a public purpose.

The owner also went around and looked at the neighborhood to make sure that the architecture would fit in, and they particularly looked across the street at Wellington View and have designed a facility that is the same architectural design and finishes as the homes across the street, including the more expensive S-tile roof, which really would not be typical on a daycare facility. So they're really trying to blend into the community.

The FAR that's allowed on this site would be a much larger building. They could have built up to 26,000 square feet, and they are only using a 0.14 FAR since it's only 10,768 feet.

Some of the concerns that have been expressed directly to Mr. Dalva - I have with me, I'm sorry, Joel Dalva, who is the applicant, Bill Upthegrove, who is the land planner, and Andrew Henman (ph) from the Goddard School to, again, address any questions you might have.

When objections came into the County, Mr. Dalva did contact everyone who he was made aware of and even offered to set up meetings with both the Banyan Estates Homeowners Association and the Banyan Homeowners Association, and the people he spoke with felt that they had voiced their concerns, and we believe we have addressed them, and there was no need for a meeting.

There were also some single homeowners that he spoke with, and their concerns were one of four.

CHAIRPERSON HYMAN: Well, why don't we go ahead and hear from them, and then we'll come back to you.

MS. HALPERIN: Then we'll come back?

CHAIRPERSON HYMAN: Yeah. Is it okay with you?

MS. HALPERIN: That's fine.

CHAIRPERSON HYMAN: Okay. All right. We have numerous cards, which is why we want to sort of get to that.

We're going to limit you to three minutes each. We ask that if you want to say the same thing as a previous speaker, then please try not to be repetitions. Just say, "I agree with the other speaker's comments," and we'll understand.

We'll use both mics. Mr. Jay French, are you here? You can take this mic over here, and Bill King, are you here? Bill King? You don't look like Bill -- what? You're going to take his time? Okay. So Bill King doesn't wish to speak, but somebody else does so you can come here.

Are you Jean Mullen?

MS. KING: I'm Judy King, his wife.

CHAIRPERSON HYMAN: Okay. All right.

MS. KING: He's given me his three minutes so I have six.

CHAIRPERSON HYMAN: All right. Okay.

We'll get to you. Okay.

Jay French, you're up.

MR. FRENCH: My name is Jay French. I live at 969 Whippoorwill Trail, Whippoorwill Lakes. Whippoorwill Lakes community is directly west of the property on the west side of Wellington View.

It's interesting that Wellington -- that the Toll Brothers property is what they used when they're not actually even anywhere close to it in the immediate area of that.

What's immediately around there is residential estate homes. This is a 1.77-acre residential lot.

There is a piece of property already zoned for this that has all the setbacks and everything just fine two and a half tenths north of there -- two and a half tenths miles. I've clocked it.

So if there is a need for this type of facility there, then put it on the property that's already zoned for that. Why are we changing a residential lot, a beautiful well-wooded residential lot to accommodate this when there's one right down the street?

CHAIRPERSON HYMAN: Okay. So let's get an answer to that. Sounds like a good question.

MR. FRENCH: Can I still have the rest of my time?

VICE CHAIRMAN BARBIERI: Yeah, I stopped it.

CHAIRPERSON HYMAN: Yeah. We'll stop -- we'll stop the --

MS. HALPERIN: When Mr. Dalva was looking for appropriate locations, he contacted that property owner, and it was under contract for sale to a church.

CHAIRPERSON HYMAN: Okay. Thank you. All right.

MR. FRENCH: The other thing is that these are very old neighborhoods except for the Toll Brothers, which is just now being developed, and our neighborhood was done in the '70s.

These are residential estate homes on large lots. All of the lots in that area are about this size. Mine is actually slightly larger than that, and I don't know how they can put all this stuff on there.

But the problem is, is that you're immediately devaluating all of the adjacent properties. A simple test for that is would you buy a residential estate home that is directly next door to a place where there's 161 children every day outside in two playgrounds yelling and screaming? They're all under six years old. Of course not.

You're not going to pay the kind of money that these properties are worth to live next to that facility.

The second thing is a traffic problem. It's human nature -- I've been a firefighter for 26 years with the City of West Palm Beach, recently retired.

CHAIRPERSON HYMAN: Oh, I love you guys.

MR. FRENCH: Thank you.

And people don't do what you think they should do. So what happens is you have 40 -- 44 spaces, parking spaces here, with one entrance. People are going to come in in the morning. They're going to be in a hurry. There's already a lot of traffic there in the morning 'cause there's a high school on Forest Hill and Lyons. So there's a lot of traffic coming through there.

So they're going to come in here, pull into that parking lot. They have to get out. These are children less than six years old. They've got to get out and walk them in. It's not high school where you can just drop them off.

So instead of pulling into that parking lot which is going to be crowded in the morning, they're going to park along that highway. It's just human nature.

And when they park on that highway, they're going to get out, and there's going to be cars coming up and down that street 'cause it is a residential street, people going to work in the morning.

Lyons Road is very busy. A lot of people are trying to get out of the Lyons traffic so they're going to go around to Benoist Farms, and when they get out, they're going to be carrying all the books and stuff for the kids and lunch boxes and stuff, and the first thing that's going to happen is one of those kids is going to run out into the street, and it's a very dangerous situation.

And I know you say well, there's this parking lot, and that's the way it should be, but having been a firefighter this long, I'm telling you, people don't necessarily do exactly what you expect them to do.

They're in a hurry in the morning. They want to get to work. They don't want to get caught in that one in and one out of the parking lot, and it's going to cause a tremendous problem.

Just to sum up, the reason not to do this, it's a residential lot in a residential neighborhood, an old neighborhood. There's no comparable property anywhere in sight. It creates -- she calls it not a commercial enclave, but it's certainly a business that produces money.

It's a commercial enclave that immediately devalues the surrounding property, and not only is it -- the project not only hurts the people that own the property, but it's actually downright dangerous due to this traffic situation.

CHAIRPERSON HYMAN: Thank you very much.

MR. FRENCH: Thank you.

CHAIRPERSON HYMAN: Okay. No, we don't -- I'm sorry, we don't applaud here, just not really appropriate.

Now what is your name?

MS. KING: My name is Judy King, and I live at --

CHAIRPERSON HYMAN: Did you send in a

card? Oh, you did. Okay.

MS. KING: Yes, I did.

CHAIRPERSON HYMAN: And you're -- okay. You're speaking for several people, is that what you were saying? Just you and Bill?

MS. KING: No, I'm speaking for him. He's giving me --

CHAIRPERSON HYMAN: Oh, okay. Go ahead.

MS. KING: -- his time.

CHAIRPERSON HYMAN: Yes.

MS. KING: Okay. Mr. French touched on quite a few things that I was going to discuss.

First of all, I wanted to say that the notification process was erred and not in our favor. There -- I had a certified surveyor who actually works for the County. There should have been 26 notices sent out. We are in question whether that actually happened.

Also, there should have been the post -- the posting of the property should have been done 15 days prior to the meeting which was originally scheduled for December the 7th. It was not posted.

Had we not caught this -- your staff recommended approval all the way across the board for this meeting. We saw it on the web three days before the meeting, but we did catch it, and we spoke to Zoning.

They gave no logical explanation to us why the signs were not out. They were picked up. They weren't this and that. So, you know, we're very much -- we're nervous about this in view of all the things that have been in the newspaper lately.

We're very nervous that we -- things weren't posted properly. People weren't notified properly. I mean you -- you have to recognize that.

CHAIRPERSON HYMAN: Staff, do you have any comment about that?

MS. RECHENMACHER: The property was not noticed, she's correct. That's why the item was postponed, and then when the notices were put up, they -- actually Donna wrote on there what their original hearing date was and crossed it out and put the new hearing date on.

CHAIRPERSON HYMAN: Okay.

MS. RECHENMACHER: So that's why we did postpone it.

CHAIRPERSON HYMAN: Okay. Sometimes things get screwed up. That's all I can tell you.

MS. KING: I understand that, but you can see our -- where our -- we're coming from.

Also, this -- we consider this to be a business. I have documentation here from the Internet that this daycare center is a business. It's a franchise.

We have lived out there, most of us, over 20 years. We lived there whenever there was no mail except down on Marginal Road. You had to walk the block to get your mail, no newspaper, no cable, didn't have garbage pickup. We survived

all those trials and tribulations, and most of us plan on living there 'til the time is over.

And I don't think that any of you who live in a residential area of one to 10 acres, homes that are -- we've put a lot of time and effort to make them beautiful -- would want a daycare center within a block from you.

And I would just like you to think about that.

CHAIRPERSON HYMAN: Okay.

MS. KING: We understand that the Zoning Department has a relationship with these people, and they've expressed that, some kind of compromise. Every time we've called, they've put so much money, they've worked so hard.

Well, what about -- we're over 200 strong, and we should have some consideration, as well because our tax money does pay for your salaries, and I don't appreciate the fact that everybody wants these people to have something. It's just not right.

CHAIRPERSON HYMAN: Okay. Let me just make a comment, and you can stop the clock for a second.

So I think that's your second comment that you've made regarding the process, and let me assure you that, regardless of what you've read or you've heard, you know, we are independent people.

We are lay people. We are appointed to this Board. We don't have -- if there's been any conflict, it would have been disclosed. We don't have any relationship -- I don't even know where this property is until I read these materials. We have no relationship.

There's no one on the staff that has any affiliation, as far as I know, with the developer, and so your comments both times, you know, I think are --

MS. KING: She made the direct remarks to me.

CHAIRPERSON HYMAN: -- are inappropriate, I think. Okay. I appreciate you saying it, and I appreciate that you may have that opinion, but please let me assure you that I don't think any situation like that exists.

You know, we're here to make a decision based upon the input. Nobody here has made a decision yet. We're going to listen to all of your comments. We're going to listen to the petitioner, and based upon the law we're going to make a recommendation.

MS. KING: So those remarks were made to me personally, directly, so, you know, that's first hand.

Also, Mr. French, whenever he was saying about the children coming out, yes, they are going to have to be -- show an ID. The children will have to be unbuckled, then they have to be presented to the caretaker. We're talking about five to 10-minute interval per car, 40 or 50 cars lined up.

There's a sidewalk along Dillman Road that

in fact kids use to ride to school, to Palm Beach Central. People jog. People ride their bicycles.

That sidewalk, there's three driveways there that would be completely out of whack, and we just feel that it not the proper area for our thing.

We have three and a half acres that is zoned, and it is not sold --

CHAIRPERSON HYMAN: Okay.

MS. KING: -- that is -- would be the perfect place for this to have.

And in closing I just say that he did not do his research because if he would have talked to the people in that neighborhood, he would have found that most people would have been objectionable to this.

Also, he paid three times more than what the tax -- actual value of what the property was worth.

CHAIRPERSON HYMAN: Okay. Thank you.

You're -- are you Jean Mullen?

MS. MULLEN: Yes.

CHAIRPERSON HYMAN: Okay. And after Jean Mullen is there a Bill Jenness here? Okay.

Jean Mullen, go ahead.

MS. MULLEN: Hi. My name is Jean Mullen. I live in Banyan Estates, and I'm definitely opposed to locating this daycare center at the corner of Dillman and Lyons Road.

Let me just sum up right in the beginning my reasons for requesting that you deny the proposed change in zoning to accommodate them.

First of all, there is the question of dangerous traffic congestion within the site itself. When you analyze the site plans, it appears as though there's only room for about eight cars internally to park, drop the kids off and so forth, and then there's only one driveway, narrow driveway, that you drive in, you drop off, and then you have to somehow back up in that parking lot and come back out the same way you did.

That driveway happens to be right smack against a neighbor's driveway which is within 10 or 15 feet that doesn't even show up in their plans, they didn't know about.

This dangerous internal flow is going to be backed up onto the roads around there because it's only a short distance from their driveway to the roundabout, which I believe is substandard in the first place.

It's only a one-lane narrow radius roundabout, and it serves Lyons Road, as well as Dillman Road.

So if your traffic is backing up onto Dillman Road, it's going to back up into the roundabout, and then it's going to back up onto the roads that it serves during rush hour, and those roads are already busy.

And I'd like to mention nobody's brought up the fact that Dillman Road was never designed in the first place west of the roundabout. The County knows that. They visited that subject many

times. I spoke to Mr. Ken Rogers about it over the years.

That was originally set up as a dirt lane to service -- a dirt lane for Lake Worth Drainage District for that canal, and it was later -- some pavement laid down by the developer for Whippoorwill and is pothole-ridden. The edges are, you know, falling apart, and it is not the width, according to Mr. Rogers, that would be standard.

It cannot accommodate even the traffic coming out of Whippoorwill and into Whippoorwill, which is the only way in and out of there today, let alone back up onto it.

The project appears to -- this property appears to be overbuilt with that project on it because of all this congestion, and what we're saying that the internal traffic flow design is flawed.

Now we find out that the Fire Marshal has issues with the plan itself. How is he going to get his equipment in and out of there safely to address any kind of an emergency situation, let alone a fire.

Somehow they thought they needed to put a left-hand turn lane to accommodate that driveway.

Most of the flow, I believe, is probably going to be coming from the south where you've got things that occurred during Masilotti's watch like Olympia, Buena Vida, all those big projects that you see all that progress out there came in under our former commissioner, and we are raw with abuse on that.

And now you've got all this traffic coming up from the south, and so they seem to think they need a left-hand turn lane to get into this driveway, but nobody seems to think you need a right-hand turn lane to get in there to accommodate the other people, the neighbors that live in the area.

So I would call upon you to deny --

CHAIRPERSON HYMAN: Okay.

MS. MULLEN: -- this request for this change in zoning regulations here.

This is an established rural residential neighborhood. Come out and take a look. It's the only lot left, and he did have options.

And the other property, we understand, the sale is not going through.

CHAIRPERSON HYMAN: Okay. Thank you.

MS. MULLEN: I also would like to submit petitions, additional petitions and additional letters. I have 20 letters --

CHAIRPERSON HYMAN: Okay. Is there a motion to receive?

VICE CHAIRMAN BARBIERI: So moved.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

Thank you.

MS. MULLEN: Twenty letters, and I have seven pages of petitions here.

CHAIRPERSON HYMAN: Just submit them, and we'll take a look at them.

MS. MULLEN: Comes up to about 50 more people that Liz doesn't know about.

CHAIRPERSON HYMAN: Okay. Thank you.

MS. MULLEN: And thank you very much.

CHAIRPERSON HYMAN: Frank.

VICE CHAIRMAN BARBIERI: Madam Chair --

MS. MULLEN: We're proud of our neighborhood, and we'd like to keep it that way.

VICE CHAIRMAN BARBIERI: Madam Chair, a question for Engineering.

She brought up a point that seems to be valid with respect to the access and the drop-off.

How do you propose that they're going to get 160 children dropped off in the morning? Some of those drop-off parking spaces, people actually have to back up into the area where cars are pulling in.

CHAIRPERSON HYMAN: What does the traffic report say about this? There's a roundabout, one entrance, one exit.

VICE CHAIRMAN BARBIERI: Shouldn't there be like an in and out and a --

MR. ROGERS: Well, we have two different questions here so let me --

CHAIRPERSON HYMAN: It's all, I think, combined. I think it's all the same question.

MR. ROGERS: Well, one has to do with the arrangement of the parking on site. That has been reviewed by both Engineering Department and the Zoning Division.

Once again, this is not a situation being similar to an elementary school where you would expect the car to drive up and then the kid get out of the -- the child get out of the car by themselves and walk up to the school.

This is a facility where the parent has to or the person taking the child to the school has to stop the car and get out of the car and walk the child into the building, and so there's no real drop-off area as you would expect that would be in front of another school, that all the vehicles here have to actually stop, and they have to walk the child into the school.

And the same thing in the evening. You have to get out of your vehicle, walk to -- walk into the building and sign the child out in order to have the child to leave. And so there is no real drop-off area.

This will function the way any other parking lot area does for any other type of gang parking, whether it be an apartment building or any other business, is that you pull into the parking space, you back out, and you exit the property the same way that you drive in.

This is a dead-end parking space, but we have a lot that we have approved dead-end parking lots on numerous occasions on many other

properties.

CHAIRPERSON HYMAN: So how does a car do it? How do they go in, stop the car --

MR. ROGERS: Same way that --

CHAIRPERSON HYMAN: -- drop the kid off --

MR. ROGERS: -- that when you got into the parking garage this morning and you parked the car, and this afternoon you leave, the exact same manner.

CHAIRPERSON HYMAN: Oh, I see.

VICE CHAIRMAN BARBIERI: But we have 161 children being --

MR. ROGERS: But they're not all going to be there at the same time. There's a queuing --

CHAIRPERSON HYMAN: I see. You expect everybody to park and then just come out of their parking space.

MR. ROGERS: There's a -- not everyone will arrive there right at one time. This is not a facility that has a start time at 8:00 o'clock that all the children have to be there to start classes.

People will be bringing their children there as their work schedule requires or demands.

MR. ENNIS: Maybe I can add a little bit to that.

This site has an excess of parking over what is required. They're providing 44 parking spaces, and only 28 are required.

You know, I don't know exactly how many staff people they will have, but approximately, I would say, about 30 spaces at least would be available to -- for drop-off and pick-up purposes, and then you could also have some queuing at the entrance and along Dillman Road.

So you would probably be able to service as many as 40 cars at any one time. That would be my guess, you know, just looking at the distances --

CHAIRPERSON HYMAN: Okay.

MR. ENNIS: -- involved and the number of parking spaces.

So if you've got 160 kids, you can certainly probably take care of them over a course of an hour, as long as they don't arrive all at one time.

CHAIRPERSON HYMAN: Okay.

Bill Jenness, and after Bill, Karlyce Longmaire. Karlyce, if you could take that mic. Okay. Bill.

MR. JENNESS: Yeah, good morning. I am an area resident for 20 years, and I've got children that we have raised throughout that time.

We also have a couple of different issues that haven't been touched on as of yet.

We have on the other side of Forest Hill Boulevard there is a middle school that is up and running. Adjacent to that is an elementary school that my youngest son will be attending this 2008 school year. That is going to also contribute to the traffic problem that we already have.

If this school was to come on line, it's

just going to be a disaster, and --

CHAIRPERSON HYMAN: Do they all access the same roads?

MR. JENNESS: The school traffic will, yes.

CHAIRPERSON HYMAN: Okay. Ken, you're saying no?

MR. ROGERS: Well, the schools do not all access on Lyons Road, no. There will be people that live in the area that will use Lyons Road in order to get to those schools, yes.

CHAIRPERSON HYMAN: Okay. Okay.

MR. JENNESS: That's all I have to say. Thank you.

CHAIRPERSON HYMAN: Thank you very much.

And, Karlyce, and after Karlyce, Debra Ann Lelonek. Familiar last name.

MS. LONGMAIRE: My name is Karlyce Longmaire, and I live in Whippoorwill Lakes.

I -- everything I wanted to say has really kind of been said. I don't want -- I do want to go on record as being opposed to the daycare center for all of the reasons.

I've lived out there -- we rode our horses out there before there were houses out there. So to see the development, it's kind of disheartening, but, you know, development's going to happen.

However, the daycare center, it would be so detrimental to the neighborhood, to the houses surrounding it, and I would like to ask you to oppose both of your motions.

CHAIRPERSON HYMAN: Okay. Thank you very much.

Debra Ann Lelonek? Your husband in the business?

MS. LELONEK: Good morning, I'm Debra Lelonek --

CHAIRPERSON HYMAN: And after Debra, Mitch Nagrowski.

MR. NAGROWSKI: Nagrowski.

CHAIRPERSON HYMAN: Yeah, I -- I comprehend.

Go ahead.

MS. LELONEK: I live on 8535 Wendy Lane. I live in Banyan Lakes. I -- my house faces Dillman Road, which is just a little tiny road, and from what I understand -- of course, if the drawing's not shown right now --

CHAIRPERSON HYMAN: You can move it. You can move that picture.

MS. LELONEK: Okay. It's just a little bit of a road, and then they're going to have to make a turn, and the traffic zipping up and down here, I see it. I live it. This is going to be a very difficult thing, a feat to -- to do.

Up here where they finished this beautiful road I think would be a much better site. I think it's just going to flow better. You're not going to have all the congestion that this is going to create, and it's a whole lot more room, and there's not any roads coming through here.

CHAIRPERSON HYMAN: Okay.

MS. LELONEK: I can live -- when I come into my area down here, there's another entrance, and when the school is let out early or whatever, they're not allowed to drop off the kids there, but they do. The police try to help, but it's just a mess.

And they're now waiting in our drive to get out. We have to chase people out of there and the golf course away. So it is going to be quite a -- quite a mess.

Thank you.

CHAIRPERSON HYMAN: Thank you.

Mitch --

MR. NAGROWSKI: Nagrowski. Hi, good morning.

CHAIRPERSON HYMAN: Daniel Caruso after him.

Go ahead.

MR. NAGROWSKI: Good morning, Madam Commissioner.

I would ask you for your help in opposing this.

I am a retiree from New York City. I moved to Florida two years ago. When I moved here to Florida, people asked me where did I move. Did I move to Bellagio, Bellagio, and I said I live in a place that doesn't end in a vowel. It's not a gated community.

I moved to the community where I moved because it was modestly priced, and it had a beautiful piece of property and peace and tranquility, and I don't live in a gated community, and I don't have someone overseeing the size of a generator that's three feet from the wall.

And I'm asking you to help preserve a little bit of beauty that's in the area where I live and I chose to live because of that beauty.

Yesterday I stopped my car at that traffic circle, and I watched three endangered whooping cranes -- I don't know the exact name -- that are three feet high, that are breeding in the lakes in this lovely residential area, with red tufted heads, and I watched them cross the street.

The other day I stopped my vehicle, and I got out of the car, and I took a tortoise that was crossing Dillman and Lyons Road and put it in the drainage ditch that is adjacent to the road because I didn't want the tortoise to be killed.

This morning as I was coming here I saw a rabbit run over in that traffic circle.

Now, I know we can't stop progress in South Florida, but I'm asking you guys, because I'm not in a gated community, and I moved here for the peace and tranquility that this area provides, to please help put that traffic in a place where it belongs, which is a mile or two down the road in a zoned area, as opposed to that traffic circle where it doesn't belong.

CHAIRPERSON HYMAN: Okay. Thank you.

After Daniel Caruso, I think a relative,

Denise Caruso, if you'd like to speak. Okay. Go ahead.

MR. CARUSO: Okay. You know, as a community we came up --

CHAIRPERSON HYMAN: Tell us your name and your address, please.

MR. CARUSO: My name is Daniel Caruso, and I am adjoining to this property. I live behind it right here (indicating).

CHAIRPERSON HYMAN: So immediately adjacent to the property?

MR. CARUSO: Yeah, it's connected. My property line is here. Their property line is here (indicating).

CHAIRPERSON HYMAN: Okay.

MR. CARUSO: So you have to drive down this driveway which --

CHAIRPERSON HYMAN: You need a mic, please.

MR. CARUSO: Hmm?

CHAIRPERSON HYMAN: Mic, microphone.

MR. CARUSO: Oh, I'm sorry.

You'd have to drive down my driveway, which is a beautiful driveway with huge 100-foot trees in it, that I'm sure this Mr. Dalva guy is going to tear down, that line this driveway. It's just a nice driveway to get into your own property.

I live in three acres behind two acres. It's a park back there.

I have pigs in my yard. I have chickens in my yard, dogs. Trust me, my wife is an animal lover, and --

CHAIRPERSON HYMAN: Me, too.

MR. CARUSO: -- we have to go tonight, every night, listening to whippoorwills. You know what a whippoorwill is? They grow in this -- this lot right here (indicating), which I'm sure is going to be developed at some time. It's gone. It's going to happen when this leaves.

As a community we came together and voted with the Wellington View people to allow a civic center to be in this area, and now it's available.

I just think that they need to abandon this site and go back to this other site that the people really want to sell and are willing to sell, and that as the community came and said it's okay to put it there.

Now, why are we subject to having two, and people -- you know, two daycare centers, civic centers within -- it's four houses away. It's not blocks, it's not miles. It's four houses away from where this site is, and it is surrounded by lakes. There is no houses like two football fields away from this lot that's available at this point.

There's just no reason to have two on this street, for no reason. It's a residential neighborhood, which we've all reiterated to allow these people, and they wanted more money for it, of course, they want -- Mr. Dalva did. Now he wants to invade residential property with a

venture.

My house is 1800 square feet. Mr. Wright's house is probably 1500 square feet. The house right next door is 2100 square feet.

Now, you're going to put this monstrosity of a building next to ours, and she says it's comparable. This woman back here says it's comparable to their surrounding environment. It's not even close.

It's a 10,000 square foot building, and we're -- you know, the -- it's just not suited for the neighborhood. It's just not necessary --

CHAIRPERSON HYMAN: Okay.

MR. CARUSO: -- to put this here.

CHAIRPERSON HYMAN: Thank you.

Mrs. Caruso.

MS. CARUSO: I'm Denise Caruso, and I live at 8399 Dillman, and before we get started, I have one question for the -- and I am sorry, I didn't catch your name, the attorney.

She said at the beginning that there were daycare centers in the area that are full, and I would like to know where those are. I have lived there for 22 years, and they are not around us. So please provide that information.

CHAIRPERSON HYMAN: Okay. Is that it?

MS. CARUSO: Okay. No, that's not it.

The other thing I wanted to give you is a picture -- you know, we've all been talking about safety, we've all been talking about the problem on Dillman Road, and that is absolutely true.

I want you to see where they're going to put their driveway in relation to mine, which is 15 feet. I cannot get out of my driveway. I don't know where they think these people are going to park when he's saying on Dillman Road, and if you would like, you can have these or you can pass them around, and I put an arrow where the -- their driveway's going to be.

CHAIRPERSON HYMAN: Okay. Let's have a motion to receive it into the public record.

VICE CHAIRMAN BARBIERI: So moved.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: All opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimously.

MR. CARUSO: There are two arrows where theirs is going to be, and mine is the green with the little frosty guy on there. Okay.

CHAIRPERSON HYMAN: All right.

MS. CARUSO: And I just don't think this is the place for it. I think you need to either move it -- thank you.

CHAIRPERSON HYMAN: Thank you.

David Shannon and Thomas Kiefer, are you still here? And, Mr. Kiefer, you here, also? Is Mr. Kiefer here?

MR. KIEFER: I'm Mr. Kiefer.

CHAIRPERSON HYMAN: And what about Mr. Shannon?

MR. KIEFER: And I believe he left.

CHAIRPERSON HYMAN: Okay. And then after Mr. Kiefer, Arthur Wright, are you still here? Take the other mic. Thank you.

MR. KIEFER: My name is Tom Kiefer. I live at 8345 Dillman Road. My property is just two properties away from the proposed corner property.

Traffic, of course, is one of my main concerns, as everyone has said about Lyons Road. I don't think it's mentioned that Lyons Road does not yet go through to Lake Worth, which it will eventually, which means that a tremendous number of cars will be going through to get onto the Turnpike, an entrance to the Turnpike.

Secondly, it's already been mentioned about traffic in and out of the proposed site.

I'm not sure who recommended that 32 parking spaces was sufficient. There's going to be 26 staff. That's what is mentioned in the documents, 26 staff which are going to take up 25, 20 of those 44 parking spaces.

We've already determined that people coming and going must park in a space. They must park legally.

The Fire Department says that they must have a 20-foot unrestricted marked entrance to the property. The driveway coming in is 26 feet wide, which would not allow cars to park on either side of the driveway, eliminating the 20-foot easement for the Fire Department or emergency vehicles to come in.

There absolutely -- this place is a disaster looking to happen with emergency services or Fire Department in the rush hour in the morning and again in the evening.

CHAIRPERSON HYMAN: Thank you.

MR. KIEFER: Thank you very much.

MR. WRIGHT: Yes, my name is Arthur Wright, and I'm probably most impacted of all. I live next door to this thing.

First off, I would like to present petitions that have been collected, and there's one group here that I have 148. We have also a petition from Mrs. Smally (ph), who represents the Banyan golf course of 250 people, and I'd like to place that in evidence, and also --

VICE CHAIRMAN BARBIERI: So moved.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Thank you.

MR. WRIGHT: And also the petitions that have been sent in, I'd like to have that placed in the minutes, please.

CHAIRPERSON HYMAN: Okay. That'll go with that.

MR. WRIGHT: And I'm just going to be a little bit repetitive here, some of the things have said, since I'm the one that's going to catch

a lot of this stuff, and I'm just going to read my prepared content.

My name is Arthur Wright. I live directly east of the proposed Goddard School. I've been at the location for 35 years.

My concerns are congestion, traffic, playground noise, property devaluation.

The property in question, 1.77 acres, is too small for the amount of effort and building and essentially what they're trying to put into this thing.

Let's see. Now we're using common sense.

Let's look at the traffic situation on Dillman Road. All right. We've got all these numbers, all of these people did all these survey things. The average person's going to be at work at 8:00 o'clock, has to be there at about 7:00.

Now, even if we take a number of 100 or less people and we use the 44 parking lot and the 26 numbers, that leaves 17, 18 parks left and going in, where are they going to turn around? The children being released to go in and sign and then come back out. How are they going to get back out on the street in order -- the traffic is just going to back up on Dillman Road and back up, and it'll be congested.

Now, if we go south, we have already dealt with the traffic problems that's happened to the new Palm Beach Central High School which we see they finally had to get the FOP out there. They had to get the highway patrol. They had to put traffic signs out there, and to control that thing. It was improperly done.

CHAIRPERSON HYMAN: Okay.

MR. WRIGHT: And this point, you know, what -- what else can a person say? I think it should be blocked, the proposal to build this thing, but if anything else, it should be delayed and restudied.

Give his traffic people some time to figure out what -- I mean does that make any common sense? Seventeen car places to be able to park in, irregardless of what the man over there says.

I mean the staff is going to have their cars there. I mean just --

CHAIRPERSON HYMAN: Okay.

MR. WRIGHT: -- use common logic sense. You don't have to be a brain scientist.

Thank you very much.

CHAIRPERSON HYMAN: Thank you.

I also have cards from three people who do not wish to speak. And I'll just note, Annette Carmichael, Beatrice Powell and Ruth French all also oppose the petition.

Okay. Anybody else here?

MS. CARMICHAEL: May I speak? I didn't say I was going to speak but I would like to.

CHAIRPERSON HYMAN: Did you put in a card?

MS. CARMICHAEL: Yes, I did.

CHAIRPERSON HYMAN: Okay. Go ahead.

MS. CARMICHAEL: I am very much opposed.

CHAIRPERSON HYMAN: Annette, say your name, please.

MS. CARMICHAEL: Annette Carmichael.

I am very much opposed to this. Although I do not live on Dillman, I live right off of Marginal, which is -- runs parallel with Lyons Road.

And Lyons Road, even though we really didn't want Lyons Road to go through, it did relieve traffic and congestion off of Marginal Road from the area which I live.

Now, with this addition and the very, very poor planning of the driveway coming off and being right on Dillman Road -- I mean this driveway is so close to the roundabout, there -- that roundabout, you're not even going to be able to get around, but they are going to be coming then down Marginal Road, as well, at -- which is a tremendous amount of traffic in a residential area, again, with kids walking to school, schoolbuses. You're going to run into that, as well, with the schoolbuses stopping and going.

This is just totally inappropriate area to have this, and I'm very much opposed.

CHAIRPERSON HYMAN: Thank you.

All right. We're going to close the public portion and go back to the petitioner and the Board.

Any questions or comments, Board members?

Frank, you want to start?

VICE CHAIRMAN BARBIERI: With all due respect to Engineering, I still don't -- I understand that we don't anticipate that everybody's going to be dropping their kids off, but in reality, I mean when do people drop their kids off at a daycare center?

They do that in the morning when they go to work. Most people go to work between, what, 7:30 and 9:00?

So I would imagine that 161 kids are going to be dropped off, and probably 90 percent of those children are going to be dropped off between 7:30 and 9:00.

I just -- I would feel much more comfortable if there was a driveway coming in and a driveway going out possibly on Lyons so that there was one way in and one way out, that there was an easier way for people to get in and out of here without having to back up into traffic that's pulling in.

I just have a concern with the way the site plan is laid out. I just don't feel comfortable putting kindergarten kids and three and four-year old children that are toddlers that are getting out of their parents' cars, walking around where people are trying to back up and pull in, and it just -- it just doesn't look like a good situation.

I would not support the site plan the way it's currently structured.

CHAIRPERSON HYMAN: Don.

COMMISSIONER DUFRESNE: I'm less concerned

about the site plan and more concerned about the appropriateness of this facility in this neighborhood and the rezoning from agricultural residential to a commercial use, and that's my bigger concern.

And I think it's totally inappropriate at a traffic circle.

CHAIRPERSON HYMAN: Allen.

COMMISSIONER KAPLAN: Yeah, I have a question for staff.

One of the members of the public raised a point that the Fire Department, emergency services raised an objection.

What's the information on that, and do we have anything?

MR. CHOBAN: Fire Department, whether they've commented on the site plan? Carrie?

MS. RECHENMACHER: Oh, the Fire Department, no.

It went through the initial DRO for certification. The Fire Department had no concerns.

I think what the residents may be thinking is that one of the first gentlemen who spoke, who works for the City of West Palm, the Fire Department, I think he -- he does not officially represent the County.

CHAIRPERSON HYMAN: Well, actually, two -- I think two speakers did make note that they -- they thought the Fire Department did have problems with the application.

MS. RECHENMACHER: No.

CHAIRPERSON HYMAN: So we're just wondering if there was --

MS. RECHENMACHER: I'll definitely confirm that. I'll check with them.

COMMISSIONER KAPLAN: I'm concerned about that for the safety --

CHAIRPERSON HYMAN: Okay. You have any other --

MS. RECHENMACHER: As far as I know, I did not know.

CHAIRPERSON HYMAN: Any other questions, comments?

Alex?

COMMISSIONER BRUMFIELD: Is there anything with regard to the other site --

CHAIRPERSON HYMAN: Alex, your mic.

COMMISSIONER BRUMFIELD: Anything regarding the other sites that are indicated to be in the area, has the developer looked at those sites?

I think it was represented that it was under contract by a church. Other people said that that contract has fallen through.

Is there any other place where your facility could go in this area?

MS. HALPERIN: No. As a matter of fact, as I said, this property down the street was under contract. It has fallen through, but this property's been acquired for this purpose. I mean they've already closed on it.

CHAIRPERSON HYMAN: Okay. Any other comments?

We've closed the public portion. Thank you.

Ellie, you want to make any other comments because I think you see the --

MS. HALPERIN: Yes, I'd like to address a lot of the comments if you wouldn't mind, and I do think it's very interesting that it's -- you know, this use is appropriate, you know, four houses down, but it's not appropriate on this site.

So it is appropriate on this street. It is a residential transitional use. Whether it be a church, a library, a daycare center, an ACLF, these are all appropriate civic public uses that the Code says is compatible with an LR-2 land use, and they are -- they do serve a public purpose by being in a residential community.

There was no comments that have ever been received or we have no knowledge of any concerns of emergency vehicles. They have adequate access to this site, and it meets the criteria.

The Goddard School is a franchise, and they're not going to design a school, a parking lot or accept a location that puts any of their children or their staff at risk. About 50 percent of their sites are designed with one way in and one way out, and it is designed with more than adequate parking spaces.

They're required to have 28. They have 44, and it is designed so they pull in. They park as in any parking lot, bring in the children, sign them in, walk them to the back, come back and pull out. They have typically about 15 drop-offs per 15 minutes.

The staff is staggered as well, so they're not fully staffed, and the 20 parking spaces for staff are not occupied until 9:00 o'clock.

As more children come, the staff staggers in their entry, as well.

There is a school to the north, the Central High School, so the turnaround of the community, as well as Wellington View, a PUD across the street, the area has been changing, and we always hear those objections that people want to preserve the community as it's been, and the use of a daycare -- the availability of a daycare to the growth in this area is needed, and, yes, of course, it is a commercial venture, but it's one that's going to serve a community purpose.

Within a five-mile radius there are at least -- Mr. Dalva had investigated one, two -- seven daycare centers, and there is none in this area, we confirmed that, and that's why he felt this was an appropriate use, and staff has supported that it's an appropriate use.

They meet traffic concurrency standards as far as the traffic generation, and primarily because of background traffic, not the impacts of this site, they need to put an additional left turn lane from Lyons to Forest Hill Boulevard, which they have agreed to do.

I'm trying to go through some of the other comments that were heard.

The noise -- the school's open from 7:00 a.m. to 6:00 p.m. There is no evening noise. It's not going to interfere with anybody's tranquility in the evening, and in fact there's no outdoor play until 8:00 a.m.

Only 20 children are allowed outdoors at a time. They are well supervised, and the lot that is on the side of the residents to the east is only a toddler and infant lot. It is not the older children. So noise will be reduced, and it is only during the day.

This is not a use that's open in the evenings. They close at 6:00, and there should be no conflict as far as school traffic in the afternoon because most of the pick-up is at the end of the day.

So the drop-off is continual from 6:00 a.m. to 9:00. It is staggered. They're not going to all be there at the same time.

It is a, as I said, residential transitional, and they are far reduced in the allowed FAR. There is buffering all the way around, and they have even agreed to increase the buffer on the east and the north side -- I always get my directions wrong -- to allow for 20 feet instead of the required 15 feet with a three-foot berm and a six-foot wall. So adequate buffering has been provided to the surrounding community.

The architecture was subjective. As we've said, Mr. Dalva felt like this was what was in the area. This was what was visible from the street, and this would be compatible with the surrounding uses and the surrounding design rather than any other kind of roofing design.

We're available for questions. As I said, I have both the land planner, the applicant and a representative of the Goddard School if there's anything else we can address.

CHAIRPERSON HYMAN: What if -- what if the retention area was in the back adjacent to the homeowners and the playground adjacent -- 'cause the playground's going to be enclosed -- adjacent to the street so that, you know, we would have that additional buffer.

What about redesigning the site?

MS. HALPERIN: They felt it was -- it was safer and better planning to keep the playground away from the street.

CHAIRPERSON HYMAN: Well --

MS. HALPERIN: It's not insurmountable, but they felt that that was a much better design and a safer design.

CHAIRPERSON HYMAN: I don't know how the vote's going to go down, but from everybody's comments, doesn't look particularly good for the petitioner.

I think that, you know, maybe if you took time to meet with the homeowners, maybe take time to redesign this site to address their concerns, you know, maybe there could be some type of, you

know, agreement reached, but right now the way the site is done, which pushes the, you know, the play areas so that they are adjacent to the surrounding properties, I mean the -- you know, they've got concerns.

You know, I think we could go to vote, or you could take time to meet with these homeowners who have very valid concerns to see if you can address their -- these concerns.

My -- I'm not sure about the use. You know, we have daycares in residential neighborhoods. That's where daycares go. They go in residential neighborhoods.

I do have a little concern about that entrance right off the circle. I trust our traffic people, but, you know, I think that could present a problem with the traffic around the circle, and --

MS. HALPERIN: The original entrance was on Lyons, and it was suggested that it be moved to Dillman, and that's why it was reconfigured that way.

CHAIRPERSON HYMAN: I think that, you know, I'm going to look to the rest of the Board to see what you want to do, but I think that you should take the time to meet with the homeowners and see if you can't address --

MS. HALPERIN: I mean we did make that effort, but --

CHAIRPERSON HYMAN: Well --

MS. HALPERIN: -- the outpouring is very recent.

CHAIRPERSON HYMAN: Okay.

MS. HALPERIN: Petitions that have not been confirmed as what was presented to them, what they're objecting to, who signed it. I mean we really can't acknowledge any of the petitions.

COMMISSIONER DUFRESNE: Would you like a postponement, or would you like a vote?

MR. DALVA: Well, my name is Joel -- Joel Dalva. I'm the applicant.

Just like to say look, I'm trying to make this as palatable to the community as possible, in a nice facility that would enhance the community.

CHAIRPERSON HYMAN: But you haven't met with the homeowners.

MR. DALVA: Well, I called many of the homeowners, and I offered to meet. I called them to listen to their concerns, and I would love to meet with the homeowners, but what I was told by -- and I respect these people because I know they've been in the community a long time, and -- and I probably could empathize with them, might feel the same way if I were in their situation.

I did offer to meet with the homeowners. I'd love to meet with the homeowners. I'd love to see if I can do anything else to make the property more suitable so that it addresses some of their concerns, but the response I got was, really, it's not necessary, we have your plans, and we'll see you at the meeting.

Now, I appreciate that. I mean so I

offered, you know, I called everybody that --

CHAIRPERSON HYMAN: Okay. Well, why don't we just move this along and --

MR. DALVA: I would love to meet -- if I can get a, you know, a consensus that we'd meet, you know, I'd be willing for a postponement, and we'll meet with the homeowners. I'd love to do that, and I hear all their concerns.

In terms of traffic, which is I know a major concern, we worked with our traffic consultant. We meet all the TPS standards. We're going to put a left-hand turn lane on Dillman into the property. We're going to put a second left-hand turn lane on Forest Hills [sic] and Lyons, which I heard earlier this morning a second left-hand turn lane will address 200 additional traffic -- peak hour traffic trips.

This -- according to our traffic study and the County, this will generate 90 a.m. and 92 p.m. peak hour traffic trips, so we're more than compensating the additional traffic along Lyons Road.

I did call on the property, by the way. There was a civic site. The property's a little larger than could accommodate this thing, but I was told it was under contract at the time, that it was under --

CHAIRPERSON HYMAN: When did you call them?

MR. DALVA: I called them seven months ago.

CHAIRPERSON HYMAN: Seven months ago.

MR. DALVA: Yeah.

CHAIRPERSON HYMAN: Have you called them recently?

MR. DALVA: Well, I already contracted for this property so it's hard to wind the clock back. I have not --

CHAIRPERSON HYMAN: Have you closed on this property?

MR. DALVA: Yes, I have. I can't wind the clock back, but I did call on that property. It was the first property I called on before I even made any kind of commitment on this property, and I was advised that that property was under contract at the time.

CHAIRPERSON HYMAN: Okay.

All right. I'm going to look to the Board for a motion.

COMMISSIONER BRUMFIELD: I'll move to grant --

CHAIRPERSON HYMAN: Alex, talk in the mic, please.

COMMISSIONER BRUMFIELD: Move to grant a 30-day postponement.

CHAIRPERSON HYMAN: Oh, okay. We have a motion for a postponement.

Is there a second?

(No response)

CHAIRPERSON HYMAN: Okay. Motion fails for lack of a second.

Do we have another motion?

VICE CHAIRMAN BARBIERI: I move that the -- that the petition be denied for the reasons that the other commissioners and I have expressed with respect to safety, the appropriateness of it at that location, the other reasons, the -- let me specify.

I don't believe it's compatible with the surrounding uses at that location. It apparently has an effect on the natural environment that we were made aware of today so possibly that's one of the reasons why it should be denied, also.

I don't believe it has -- let me cover these -- compatibility -- and the design minimizes adverse impact. I don't believe that it -- that the design does that. I would feel much more comfortable if this site plan had an in on one street and an out on another so that there was some safer way for people to get in and out of here.

For those reasons I would recommend denial.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: Okay. There's a motion to recommend denial on both motions, both motions?

VICE CHAIRMAN BARBIERI: Yes.

CHAIRPERSON HYMAN: Okay. And there's a second?

COMMISSIONER KAPLAN: Second.

COMMISSIONER DUFRESNE: Second.

CHAIRPERSON HYMAN: All those in favor of the motion to deny say aye.

VICE CHAIRMAN BARBIERI: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER DUFRESNE: Aye.

CHAIRPERSON HYMAN: Aye.

All those opposed.

COMMISSIONER BRUMFIELD: Aye.

CHAIRPERSON HYMAN: Excuse me?

COMMISSIONER BRUMFIELD: Deny it, I'm opposed.

CHAIRPERSON HYMAN: You're opposed to denial?

COMMISSIONER BRUMFIELD: Yes.

CHAIRPERSON HYMAN: Okay. So it's one -- okay.

So we have one, two, three, four -- 4-1. All right. Thank you.

MS. KWOK: Okay. Item No. 20, PDD2006-956, The Grove MUPD.

Carrie Rechenmacher will give us a brief presentation on this project.

MS. RECHENMACHER: All right.

Commissioners, this is a rezoning from AR to MUPD for 115,000 square feet, be three separate structures.

CHAIRPERSON HYMAN: Is there any problem with this petition? Why wasn't it on consent?

MS. RECHENMACHER: We had a number of letters of objection, but I think that it may have been resolved, and Marty Perry may want to just discuss it.

Staff is recommending approval, subject to 29 conditions.

CHAIRPERSON HYMAN: We're on No. 20, 2006-956. Is there anyone here from the public to speak on this? We have two cards.

Barbara, you're here in support, and Sam Hershkowitz, you're here in support.

Marty, you have any questions, comments, problems with any of the conditions?

MR. PERRY: Just for the record, Marty Perry, representing the applicant.

The conditions are all acceptable with one exception, and that is a modification to Condition Zoning landscaping condition along the north property line which is No. 7.A.

We're proposing a, and we've reached agreement with the homeowners association and COWBRA to an eight-foot wall on the property line, as opposed to --

CHAIRPERSON HYMAN: Six.

MR. PERRY: -- a six-foot wall.

Additionally, I have handed out to each of you a list of 12 items which are items of agreement that we've reached with the homeowners association and COWBRA, and I need to add to that two additional items that I'd like to read into the record.

The -- No. 13 would be that there would be no backlighting on any of the signage, and No. 14, that we would reduce the height of the light standard below 25 feet.

They've made a request to us to reduce it to eight feet. We're having our lighting people take a look at that and see what a reasonable height is, but we believe we can't do less than 25, and we'll resolve that issue before we get to the Board of County Commissioners.

CHAIRPERSON HYMAN: Well, I'm sure it's not eight, but I'm sure it could be less than 25.

MR. PERRY: In any event -- and I -- I'd like to have this made a part of the record, this list, along with these two additional items --

CHAIRPERSON HYMAN: Staff, have you seen this?

MS. KWOK: Right. Marty provided us this draft this morning.

I went through them very quickly, and some of them I understand that should be private

agreement between this developer and the homeowners, rather than being a condition of approval.

So I quickly identified them as condition number, and I would say No. 9, something to do with the utilizing the Lakes of the Grove to satisfy irrigation needs. It's no way we -- the County can monitor that.

And No. 10, the name change, that's totally a private agreement.

So I would like to take some time to understand these conditions and work with other departments before we impose them as conditions of approval.

MR. PERRY: My proposal would be that I work with Ms. Kwok to identify those that are legitimate conditions. The rest, and I've already discussed this with the homeowners association representative and COWBRA, that we would reduce that to a private agreement --

CHAIRPERSON HYMAN: Right.

MR. PERRY: -- and have that reduced to writing.

CHAIRPERSON HYMAN: Sounds good to us.

MR. PERRY: So with that, I, you know, I don't want to take any more of your time. I think that --

CHAIRPERSON HYMAN: Okay. All right.

Is there a motion?

VICE CHAIRMAN BARBIERI: Recommend approval of official zoning map amendment from the Agricultural Residential zoning district to the Multiple Use Planned Developed zoning district.

COMMISSIONER DUFRESNE: Second.

CHAIRPERSON HYMAN: Subject to all the conditions as modified.

VICE CHAIRMAN BARBIERI: Subject to all conditions as modified.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

MR. PERRY: Thank you. Happy New Year.

CHAIRPERSON HYMAN: Thank you. Happy New Year.

CHAIRPERSON HYMAN: Last item.

MS. KWOK: Right. Last item on the agenda TDD/DOA/2006-1190, Delray Marketplace TMD.

Again, Carrie Rechenmacher will give us a

brief update on this project.

MS. RECHENMACHER: Okay. This is a previously approved TMD, and I think we're in agreement with most of the conditions of approval, but I know the applicant wants to discuss a few things.

They're requesting two variances, a number of amendments to the conditions, some of which the details we're still working out. There's some changes to the site plan.

And so I know he would just like to further discuss it so I'd like to -- staff is recommending approval, subject to some minor modifications prior to the BCC meeting.

CHAIRPERSON HYMAN: Okay.

Alan.

MR. CIKLIN: Madam Chairman, actually, the three major parts of this are the --

CHAIRPERSON HYMAN: Let's tell everybody your name.

MR. CIKLIN: Oh. My name's Alan Ciklin, representing KRG and Ascot.

This is the Delray Marketplace that you visited back in 2005, was approved both by the Zoning Commission and the Board of County Commissioners, and now we're into the preliminary development phase.

There's three major issues. One is, as you may recall, Ray Royce had a client, Helena Chemical --

CHAIRPERSON HYMAN: Oh. Right.

MR. CIKLIN: -- that owned 0.66 acres right at this intersection (indicating). Ray somehow suggested that a chemical company and a traditional marketplace were incompatible. I don't know where he got that, but the Board was very insistent that Delray Marketplace acquire that site.

We've done that. Most of it's been dedicated for right-of-way. There's no increase in square footage. The rest of it's just been assimilated into the facility itself.

So one of our requests is that to add this property into the master plan and make it a part of it.

The other part of it is -- and I'll do this very briefly because I know you want to go. The yellow outlined areas, originally there was another residential condominium unit somewhat in this area, and it was realized during the development stage that that residential condominium facility really didn't have adequate parking, and the best solution, which staff agrees with, was to eliminate that building from this area and instead add another level of residential units to this building here. So it would go from two to three.

Still, as the traditional marketplace works much like CityPlace, as most of you know, would have the residential above the commercial. So it would be a streetscape as you see here with the residential above it.

So the second -- now, the second request is in order to add another story we need a height variance. Again, traditional marketplace, there's only two of them, this is a sort of an evolving process. A lot of it doesn't necessarily work, and that's why we're seeking the variances.

The 35-foot height requirement, we're asking for a 20-foot variance. In essence to the top of the roof it'll only be 42 feet, but in order to add another 12 feet to screen mechanical and things like that we're asking for the full 20 feet.

Now, the advantage of doing this is, one, in an area where it had no parking we're now adding a third floor which will be connected and you can't see it here, but there's an elevated covered walkway that will allow for the residential above the commercial in this area to park in the parking garage and merely walk across.

So we've resolved that issue, which is a better design. It integrates, continues to integrate the residential into the traditional marketplace, which is a vital part of these types of communities.

The other -- the final request for a variance, and, again, this is an evolution of the traditional marketplace kind of development, there is a requirement that on primary streets 50 percent of the sidewalks be arcaded or covered, but there is also a requirement that they be contiguous.

Well, that's, as you can imagine, pretty counter-productive, which would mean all your arcades, all your covers, would be on one half of -- one part of the street, and then the others wouldn't necessarily have that.

The other thing is if you had arcades across the whole area, and contiguous, we think means also attached, then you wouldn't have the visibility and the main street feel that you would get by being able to break those up.

We're not asking for less arcades. We exceed the 50 percent requirement. What we're asking for and staff is supporting for I think obvious reasons is to eliminate the contiguity requirement. That will allow us to have arcades throughout the entire primary street area to be able to cover the entrances to units, and also in between the units to have spaces where you can put landscaping, decorative lamps and things like that.

So it's a far better design. It's what really is intended by a traditional neighborhood development, a CityPlace-type development.

So our requests are threefold. One, add the 0.66 acres for Helena; secondly, the height variance. It's really one more row of units, and as you can see, it's only for this area (indicating) which is internal to the development, no other place.

And then the third request is for the -- to eliminate the contiguity requirement for the

arcades.

Staff recommends approval. We've been to the Alliance. We've been to COWBRA. They, I believe, agree that this makes for a better project, and I'll answer any questions.

CHAIRPERSON HYMAN: So when someone drives in off of West Atlantic Avenue, they are -- they can park right in front of those buildings right there, or they can go to a parking garage someplace?

MR. CIKLIN: Yes. The parking garage is down here. The theater is here. So that's why it was important to have the parking garage here (indicating).

The other reason it's important to have it there is that you want to put it interior to the project, not on Atlantic.

CHAIRPERSON HYMAN: Because one thing -- I don't know if anybody else is finding this -- is that some of the new commercial developments, it's like you can't get there from here, and I don't want to mention a place off of PGA that I was just in yesterday.

I mean I drove -- I couldn't get in, I couldn't get out, and I couldn't find my way around the inside.

Now, it looked beautiful. There was landscaping everywhere, and -- but you couldn't -- you couldn't get anywhere. You -- I mean every time you turned around there was a curb, and you -- you can't find the stores. You can't get to the stores.

So I don't know what this is going to -- whether this is going to work or not.

CityPlace, to me, works. There are -- I don't know any other commercial developments recently that really do work as well. I don't know.

How is this going to work?

MR. CIKLIN: Well, I know the place you're talking about because I was late for my dinner reservations at that same place because I couldn't find -- I saw it. I saw the restaurant, but I couldn't figure out how to get there.

This is not like this. This has direct access off of West Atlantic. It's got direct access off of Lyons, and when you pull in here, if you want to go to the bank, you park in front of the bank. You want to go to the retail, you park in front of that. If you want to go to the townhouse development, you'll be able to park there.

All the retail has parking right in front of it, and so actually it's even in some respects superior to CityPlace which has limited on-street parking. This has a lot of on-street parking.

CHAIRPERSON HYMAN: So the Main Street, Alan, that goes down the middle over there -- Main Street?

MR. CIKLIN: Yes.

CHAIRPERSON HYMAN: Is that Main Street?

MR. CIKLIN: Yes. This is called Main

Street, and then this is also a main street, if -- if you will.

CHAIRPERSON HYMAN: And those are just pedestrian streets?

MR. CIKLIN: No.

MR. ROGERS: No.

CHAIRPERSON HYMAN: No.

MR. CIKLIN: They are not.

CHAIRPERSON HYMAN: Okay. So --

MR. CIKLIN: And -- but in addition to parking in front of all of the facilities here, which is what I like to do, for the theater in this particular area you also have a parking garage, and if parking becomes a problem, a future parking garage here (indicating).

This is the Whole Foods type of grocery here. So at some point in time if additional parking is required, the parking garage would be added here.

CHAIRPERSON HYMAN: And what kind of signage did we give the project?

MR. CIKLIN: It's been -- it's very highly regulated, and as a matter of fact one of the conditions we're still attempting to work out is-- to show you how highly it's regulated. There's a bus stop over here someplace (indicating), and we wanted to put Delray Marketplace Stop, makes sense, so you know when you get off the bus where you are.

Staff and I are -- or not I, Bill Whiteford and staff are grappling over whether it should say Delray Marketplace or just bus stop.

So believe me when I tell you, the signage in this project is highly regulated. It's real highly regulated.

CHAIRPERSON HYMAN: Don.

COMMISSIONER DUFRESNE: Alan, when you add another floor of residential that's going to be using that parking garage, do you need to add any height to the parking garage?

MR. CIKLIN: Yes. The parking garage also will be elevated, not to the same height, so that you're -- you'll be able to have the walkway across it. The two yellow areas are where the height is being increased, no place else.

COMMISSIONER DUFRESNE: I'm sorry. I didn't understand that. Okay. Thanks.

CHAIRPERSON HYMAN: Okay. Any other questions, comments?

(No response)

CHAIRPERSON HYMAN: Is anyone here from the public here to speak on this item?

(No response)

CHAIRPERSON HYMAN: Okay.

VICE CHAIRMAN BARBIERI: Madam Chair, recommend approval of an official zoning map amendment from the General Commercial zoning district to the Agricultural Residential [sic] Traditional Marketplace Development zoning district.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

VICE CHAIRMAN BARBIERI: Recommend approval of a development order amendment to add land area, reconfigure master plan and modify conditions of approval

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: It's unanimous.

VICE CHAIRMAN BARBIERI: Motion to adopt a resolution approving a Type II zoning variance to allow a variance from the maximum building height and to allow less than 50 percent arcaded sidewalk along the primary frontage to not be contiguous.

COMMISSIONER KAPLAN: Second.

MS. KWOK: Excuse me. There's a revised motion on the last motion, and I apologize, Frank, and --

VICE CHAIRMAN BARBIERI: Okay. I'll reread it.

MS. KWOK: First time doing the variance applications. We'll get all the motions right next time.

VICE CHAIRMAN BARBIERI: No problem.

MS. KWOK: This is -- you got everything right except the last one, which is on the add/delete, is to eliminate the contiguous length of a Main Street Primary Frontage.

VICE CHAIRMAN BARBIERI: I see it.

CHAIRPERSON HYMAN: Redo that one.

MS. KWOK: We apologize for that.

VICE CHAIRMAN BARBIERI: Okay. I'll reread it. To adopt a resolution approving a Type II zoning variance to allow a variance from the maximum building height to eliminate contiguous length of a Main Street Primary Frontage.

COMMISSIONER KAPLAN: Second.

CHAIRPERSON HYMAN: All those in favor.

COMMISSIONERS: Aye.

CHAIRPERSON HYMAN: Opposed.

(No response)

CHAIRPERSON HYMAN: Unanimous.

I thought staff you did a great job with those variances and look forward to next meeting.

Alan, thank you.

MR. CIKLIN: Thank you very much, and Happy New Year to everyone.

CHAIRPERSON HYMAN: Happy New Year to you. We're adjourned.

(Whereupon, the meeting was concluded at 12:06 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. 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 4 through 83, inclusive, comprise
a true and correct transcription of the Zoning
Commission 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 30th day of January, 2007.

Sophie M. Springer, Notary Public