

**ZONING COMMISSION  
OF PALM BEACH COUNTY**

Thursday, February 7, 2008  
9:05 a.m. - 12:10 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**

Frank Barbieri, Jr., Chairman  
William F. Anderson, Vice Chairman  
Alexander Brumfield, III, Commissioner  
Allen Kaplan, Commissioner  
Sherry L. Hyman, Commissioner  
Kelley Armitage, Commissioner  
Al Zucaro, Commissioner  
Richard E. Bowman, Commissioner

Verdenia Baker, Asst. County Administrator

Barbara Alterman, Ex. Director of PZ&B

Bob Banks, Assistant County Attorney

Jon Mac Gillis, Zoning Director

Maryann Kwok, Chief Planner

Wendy Hernandez, Zoning Manager

Ora Owensby, Site Planner II, Zoning

Ron Sullivan, Senior Site Planner, Zoning

Carrie Rechenmacher, Senior Site Planner, Zoning

Douglas Robinson, Site Planner II, Zoning

Carol Glasser, Site Planner II, Zoning

Autumn Sorrow, Senior Site Planner, Zoning

Joyce Lawrence, Site Planner II, Zoning

Sandra Gonzalez, Site Planner II, Zoning

Andrea Harper, Site Planner II, Zoning

Bryce Van Horn, Senior Planner, Planning

Patrick Rutter, Chief Planner, Planning

Ken Rogers, Dir., Land Development Division

Nick Uhren, Sr. Professional Engineer, Traffic Division

Jim Choban, Land Development

Kenny Wilson, Health Department

Bob Kraus, ERM

Michael Owen, School Board Rep.

Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

CHAIRMAN BARBIERI: Would you be seated please, we'll get seated.

Would the staff take roll, please.

MR. Mac GILLIS: Commissioner Bowman.

COMMISSIONER BOWMAN: Here.

MR. Mac GILLIS: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MR. Mac GILLIS: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: Present.

MR. Mac GILLIS: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MR. Mac GILLIS: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MR. Mac GILLIS: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MR. Mac GILLIS: Commissioner Zucaro.

COMMISSIONER ZUCARO: Here.

MR. Mac GILLIS: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MR. Mac GILLIS: We have a quorum.

CHAIRMAN BARBIERI: All right.

The record should reflect that we have six regular zoning commissioners present. So Commissioner Armitage will be a voting member today, and Commissioner Bowman will be participating without a vote.

Would everybody please rise for the Pledge of Allegiance and the opening prayer.

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

CHAIRMAN BARBIERI: The Zoning Commission of Palm Beach County has convened at 9:05 a.m. in the Jane M. Thompson Memorial Chambers, 6<sup>th</sup> Floor, 301 North Olive Avenue, West Palm Beach, Florida, to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments, Type II Variances 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 at 301 North Olive Avenue, West Palm Beach, Florida, in the Jane M. Thompson Memorial Chamber, 6<sup>th</sup> Floor, at 9:30 a.m. on Thursday, February 28th, 2008, to take final action on the applications we will be discussing today.

Zoning hearings are quasi-judicial and must be conducted 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 the 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.

Staff, do we have proof of publication?

MR. Mac GILLIS: Yes, Mr. Chair.

CHAIRMAN BARBIERI: We need a motion to receive and file.

COMMISSIONER HYMAN: So moved.

COMMISSIONER KAPLAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Hyman, seconded by Commissioner Anderson.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6 -- or 7-0.

We have a new commissioner with us this morning. We welcome Commissioner Al Zucaro as a new member of the Zoning Commission and glad to have you here.

Would you please stand and be sworn in by the Assistant County Attorney.

(Whereupon, Commissioner Zucaro was sworn in by Mr. Banks as a Zoning Commission member.)

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: Those of you that wish to speak today would you please stand and be sworn in by the Assistant County Attorney.

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: All right. Do we have any disclosures, starting with Commissioner Kaplan?

COMMISSIONER KAPLAN: Yes, Mr. Chairman. On Item 22, ZV2007-1772, I spoke to one of the petitioner's agents.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: I spoke -- oh, sorry.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: Yes. I was -- I had two conversations, actually, on the Arrigo Dodge matter for the flagpole.

One was with staff on Tuesday of this week, and the other was with representatives of the applicant, but not the applicant himself.

CHAIRMAN BARBIERI: Okay. Commissioner Hyman.

COMMISSIONER HYMAN: I had a discussion with petitioner's representative on Item No. 18,

Aspen Square, and also on 22, the Arrigo Dodge.

CHAIRMAN BARBIERI: Commissioner Bowman.

COMMISSIONER BOWMAN: Twenty-two, Arrigo Dodge, is the only ones I had.

CHAIRMAN BARBIERI: Commissioner Armitage.

COMMISSIONER ARMITAGE: No disclosures.

CHAIRMAN BARBIERI: Commissioner

Anderson -- I'm sorry, Commissioner Brumfield.

COMMISSIONER BRUMFIELD: No disclosures.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: No disclosures.

CHAIRMAN BARBIERI: I have had discussions with both the petitioner in Aspen Square and staff with respect to Item 18, DOA/TDR2007-1398.

CHAIRMAN BARBIERI: All right. Staff, that'll take us to the postponement section of the agenda.

MR. Mac GILLIS: Beginning on Page 2 of your agenda, Item No. 1, ZV2007-1177, Fitzgerald, postponed 30 days to Thursday, March 6th, 2008.

We do not need a motion. This is by right.

CHAIRMAN BARBIERI: Okay.

MR. Mac GILLIS: Next --

CHAIRMAN BARBIERI: Is there anybody -- is there anybody here to speak on ZV2007-1177, the first item on the agenda?

(No response)

CHAIRMAN BARBIERI: All right.

MR. Mac GILLIS: Next item is two, Z/DOA/CA2007-1185, Winners Church, postponed 30 days to March 6th, 2008.

Once again, this is by right. We don't need a motion.

CHAIRMAN BARBIERI: Is there anybody here to speak on Item 2, Z/DOA/CA2007-1185?

Yes, ma'am. Would you please come up to the microphone.

This is a -- this is a request by the

petitioner to postpone this for 30 days. We have no -- we have no alternative but to allow that to happen.

MS. COSS: Yes, sir. I don't have a problem with that.

First I'd like to say my name is Janell Coss, and thank you for listening, and this lady told me you were going to postpone it, but I'm here to oppose the Pioneer Road access that they're requesting.

Jog Road, they can do anything they want. Pioneer Road's a problem. I'll come back March 6<sup>th</sup> and oppose at that point.

CHAIRMAN BARBIERI: You might want to also speak with staff ahead of time, and maybe meet with the petitioner so you can see if there's any way to reconcile your differences before the Zoning Commission --

MS. COSS: Well, they haven't been forthwith.

We don't know what they're doing.

CHAIRMAN BARBIERI: All right.

MS. COSS: We just got a thing in the mail. They put up the signs. I'm here.

CHAIRMAN BARBIERI: Okay. So you probably should meet with -- try and meet with them ahead of time. Get -- work through staff, and they'll put you in touch.

MS. COSS: Well, you're a nice man. Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Probably the only time anybody's going to say that today.

Next.

MR. Mac GILLIS: Item 3, PDD2006-1682, 112<sup>th</sup> Northlake Office, postponed 30 days to March 6th, 2008.

CHAIRMAN BARBIERI: All right. Is there anybody --

MR. Mac GILLIS: We need a motion on this one.

CHAIRMAN BARBIERI: Is there anybody here to speak on Item 3, PDD2006-1682?

(No response)

COMMISSIONER KAPLAN: Not hearing anyone in opposition from the public, Madam -- Mr. Chair, I move to adjourn it to March 6th, 2008.

That's PDD2006-1682.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: All right. The motion was made by Commissioner Kaplan, seconded by Commissioner Anderson.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Brings us to Page 3 of your agenda, Item No. 4, PDD/TDR/R2007-1407, Carlyle CLF, postpone 30 days to March 6<sup>th</sup>.

I believe we need a motion on this one.

CHAIRMAN BARBIERI: All right. That's Item 4?

COMMISSIONER HYMAN: It's administratively postponed.

MR. Mac GILLIS: Yes.

COMMISSIONER HYMAN: Okay.

MR. Mac GILLIS: Is there anybody here to speak on Item 4, PDD/TDR/R2007-1407?

(No response)

COMMISSIONER KAPLAN: Not hearing any members of the public in opposition, I move to postpone to 30 days, March 6th, 2008 --

COMMISSIONER HYMAN: Do you need a motion for that?

CHAIRMAN BARBIERI: Yes.

MR. Mac GILLIS: Yes, we do.

COMMISSIONER KAPLAN: -- PDD/TDR/R2007-1407.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, second by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.



MR. Mac GILLIS: Item 5, ZV/PDD/R2007-1592, Jupiter RV Resort RVPD, postpone 30 days to March 6th, 2008.

This is -- no motion required.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 5, ZV/PDD/R2007-1592?

(No response)

CHAIRMAN BARBIERI: All right. That one's been postponed for 30 days to Thursday, March 6<sup>th</sup>.

MR. Mac GILLIS: Page 4 of your agenda, Item 6, ZV2007-2016, Marquez-Jones PUD, postponed 30 days to March 6th, 2008 by right.

We don't need a motion.

CHAIRMAN BARBIERI: Anybody here to speak on Item 6, ZV2007-2016?

(No response)

CHAIRMAN BARBIERI: All right. That's been postponed 30 days to Thursday, March 6th, 2008.

MR. Mac GILLIS: We have one item for withdrawal, Item 7, ZV2007-1422, Chick-Fil-A.

We don't need a motion on this item.

CHAIRMAN BARBIERI: Anybody here to speak on ZV2007-1422?

(No response)

CHAIRMAN BARBIERI: Okay. That motion -- that petition has been withdrawn.

MR. Mac GILLIS: This will bring us to the consent agenda, beginning on Page 5, Item No. 8.

This is a subdivision variance, SD-135.

Staff is recommending approval of this subdivision variance. It's found on Page 6 through 8 of your backup material.

There is one motion.

We'd ask the applicant to come to the podium to agree to any conditions on this item and state their name for the record.

CHAIRMAN BARBIERI: All right. Mr. Perry.

MR. PERRY: Marty Perry, for the record, and I agree.

Thank you.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item No. 8?

(No response)

COMMISSIONER HYMAN: Move for approval of the resolution approving the Type II subdivision variance, allow the access to the proposed subdivision lots via a major street through a common driveway, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All right. Motion made by Commissioner Hyman, second by Commissioner Kaplan.

Any discussion.

(No response)

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. PERRY: Thank you.

MR. Mac GILLIS: Item 9, ZV2007-1403, Maher Residence, found on Page 9 through 12 [sic]. There's four conditions found on Page 17.

Staff is recommending approval of this Type II variance for reduction of side interior setbacks.

CHAIRMAN BARBIERI: Good morning. Would you state your name for the record, please.

MS. MAHER: My name is Alina Maher.

MR. MAHER: Daniel Maher.

CHAIRMAN BARBIERI: And do you agree with all the conditions that staff has requested?

MS. MAHER: Yes, we do.

MR. MAHER: Yes.

CHAIRMAN BARBIERI: Is there anybody here to speak on Item ZV2007-1403?

(No response)

COMMISSIONER HYMAN: I move approval of the resolution approving the Type II zoning variance to allow the reduction of the side interior and rear setback.

I've been there.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Subject to the conditions.

CHAIRMAN BARBIERI: Subject to the conditions.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. MAHER: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Next item is 10, DOA2007-2044, Delray Marketplace TMD, Pages 23 through 44. Staff is recommending approval, subject to no conditions.

There's one motion on this item.

CHAIRMAN BARBIERI: Mr. Whiteford. Good morning.

MR. WHITEFORD: Good morning. Good morning, nice to see everyone again.

The next three items are actually related, 10, 11 and 12, and the conditions are acceptable, and we appreciate your item on consent.

COMMISSIONER HYMAN: Let's just take all three together and see if anybody's here for any of --

CHAIRMAN BARBIERI: Is there anybody here to speak on Items 10, 11 or 12?

(No response)

COMMISSIONER HYMAN: Okay. I'm going to move approval of the development order amendment to delete the land area for 2007-2044.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Any discussion -- I'm sorry.

The motion was made by **Commissioner Hyman**,  
seconded by Commissioner Kaplan.

Discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: I'm going to  
recommend approval of the zoning map amendment for  
the Traditional Marketplace Development,  
Preservation Area, Zoning District to the  
Agricultural Reserve Planned Unit Development,  
Preservation Area, Zoning District --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to the  
conditions.

CHAIRMAN BARBIERI: Motion made by  
**Commissioner Hyman**, seconded by Commissioner  
Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: That was for  
PDD/DOA2007-1610.

So is the next motion for approval of a  
development order amendment to add the land area  
and delete land area.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by  
**Commissioner Hyman**, seconded by Commissioner  
Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: For TDD/DOA2007-1606  
I move for approval of the official zoning map  
amendment from the Agricultural Reserve Planned  
Unit Development, Preservation Area, to the  
Traditional Marketplace Development, Preservation  
Area, Zoning District, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by  
**Commissioner Hyman**, second by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move for approval of  
the development order amendment to add the land  
area.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made again by  
**Commissioner Hyman**, second by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. WHITEFORD: Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank  
you.

MR. Mac GILLIS: Next item is found on  
Page 7, Item 13.

We've had a request this morning to pull  
this item and move it to the regular agenda,  
Square Lakes North, so we've informed the  
applicant of that, so --

CHAIRMAN BARBIERI: Okay,

COMMISSIONER HYMAN: Let's move it to the  
end of the agenda.

MR. Mac GILLIS: Okay.

MR. Mac GILLIS: That'll bring us to Item 14, PDD/2007-731, Cypress Point MUPD, Pages 152 through 194.

Staff is recommending approval of this request, subject to 22 conditions found on Pages 187 through 191.

CHAIRMAN BARBIERI: Is there anybody here to speak on Item 14, PDD2007-731?

(No response)

CHAIRMAN BARBIERI: All right.

COMMISSIONER HYMAN: Move approval of the --

MR. Mac GILLIS: I'm sorry. There's an add and delete agenda. There's amendments to the landscape and sign conditions, and also this morning Engineering requests to add a new Engineering condition in.

CHAIRMAN BARBIERI: All right.

Mr. Kilday, do you agree with all the conditions?

MR. KILDAY: I agree. I think the Engineering condition's just a modification to change one word from "by" to "from" regarding getting a permit, and that's acceptable.

CHAIRMAN BARBIERI: Okay. I'm getting a wink from Engineering that that is indeed the case, so if there's nobody here to speak from the public, we're ready for a motion.

COMMISSIONER HYMAN: I'm going to move approval of the official zoning map amendment from Light Industrial Zoning District to Multiple Use Planned Development District --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to all the conditions as modified.

CHAIRMAN BARBIERI: Motion was made by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KILDAY: Thank you.

MR. Mac GILLIS: Item 15, ZV2007-2002, Rosso Paving, found on Page 195 through 203.

Staff is recommending approval, subject to three conditions found on Page 202.

This is a Type II variance to replace a six-foot wall with a six-foot fence.

CHAIRMAN BARBIERI: The church man. Good morning.

MR. McGINLEY: Yes. Good morning. Kevin McGinley.

We agree to the conditions. There will be no religious items on the fence.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on Item 15, ZV2007-2002?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving Type II zoning variance to allow the replacement of the required six-foot wall with a six-foot fence --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- under the conditions and subject to the conditions agreed to.

CHAIRMAN BARBIERI: Motion made by Commissioner Hyman, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. McGINLEY: Thank you.

MR. Mac GILLIS: Brings us to Page 8, Item 16, ZV2007-2007, Lewis Property, found on Page 204 through 219.

Staff is recommending approval, subject to one condition found on Page 210.

This is a Type II variance to allow a reduction of the lot size and the reduction in lot depth.

CHAIRMAN BARBIERI: I guess -- I don't know if I asked you. We all know who you are, but I don't know if you stated your name for the record.

MR. McGINLEY: Yes. Kevin McGinley, and agree to the condition.

CHAIRMAN BARBIERI: Great.

Is there anybody here from the public to speak on ZV2007-2007?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving two Type II zoning variances

to allow the reduction in lot size and reduction in lot depth, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All right. Motion made by Commissioner Hyman, second by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. MCGINLEY: Thank you.

MR. Mac GILLIS: Item 17, PDD/R2007-877, Bethesda West Hospital, found on page 220 through 246.

Staff is recommending approval, subject to 27 conditions found on Pages 235 through 240.

This is --

CHAIRMAN BARBIERI: All right.

MR. Mac GILLIS: This is a requested use to allow a hospital.

There is a new Engineering and Architecture condition that I believe staff handed that out this morning. It was a memo from the agent.

CHAIRMAN BARBIERI: Okay. Mr. Kilday.

COMMISSIONER HYMAN: I didn't see that.

MR. KILDAY: Thank you. My name's Kieran Kilday, and it's got our letterhead on top, and you should all have a copy of it.

COMMISSIONER HYMAN: I didn't get it. Oh, somebody's hoarding it down here.

MR. KILDAY: Yeah, these -- these are minor amendments regarding timing for when we submit our architectural plans, some minor landscape changes and update. There were some typos on the phasing requirements of roadway.

And the conditions are all acceptable, including these changes that staff's reviewed.

MR. Mac GILLIS: All right. Staff has reviewed them and agrees.

CHAIRMAN BARBIERI: Okay. I have a card from Roland Yee.

Mr. Yee, would you please come up, tell us your name and address for the record, please.

MR. YEE: Yes, sir. For the record, Roland Yee, 9851 West Boynton Beach Boulevard, Boynton Beach, Florida.



Mr. Chair, members of the Commission, I appreciate this opportunity to speak before you today.

I'm a third generation farmer in the State of Florida and in this area. My folks have been farming in this area in the Ag Reserve --

COMMISSIONER HYMAN: Can I -- can I suggest something? You have a presentation that you want to make against the project?

MR. YEE: No, I do not, but --

COMMISSIONER HYMAN: Oh.

MR. YEE: -- but I have words to say, and I'm in support of the project, but some issues that may arise in the future that I want to make public and place it on record.

COMMISSIONER HYMAN: Do you want -- 'cause we can pull it off the consent agenda and have a discussion about this afterwards.

CHAIRMAN BARBIERI: Yeah, this is -- this is on consent. Typically we don't take public input on consent items. We move them to the regular agenda.

So we can do that if you have some lengthy discussion you'd like to --

MR. YEE: I don't think it's lengthy discussion. It'd probably just take all of a minute, minute and half --

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: All right. Go ahead.

MR. YEE: -- to be honest with you.

COMMISSIONER HYMAN: Sorry I interrupted you. Go ahead.

MR. YEE: No problem.

But as I was saying, I'm a third generation farmer. I've been -- we've been in this area in the Ag Reserve for over 35 years now.

We cater to both domestic and international customers, domestically, specifically local customers so -- which puts our area or our shipping facility, which is adjacent to the proposed site for Bethesda Hospital, very strategically located.

We are wholesale, so most of our product is transported by truck and trailer.

That being said, we do not oppose the location of the hospital; however, I just want to go on public record, as I mentioned, that we do work late hours to 2:00, 3:00 o'clock in the morning many a times, and it gets quite noisy, and I just want to prevent future issues that may arise regarding the hours of operation or any excessive noise due to the standard agricultural operation practices.

COMMISSIONER HYMAN: Okay.

MR. YEE: That's all I have. Thank you.

COMMISSIONER HYMAN: Thank you.

CHAIRMAN BARBIERI: Okay.

Kerry, is your -- is your employer aware of these issues and --

MR. KILDAY: Yeah, we're well aware of Mr. Yee's packing plant and just -- just so you -- so you have the benefit of knowing, it exists right

here (indicating). It's an outparcel, and then there's two other small outparcels.

The actual hospital facility is going to be a significant difference away.

This building, which would be the closer, as well as some additional area that could have more, would be medical office buildings which would generally not be open at that time of day.

CHAIRMAN BARBIERI: All right. Great.

MR. KILDAY: But we appreciate taking note of the fact.

CHAIRMAN BARBIERI: Is there anybody else here to speak on Item No. 17?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of the official zoning map amendment from Agricultural Reserve Zoning District to the Multiple Use Planned Development Zoning District, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion was made by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move for approval of the requested use to allow the hospital and is subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion again made by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KILDAY: Thank you.

MR. Mac GILLIS: Next item is Item 20, found on Page 10 of your agenda that's on your add and delete, it's DOA2007-1600, Aberdeen PUD, found on Page --

COMMISSIONER HYMAN: Where is that?

MR. Mac GILLIS: Item 20.

COMMISSIONER HYMAN: What happened to 18 and 19?

CHAIRMAN BARBIERI: Twenty's gone to consent, moving.

COMMISSIONER HYMAN: You're moving it on to the consent?

MR. Mac GILLIS: Yeah.

COMMISSIONER HYMAN: Oh, okay. Right. Okay.

MR. Mac GILLIS: Pages 293 through 324. Staff is recommending approval, subject to 77 conditions found on Page 305 through 319.

This is a development order amendment to add land area.

CHAIRMAN BARBIERI: Good morning.

MR. MILLER: Good morning. Bradley Miller, Miller Land Planning Consultants, here.

We're in agreement with the recommendation.

CHAIRMAN BARBIERI: All right. Is there anybody here from the public to speak on Item 20, DOA2007-1600?

(No response)

COMMISSIONER HYMAN: Move approval of a development order amendment to delete the land area, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Hyman, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Twenty-one is a companion application to 20. This is the Z2007-1598, Park Vista Place, Pages 325 through 346.

There's 21 conditions. Staff is recommending approval.

There's one motion on this item.

CHAIRMAN BARBIERI: All right.

MR. MILLER: Again, for the record, Bradley Miller, Miller Land Planning Consultants.

We're in agreement with that.

As of late last night there's some additional conditions that have been requested by

COWBRA to implement some of their criteria from their design guidelines which we've provided to staff. We're in agreement with those.

The other thing they asked me to put on the record is that we meet with them between now and the BCC to show them a more detailed landscape plan and a more detailed signage plan, which we'll do.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 21, Z2007-1598?

(No response)

COMMISSIONER HYMAN: Going to move approval of official zoning map amendment from Agricultural Residential Zoning District and Single Family Residential with a special exception for a Planned Unit Development Zoning District to the Institutional Public Facility Zoning District, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made, Commissioner Hyman, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. MILLER: Thank you.

COMMISSIONER HYMAN: Staff, did you notice that there's like a screw-up with the pages?

MR. Mac GILLIS: Yeah.

COMMISSIONER HYMAN: Okay.

MR. Mac GILLIS: I'm sorry. Just noticed that.

COMMISSIONER HYMAN: All right.

MR. Mac GILLIS: That concludes the consent agenda, will bring us to Page 9 of your agenda, the regular agenda, which will begin with Item 18, DOA/TDR2007-1398, Aspen Square PUD, found on Page 247 through 276.

There are actually 33 conditions, not 28 as indicated on the agenda, found on Page 263 through 270.

There are three motions on this item.

Autumn Sorrow, senior planner, will give you a brief presentation.

CHAIRMAN BARBIERI: Good morning.

MS. SORROW: Good morning. For the

record, Autumn Sorrow with the Zoning Division, to hear application DOA/TDR2007-1398.

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

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

The applicant states that since the approval of the original townhome project there has been an increased need for workforce housing in Palm Beach County, and the recently adopted Workforce Housing Bonus Density Program allows the opportunity for projects such as this to provide rental units to the workforce of Palm Beach County.

The 11.5-acre site is located approximately half-mile south of Lake Ida Road on the west side of Sims Road, which is north of Atlantic Avenue.

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

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

The preliminary master plan provides for six multi-family buildings, a 1.5-acre lake tract, a half-acre private civic site and a recreation pod.

There are a total of 385 parking spaces and 43 guest parking spaces. Access to the site is from the west side of Sims Road.

Staff recommends approval of this petition subject to 33 conditions of approval.

Staff has received 208 letters in opposition to the project and 14 letters in support of the project.

At the January 4th, 2008, Zoning Commission hearing the ZC postponed this item to have the applicant address the residents' concerns regarding traffic, density, and the resultant nuisances.

The applicant has since met with the nearby residents.

This concludes my presentation. I'll be happy to answer any questions.

CHAIRMAN BARBIERI: Okay. Thank you.

Any questions for staff before we get started?

(No response)

CHAIRMAN BARBIERI: Mr. Ciklin, good morning.

MR. CIKLIN: Yes, sir. Good morning. My name's Alan Ciklin, representing the applicant. Ken Tuma and Wendy Tuma are here from Urban Design Studio to answer any questions about the site plan.

Brad Morton, the -- representing the

developer, is here. Kyle Duncan, Rob Renenbaum (ph), from Simmons and White to address any traffic issues.

The matter was before you last month, and it was postponed, I guess in addition to giving us the opportunity to meet with residents, which was done, but also because I think we lost a quorum. and it was January, people were on vacation.

I'm going to give you a brief overview of the project, and then Ken Tuma's going to fill in the blanks and provide some more specifics.

It's a 171-unit rental project, and it includes 62 workforce housing units.

As you probably know from the staff report and from hearing the discussion in the past about workforce housing, these units are guaranteed by a deed restriction for 25 years, and the income level that it provides housing opportunities for includes teachers, fire and policemen, and when Ken and I were discussing this yesterday, and most of the people that work in our respective offices.

So this is not a -- not low income housing. It's not anything like that. It's workforce housing for people like that.

Even though this project is a workforce housing project, it has not skimped on amenities.

It's -- you'll see from Ken's presentation it's really a first class development.

In the center of the project is a two and a quarter-acre lake, and all of the buildings surround the lake. It has a lot of amenities like luxury rental apartments have, including accessory garages, accessory storage areas, a rec center and a pool and quality architecture on all sides, and, of course, what that means is you don't get the blank wall in the back and the nice stuff in the front. It's the same architecture all the way around.

By reviewing the staff report you will see that staff is recommending approval, and the reason they're doing that is because the project meets all of the code requirements for an approval, including consistency with the Comp Plan, consistency with land development regulations, a finding that it's compatible with the surrounding uses, and I should note about compatibility.

This is a graphic that Ken's going to share with you a little more in a moment, but this is the project right here, Sims Road, Atlantic, Lake Ida, and, you know, not to be trite, but a picture often is worth a thousand words, and it becomes very clear that this project is surrounded by already built and constructed units.

The one thing you'll find with this project is, because it goes up, rather than out, it's able to have more open space and the two and a quarter acre lake in the middle.

In addition, one of the other findings in the staff report, of course, is that concurrency requirements are made. The original traffic study was performed.

It met concurrency requirements, satisfied traffic performance standards, but in the interim, which we'll also tell you a little about in a moment, we did some additional traffic studies to count the cars leaving and entering Sims Road onto Atlantic, and the results of that study were also positive, and no further improvements are necessary.

I should add, however, the improvements that were conditions of approval on the original project that was approved remain intact, so nothing that was promised the first time around is falling by the wayside here.

And, finally, as far as the findings, there are, as you know, exemplary PUD project standards, and staff has found that this meets those.

Often I know several of you have looked at those and said, you know, big deal. This doesn't look so exemplary to me, but in this particular case I think you'll see from the site plan presentation by Ken that it really does have some features that are only found in upscale luxury rental facilities.

As staff has indicated, during the interim between January and this public hearing, there were -- was a meeting held with the area residents.

Immediately after the meeting the developer and the site planners tried to schedule a meeting with several of the residents, and they were rebuffed -- at first rebuffed in that effort. I don't know why that would happen, but it in fact happened.

With Commissioner Aaronson's assistance a meeting was held in his office, and there were some concessions made by the developer to mitigate perceived impacts on the project, and we thought we had an agreement as a result of that meeting, and, unfortunately, I guess that was not the case.

Having said that, however, the developer made those commitments, and notwithstanding the fact that apparently there isn't an agreement anymore, the developer is still going to live up to those extra conditions.

Just in closing before I introduce Ken, you know, I guess this is the season for polls, and everybody's taking polls with the candidates, who do you like, what don't you like, how do you feel about this or this, that or the other thing.

And it's interesting about affordable housing projects in that context, and I suppose -- I'm guessing, this is just my speculation, but if you took a poll of residents in Palm Beach County and even the residents in this particular area, and the question was should Palm Beach County encourage workforce housing for that income group including teachers, firemen and policemen, I'm guessing that the results would be a very overwhelming yes.

And if you included in that poll whether or not it was appropriate or a good thing to

assist teachers to remain in Palm Beach County and not have to commute from Port St. Lucie or other such places, again, I think the answer would be an overwhelming yes.

And if you asked the same question, should the Board of County Commissioners offer incentives to developers in order to provide workforce housing, the question, I think, would probably be answered by a yes.

And it's also interesting that suddenly turns to a no when you say well, thank you for your vote, but we're going to be placing it near you. Then all of a sudden everybody says well, on second thought, you know, I'm not so sure, and they use a variety of reasons, some -- most of them are really unspoken.

But it's really a vote against affordable housing because the concept is really -- people don't have a lot of confidence in what it really means, and they want -- they then say yes, I'm in favor of it, but they want to put it in that place in the community that we all know, and it's always identified as "someplace else," and, unfortunately someplace else doesn't really exist because it's in somebody else's community.

I think you're going to find from the presentation that, one, we meet all the requirements for this; two, that it truly is a quality project; and, three, it really does make a significant contribution to affordable housing, 62 units.

A lot of the ones you see, you'll see four, you'll see five. They don't make any sense because they're in a development that otherwise is way beyond the affordable housing means of the resident, but this does make a dent, and we're very proud of it, and I think staff agrees that we meet all the requirements.

So having said that, Ken Tuma's going to take you through the site plan, and then we'll answer any questions. I just would like a few minutes for a rebuttal if that becomes necessary.

Ken.

MR. TUMA: Thank you. For the record, Ken Tuma, with Urban Design Studio. It'll be a very short presentation. I'll move very quickly through this.

First thing, we're in agreement with staff on all the conditions of approval, and we want to thank everyone for helping out -- that wasn't me -- want to thank everyone for helping us work through this process and moving forward quickly.

The requested action today, very short, we're requesting a development order amendment, we're transferring development rights in the receiving area, and we're reducing -- and a reduction of the TDR cost.

This slide shows the subject site and its location, just so everyone could have the opportunity. I know some of you weren't here last time.

The site is located north of Atlantic



Avenue, west of Sims Road and south of Lake Ida. It's 11.85 acres.

Here's a blow-up of that site, and to the east is a community known as High Point, and to the west is a community known as High Ridge -- Aspen Ridge, I'm sorry.

One of the interesting things about the area is the subject area is the land use for that entire area.

If you take a look at this, this subject site is HR-8, or high residential, eight dwelling units an acre, and all the surrounding area, all the area in blue, is HR-8, so the County's vision for this area has been high residential density for a long time.

A quick look at the site plan. Again, it's 11.85 acres. It's 171 units. Sixty-two are workforce housing, and 109 are market rate.

The interesting thing about this project is the TDR -- is the density count, and we can walk through the density count a little bit later through the presentation, but what we do -- how you get the workforce housing is you go to the County and you ask a question, what type of density is allowed on the subject site.

We went to the County, worked with the County planning staff and came up with the workforce units on this project.

Be more than happy to walk through that with you later on or with staff. It's a pretty complicated calculation.

Here is the actual site plan, and just so you can see, the first thing you'll notice when you look at the site plan, of course, as Alan had mentioned, is a lake. It's 2.25, and the lake's kind of a key amenity to this project.

Some of the key elements here, northbound on Sims Road is a left turn lane that was previously approved with the earlier approval, and the access point into the subject site, again, was also previously approved, but you'll notice there'll be a left turn northbound lane built by the developer.

And then you'll access into the project into this cul-de-sac. It's landscaped, and it terminates on the clubhouse fitness facility. The clubhouse fitness facility will also be the leasing center for the area.

Then you'll notice there are six three-story buildings wrapping the entire site. Those six three-story buildings are a mix of 27 and 30-unit buildings, one to three-bedroom apartments, and we'll go through the architecture on the next slide.

You'll also -- working your way around the site you'll notice that there are four 16-car -- four 16-car garages for additional outside parking, which are -- these are full garages, and then in this corner of the site there is a storage facility, so it's extra storage facility for everyone in there.

As you work your way around the site,

you'll notice that there's pedestrian gathering areas and also fountain areas around the site, and then you work your way to the northern part of the site, another parking -- another parking facility and then also a tot lot and pool facility.

And you work over here. On this part of the site is where the bus stop -- the schoolbus stop is. At one time in the project we also had the PalmTran stop located in that area, but at suggestion of the residents during a residents meeting we were able to have the PalmTran stop relocated to the south end of the entranceway; however, the schoolbus stop still requested to stay north of the entranceway.

Again, Alan had mentioned some -- had mentioned some of the exemplary features, including four-sided architecture, fountains in the lake, landscaping, tot lot and upgraded units.

Very quickly, here's the architecture. As you can see, it's four-sided with balconies. It has a lot of articulation built in and out. It has different structures wrapping it, and it's actually been very well done, and it's a three-story flat over flat process -- three-story flat over flat.

One of the other questions from the residents is what's it going to look like along Aspen -- along Sims Road. Here you can see an elevation of the landscape architecture proposal along with the upgraded landscape architecture proposal along Sims Road.

So I guess the big thing is what's workforce housing. Alan went over it in detail, so I'll zoom through it very quickly, but the interesting thing, and this is a mandatory and it's an incentive-based program adopted by you and the Board of County Commissioners in 2006.

It provides income [sic] for people from 60 to 150 percent of the median income. Currently the median income of Palm Beach County is \$61,000, so basically that means from roughly \$35,000 to \$90,000 is the income level of people who will be living in these workforce housing units.

The maximum rent range in this market is 1200 to \$2100 per month.

It's deed restricted for 25 years. What a great restriction. If you really think about the market cycles up and down, this is visionary to allow to last for a full 25 years.

What it's not, it's not bond financing. It's not tax financing. It's not HUD financing. It's a developer providing workforce housing for residents.

Who lives here? Of course, our teachers, our policemen and our firemen.

So, in summary -- in summary we're proposing a great project here in Palm Beach County. We're really looking forward to moving forward. We have a whole team gathered here to answer any questions that you want, and I guess we've actually -- this is an important thing because we have finally found a place where

somewhere else is.

This is the right location for this project. It's always been the County's vision for this area, and we look forward to your approval today.

CHAIRMAN BARBIERI: All right. Thank you. Staff, do you have anything to add before we go to the public?

MR. Mac GILLIS: No, Commissioner.

CHAIRMAN BARBIERI: All right. We have numerous cards. I think we have 20-some cards of people that would like to speak.

We're going to take them in the order that you asked us to take them. We're going to limit you to two minutes each so that we can get through the agenda today. Even with the two minutes it's going to take us over an hour to hear all of you speak to us.

We ask that if you come up and you want to say something that the person before you has already said, that you don't repeat it. You just please tell us that you're in agreement with the other comments.

And we'll start with Jane West. I believe you're the attorney representing the group?

MS. WEST: This is correct. Jane West from Collins, West, on behalf of Sims Road Alliance, and if -- I actually am going to speak very quickly, but if I could please be allowed enough time to finish my presentation --

CHAIRMAN BARBIERI: Okay. Sure.

MS. WEST: -- I'd appreciate it.

First and foremost I want to say that none of my clients here have an objection to the development of this site. They welcome development. They welcome workforce housing. They are workforce. Okay. So I want to make it very clear that there is no NIMBY-ism going on with the concept of workforce housing.

The question is, is whether it's a smart decision in terms of density for this particular site.

What's being proposed here is 171 multi-family units on 11.85 acres. The standard density allowed for this tract is 94 units, eight units per acre. It's currently zoned, as was pointed out previously, at High Residential eight.

The developer is essentially doubling that density to 14.43 units for a total of 171. He's doing this through a couple of different mechanisms, as he just pointed out, workforce housing and TDRs.

According to the future land use element the TDR price is determined by the Board of County Commissioners. Right now that price per unit is \$50,000 per unit.

They're seeking 35 TDR units, but since they've labeled this as workforce housing and through working with staff, they are requesting that the County give them those units for a buck apiece.

That is a loss to the County of

\$1,750,000. So that onus is on the taxpayers of Palm Beach County; my clients, me, you.

The staff report also mentions the developer is requesting approval for the TDR units at a dollar per unit instead of \$50,000 because, quote, it is a major saving factor for the applicant.

Is it not the role of this commission or staff or anyone here to make sure that the developer makes a profit on this project and to ease the financing constraints.

As for transportation, according to the County this project will generate an additional 1,197 trips per day on local roads.

I was just out at the site. I decided to turn left going east onto Atlantic off of Sims Road, decided to time it because everyone told me that it was going to take awhile.

It took me five minutes and 40 seconds to make a full left-hand turn. Had to stop in the median, wait for more traffic. That is a ludicrous amount of time for 3:00 o'clock in the afternoon.

Sims Road is not a major artery. It's a small two-lane road, and traffic is already a major concern to the people that live here.

Now, as was mentioned before by Ms. Sorrow, there was a previous development proposal for this lot back in 2004, 2005. That developer was required by the County to pay one million dollars in road improvements for the intersection of Lake Ida and Sims Road, and that included drainage, sidewalks, paving and guardrails.

That particular project was only for 90 units. This one is practically double that, and there is no such transportation cost being assessed to the developer.

So, again, we're looking at another staggering loss to the taxpayers of Palm Beach County to help facilitate this development.

As for the Parks and Recreation requirement, the County requires that based on this many units 1.03 acres of the site should be designated as recreation. Instead, the developer plans to cut down the last of the remaining slash pines and build a tiny tot lot that will consist of 0.18 acres.

As for the balance, yes, they do plan to pay \$123,000 to the Parks and Rec trust fund, but that is for park improvements within a five-mile radius. So what exactly is being proposed here? Are these kids going to walk five miles to play in those parks?

You know, if this is going to be workforce housing, and if this is going to be a compatible development, what I suggest is that we keep it on site to make it realistic, to make it usable.

The primary problems with this project is that it's too dense. There's too much traffic. There's lack of compatibility. There are no open spaces for children. There's nominal landscaping buffers, and despite the presentation, most of my

clients feel that this is a very uninspired barracks style architecture in looming three-story buildings that dominate the neighborhood.

There are no other three-story buildings in this area. As a matter of fact, when it comes to density, there is no surrounding land use that is at 14.43 in terms of density. So this is really going to set a precedent here. All of this at a staggering loss to the coffers of Palm Beach County. It doesn't make sense.

What I propose is that we have a productive meeting, perhaps not with any commissioners, but one on one with the developer and Sims Road Alliance, my client, to talk about some of these issues and perhaps work out a resolution.

As I suggested, my clients do not have a problem with development on this site, nor do they have a problem with workforce housing, but it needs to be reasonable, compatible, consistent.

As such we are requesting that you please defer this particular agenda item to the March 6<sup>th</sup> agenda.

Thank you very much for your time, Commissioners.

CHAIRMAN BARBIERI: You're welcome.

Barbara -- please, we've got to get through the agenda. I understand you support her, but we're trying to get through this today so let's hold the applause.

Barbara Kamhi, would you please come to one podium, and Burt Birnbaum, would you please come to the other.

MS. KAMHI: Yes, and I will try and be brief, as well.

My name is Barbara Kamhi, and I thank you for the opportunity of being able to speak.

I am the owner of the four acres on the northern boundary of the proposed development. I share a 500-foot common border with this project.

My opposition to this project is based strictly on density and the traffic implications it will put on Sims Road.

I have lived there for 27 years and cannot understand how it is possible to add 171 additional units and have traffic concurrency on a road which is only one lane in each direction, was a dirt road and has never been widened.

As just stated on the last project the County did mandate that Sims Road and the Lake Ida intersection be updated to handle a development with half the density at a cost of one million dollars.

I, like Jane West, respectfully ask Planning staff directly why is this development with double the density not mandated [sic] to make these same road improvements? How did Sims Road become traffic concurrent?

Three adjacent properties to this development are all agriculture. How does this 171 apartment unit complex with surrounding asphalt parking lots be considered compatible with

its adjacent neighbors? What happened to architectural compliance?

I am grateful. The updated staff report for today's meeting has reinstated as a condition of approval the six-foot high opaque concrete wall. I thank you very much for that.

And one last thought. As of the updated staff report for today's meeting Zoning Department received 208 oppositions to this development. They have received 14 in support.

I will submit for the record 520 petitions opposing the development.

Commissioners, in ending, we are over 700 voices asking to be heard. We are not public officials. We are not developers. We are neighbors and taxpaying citizens of Palm Beach County who are very respectfully asking for a chance to have some input into the feasibility of such a dense development in our back yard.

Mr. Morton will build his project and go on to the next. Our zoning commissioners will go on to the next item on the agenda, as they should. We on Sims Road will live with the impact of your decision each and every day.

Thank you very much for your time.

CHAIRMAN BARBIERI: You're welcome.

I need a motion to receive and file the petition.

COMMISSIONER ZUCARO: So moved.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER KAPLAN: So moved.

CHAIRMAN BARBIERI: Motion made by Commissioner Zucaro, second by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Next, Mister -- Dr. Birnbaum, and then Phyllis Stingo.

Good morning.

DR. BIRNBAUM: Aspen's -- my name is Burt Birnbaum.

Aspen Square as proposed contains 33 one-bedroom, 102 two-bedroom and 36 three-bedroom apartments.

Of the 171 apartments the developer has designated 62 workforce housing with rents starting at 1200 for a one-bedroom unit, yet, according to staff, only 36 schoolchildren are anticipated in this development.

Based on the staff's estimate of only 36 children, at least 135 apartments will not have any children. Does this make any sense?

How many families without children seeking affordable housing are willing to pay \$2100 for two and three-bedroom apartments?

TDRs are part of a County ordinance to encourage workforce housing. Has the developer

met this goal when TDRs are used for workforce families without children, that we require them to rent two and three-bedroom apartments at high rentals?

The staff's recommendation of \$35, rather than 1,750,000 for the 35 TDRs is a gift to the developer without a workforce housing payback.

In a 2006 study that addressed the number of children by housing type, 33 one-bedroom apartments would generate seven children, 102 bedroom -- two-bedroom apartments, 59, and 36 three-bedroom, 38.

The number of children at Aspen Square is closer to 104 than 36.

With onsite recreation area reduced from the required 1.03 acres to 0.18 acres, where are these 104 children supposed to play? Replacing the 0.85 acres with 123,000 contribution to the Parks and Recreation trust fund may be good for the County, but how does it help the current and future Sims Road residents when the Aspen Square recreation area could be five miles away?

If a developer was required to pay the 1,750,000 for the TDRs and refused, apartments would drop from 171 to 136, density would be reduced from 14.4 to 11.5, and additional space would be freed up for recreation.

In my opinion the developer is using the workforce housing label to increase density and thus profits.

TDRs when used properly work. Workforce housing is good when workers benefit. Increasing developer profits on the backs of PBC residents and saddling the School District with unforeseen children and Sims Road residents with traffic that clogs the road is bad.

Assuming the Aspen Square project --

CHAIRMAN BARBIERI: Dr. Birnbaum, you're going to have to wrap it up for us.

DR. BIRNBAUM: Okay. Assuming the Aspen Square project can be reduced to a density of nine dwelling units per acre with proper onsite recreation facilities, the Sims Road residents would change from opponents to proponents.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

COMMISSIONER ZUCARO: May I ask you a question, sir?

DR. BIRNBAUM: Sure.

COMMISSIONER ZUCARO: I missed your introduction. Your name and your occupation?

DR. BIRNBAUM: I'm retired.

COMMISSIONER ZUCARO: Retired?

DR. BIRNBAUM: My name is Burt Birnbaum, Burton Birnbaum.

COMMISSIONER ZUCARO: And you are a resident of the community?

DR. BIRNBAUM: I am the partner of Barbara Kamhi, who spoke before.

COMMISSIONER ZUCARO: Okay. And your profession before you were retired?

DR. BIRNBAUM: I worked with heart rate monitors.

COMMISSIONER ZUCARO: Okay. Businessman?

DR. BIRNBAUM: Businessman, yes.

COMMISSIONER ZUCARO: Thank you.

CHAIRMAN BARBIERI: Ms. Stingo's on that mic. Would Jan -- I'll screw this one up -- Bocskai, would you please come up to the other podium.

Could you state your name for the record, please.

MS. STINGO: Yes. My name is Phyllis Stingo, S-t-i-n-g-o. I'm here today not only as president of the Pinewood Cove Homeowners Association, but also as a concerned citizen and homeowner.

Pinewood Cove is a community of 59 single family homes that is located on the northwest corner of Sims and Atlantic. Our only entrance to our community, ingress and egress, is on Sims Road.

We were never served notification of this proposed variance because we were told we were more than 500 feet away from the development, and some of our homeowners attended the January Delray Alliance meeting and questioned why we were never notified.

President Bob Schulbaum told them that we did not have to be notified since we were 500 feet away, and, anyway, it was a done deal as far as anyone was concerned.

The words "done deal" really stick in my craw. There are no other through streets for our residents to use, and we are faced with a serious traffic problem if this variance is passed.

We do not have anything against growth, and we do not have anything against work -- they keep stressing workforce housing. That is definitely not and has never been our opposition.

We are against the difference of 90 townhomes to 171. That would present an unbearable density situation, and the builder's offer of a north wall and buffers are not going to solve the problem.

We implore the Planning and Zoning to reconsider this proposal and deny the variance for the impact it brings to our community. If this variance is approved, it will set a precedent for all the other land in the immediate area to allow 14 units per acre instead of the, stated by law, eight to nine units per acre.

Thank you for your time.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Would Vivian Wismayer, Wismyer, please come up to the other podium.

Ma'am, would you state your name for the record.

MS. BOCSKAI: My name is Jan Bocskai, B-o-c-s-k-a-i.

CHAIRMAN BARBIERI: Okay. Go ahead.

MS. BOCSKAI: I'm a member of the Sims



Road Alliance and live in the Aspen Ridge community.

Aspen Ridge has only one ingress and egress. That is at Sims Road. We -- Sims Road is approximately one mile in length north of Atlantic Avenue to Lake Ida Road.

The only outlet streets within that approximate one mile is Atlantic Avenue to the south, Lake Ida to the north. The only ingresses and egresses on Sims Road are to a few communities, as well as private homes, Heritage Park, which is an assisted living facility, and a few nurseries.

Sims Road is a rural two-lane road. As you know, it consists of agricultural land.

There's approximately an additional 15 -- 11 to 15 acres that could potentially be seeking high density development, depending upon the outcome of the Zoning Board's recommendation and Board of Commissioners decision regarding the Morton project.

With the lack out outlet streets on the approximate one mile and one lane in each direction on rural Sims Road, the question becomes why would the County ever consider high density in this small pocket of space.

Let's talk about Lake Ida Road on the north side of Sims Road. There are three major condo communities on the north side between Military Trail and Jog Road. The communities are Bridgeview, Palm Green and Delray Villas.

Imagine if Sims Road were further developed with high density projects, many would try to exit Sims Road at Lake Ida.

To complicate matters there's even an S-curve as an extra challenge on existing Sims Road at Lake Ida. It just would be totally chaotic.

Sims Road was not designed for high density. The future land use development plan limits development to a maximum of eight units per acre in the area. Clearly, maximizing capability of the roads was recognized, and zoning was designated accordingly.

I strongly urge that we honor our present -- predecessors' keen knowledge in density matters and their skills in development planning.

I strongly urge the Zoning Board to recommend to the Board of Commissioners that the Morton development project of 171 multi-family units be reduced to no more than eight units per acre in accordance with the true future land use development plan.

Thank you for giving me this opportunity to speak in front of you today.

I truly would appreciate your consideration of my sincere concerns.

Again, I strongly urge you to make the right choice, that is, the voice of the current residents of the Sims Road community.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

Josephine Bennardo, would you please come

up to the other podium.

Ma'am, would you state your name for the record.

MS. WISMAYER: My name is Vivian Wismayer. I live at High Point West, and I'm talking on behalf of all the people that live there, it's 55 plus, they're very concerned about what's going on on Sims Road.

Sims Road is a very -- it's going to be a very dangerous road to get out of our community, and we're very concerned about that.

As you heard from everybody else, we're against the 171 units. We're asking for less units to be built there.

COMMISSIONER HYMAN: Are you president of the association?

MS. WISMAYER: No, I'm not.

COMMISSIONER HYMAN: Okay.

MS. WISMAYER: I'm representing them, though.

Thank you very much.

COMMISSIONER HYMAN: Excuse me?

MS. WISMAYER: I'm representing them. I've got a lot of petitions.

COMMISSIONER HYMAN: Do you have a letter saying that you represent them?

MS. WISMAYER: No, no.

COMMISSIONER HYMAN: Okay. To do that you need to have a letter that says that you represent them.

MS. WISMAYER: All right. Thank you very much for your time.

CHAIRMAN BARBIERI: Follow up on **Commissioner Hyman's** suggestion, when you -- if you speak before the County Commission at the end of the month, you should bring a letter if you're going to suggest to them you're representing them.

MS. WISMAYER: All right. Okay. Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

Erin Hernandez, would you please come up and take the place on that podium.

Yes, ma'am. Would you state your name for the record, please.

MS. BENNARDO: Hi. My name is Josephine Bennardo. I am on the HOA for Aspen Ridge, and I'm also a homeowner there, and I am a member of the Alliance of Sims Road.

I agree with everything, and I am totally with the idea of building in our area.

I have a problem with the safety issues for the children and the elderly that are on our road. The density is going to cause much problems that I can see for the safety of our kids riding their bikes in and out of the communities, getting on the bus, trying to cross the road.

There's so much I want to say, and I know I'm limited.

I worked hard to buy my house at -- in Aspen Ridge. We are all working people in this community and around us.

It's insulting that you're saying

workforce homes are just rental apartments. Build homes for people like me who work, teachers in our neighborhood who work, single moms, single dads that need homes, not rentals.

The money that you're going to take for rental units is a mortgage payment for people like me. Me and my husband both work. Both of our children are in school.

I worry about what's going on around me. I don't mind that you're building. I mind what you're building.

I've watched the neighborhood around me that I've lived in 14 years that I've been in Delray. I moved down from New York, and I'm watching these huge buildings go up.

They're not homes. They're all rentals around us. There's only a couple of communities around us that are actually homes.

Right on the corner of Sims and Atlantic Avenue there are rental communities. There is another additional 192 rental units going up right on the corner of Sims and Atlantic.

There is also another community being built on Sims Road. They are townhomes, only 32 of them.

We need homes for people who are working class, teachers, policemen, firemen, not rentals.

Again, I really don't know what else to say.

There are plenty of people here fighting for the same issue. It's density and the safety around us.

Thank you.

CHAIRMAN BARBIERI: Thank you.

Edith Lee Corey (ph), would you please come up and take her place at that podium.

Ma'am, would you state your name for the record.

MS. HERNANDEZ: Yes. My name is Erin Hernandez, and I live in Pinewood Cove. I also am a member of the homeowners association. I'm the secretary on the board and part of the Sims Road Alliance, as well.

Our main grievance with this project is the density of the project, not the development itself, and we are definitely, as my other -- my other community representatives have expressed, we are definitely not against workforce housing. My father was a retired fireman from Washington, D.C.

When you put this many extra cars on the already congested area of Sims Road, Lake Ida and Atlantic, you have a traffic nightmare in the making.

Even with a stoplight, which is not even being proposed, this would still create a traffic backup on Sims Road, both exiting onto Atlantic Avenue and Lake Ida in the morning and evening times when people are going and coming to from work.

Our community, Pinewood Cove, only has one ingress and egress off of Sims Road.

There's also a children's bus stop right

in front of our community in the morning, which will even create further delays and pose a greater danger for the children in the area, as well as many senior citizens that walk this route every day from the Heritage Park assisted living facility on the west side of Sims Road and High Point located on the east side of Sims Road.

This extra traffic will put their lives in danger, as well.

If this is approved, are we going to have to revisit this issue when someone, perhaps a little child, is killed?

We also fail to see the need for all the additional housing -- rentals to be put on the market when we already are facing today a glut of homes, condos and apartments for rent in the area.

As of today there are at least 1200 rentals available from this price range that the developer will be charging, and that does not include the apartment buildings. Those are strictly single family homes and condos that are on the market on the MLS. That was just pulled from the MLS.

There is plenty of affordable housing on the market today with all the foreclosures and will continue to grow in the future, according to experts.

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

In an area already tapped out for water, tight water restrictions, et cetera, where is all the extra water coming from to serve this development?

Let's please preserve the little bit of old Florida left in Delray Beach and vote against this rezoning request.

I thank you for your time.

COMMISSIONER ZUCARO: Can I ask you a question? Are you -- did you -- you referenced the MLS.

MS. HERNANDEZ: Yes.

COMMISSIONER ZUCARO: Are you a realtor?

MS. HERNANDEZ: I'm a mortgage broker.

COMMISSIONER ZUCARO: Mortgage broker.

MS. HERNANDEZ: Yes.

COMMISSIONER ZUCARO: Thank you very much.

CHAIRMAN BARBIERI: Alice Szyllit, would you please come up and take her place at the podium.

Ma'am, would you state your name for the record.

MS. GRAY: My name is Edith Lee Gray, and I am a resident of the Aspen Ridge community.

Good morning, Chairman, and boards -- members of the Board.

Ms. West, our attorney, and the other members of the Sims Road Alliance have very clearly presented our views concerning density.

For the record, I, too, oppose the high density issue.

In addition, I urge the Board to seriously consider including traffic signals at Lake Ida and Sims and at Atlantic and Sims as a condition of approval for the Aspen Square project.

Thank you for giving me the opportunity to express my concerns.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Hermine Bloom, would you please take her place at the podium.

Ma'am, would you -- where's Alice Szylit? Is she not here?

(No response)

CHAIRMAN BARBIERI: Ann Cervalli - I'm sorry. These people --

UNIDENTIFIED SPEAKER: I don't wish to speak.

CHAIRMAN BARBIERI: I'm -- I see that now. I'm sorry. It says you want your -- read into the record.

"This project is not suitable for this area. The density will cause major traffic on a small two-lane road." That's from Alice Szylit.

Hermine Bloom, "Opposed to the density of housing and traffic increase on Sims Road. Poorly lit road needs traffic lights at Lake Ida and Atlantic."

Ann Cervalli, "Concerned about traffic density. My condo backs up to the canal and Sims Road. It is very dark, no lighting, and is impossible to get onto Atlantic and Lake Ida from Sims Road. High Point is a senior development for the past 27 years and is a quiet development."

James Barhorst, "High density on two-lane road, no green space preserve, safety concerns, does not conform to existing surroundings."

Paulette Barhorst, "Pinewood HOA is opposed to high density of the proposed project on Sims Road, which is a two-lane road."

Philip Bara, "Who profits from the action, the residents, the County, the builder?"

George T. Hull, Jr. and -- I'm sorry, the other person's name I can't read, "Looks strange.

Looks like someone must have a favored financial gain that should not -- they should not have."

Alfred Szylit, "I'm absolutely opposed to this project. The road will not be able to deal with the traffic. We have a nursing home a few yards from the proposed construction project, and wheelchair residents are exposed, et cetera, and the water shortage."

Samuel Osler, "The density of 14 units per acre is so out of character with the surrounding neighborhood that it should be denied."

Mrs. Fran Anderson, "I oppose the rental development that's proposed to be built on Sims Road in Delray Beach for both the density and environmental impact it will have on our quality of life."

Phyllis Desfor, "Oppose density, 171 units on 11.5 acres adjacent to Ag on rural road that cannot handle traffic at an already dangerous

level. Six parcels previously allowed 8.8 units per acre and one million dedicated for road improvements."

Lyndha Evensen, "I have heard a lot about the alleged need for the kind of housing in our area, but I can't see or have not seen -- been shown how this -- how the proposed plan has been made safe for the area."

It's not your writing, it's my eyes. I apologize.

Paul Garfinkle, "Opposed to zoning request on several grounds, including density, public safety and prior approval requirements which are not being met."

MR. GARFINKLE: Mr. Chair.

CHAIRMAN BARBIERI: Yes.

MR. GARFINKLE: I'm Paul Garfinkle, and I did want to make a speech on this.

CHAIRMAN BARBIERI: Fine. Go ahead.

MR. GARFINKLE: My name is Paul Garfinkle.

I am a resident on American Circle, which is part of the Pinewood Cove development.

I am a former president of the Pinewood Cove Heritage Park Homeowners Association and have been a resident for approximately 15 years.

We have had many discussions during the course of the years concerning the traffic and density issues concerning the Sims Road, Atlantic Avenue intersection.

Almost 15 years ago we were promised that we were going to have a traffic light at Sims and Atlantic Avenue. We were promised that we were going to have Sims Road connected so that it became a through road to the Delray Community Hospital. None of that has happened.

All that's happened at the intersection, it is -- is -- it's become a traffic nightmare. You cannot get safely across Sims onto Atlantic in either direction.

I've personally witnessed accidents occurring, people being killed at the intersection. How much more are we going to put up with before some commission in Palm Beach County or this Zoning Commission and the County Commissioners take action and do something that's right for the area and the community?

I would strongly oppose this development and would hope that the prior conditions of the at least prior approval and road use and land use requirements be met.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

I'm sorry. There were two speakers that I read your -- two cards submitted where I read your comment, but they were checked that you wish to speak.

So if Mrs. Fran Anderson wishes to come up to the podium and Lyndha Evensen to the other one, be happy to hear your comments.

MS. ANDERSON: Good morning, and I thank you all for your time.

CHAIRMAN BARBIERI: You're welcome.

MS. ANDERSON: I represent or I'm -- I'm sorry. My name is Mrs. Fran Anderson, and I'm a resident of Aspen Ridge.

I oppose the development of Aspen Square for a number of reasons, and I was wondering if the attorneys and the developers can show their graphics again of the front of the building they're proposing and the berm?

CHAIRMAN BARBIERI: It's right -- it's right there on that board if you want to look at it.

MS. ANDERSON: No, the other graphic showing the way the development would look from Sims Road 'cause the artist's rendering is just spectacular, but in real life we all know that if they added three-story buildings behind those graphics, we'd get a much more realistic and different picture.

But I am opposed to the impact that this development and the density of this development is going to have on our quality of life, besides the fact that the quality of life is having on our environment.

As Ms. West stated earlier, we have nowhere for water to go and percolate into our water tables, and I don't know when this Zoning Commission is going to see the light and kind of put a skid on some of this development.

The traffic is a huge issue.

I, too, represent the workforce of this County. I'm a lifelong resident of this state, and I've lived in Palm Beach County for nearly three decades.

I have seen overdevelopment ruin the quality of life for many, many people to the tune that thousands are leaving per day to other states.

So if you're attracting workforce housing, I'm going to get in line for some of this action because I am the workforce, and I can't -- I can't continue living down here with the way things are going.

We hope that you see the seriousness in what is happening on our two-lane roadway. The traffic studies, I would -- I would say are inconclusive.

They're not around throughout the year to see the number of accidents, as recently stated, at both intersection of Atlantic Avenue and Sims Road and that of Lake Ida Road and Sims Road.

We ask that you please take serious consideration into keeping this type of building restricted to a two-story maximum and reducing the number of residents that it would host.

I thank you all for your time.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Paul Garfinkle.

COMMISSIONER HYMAN: He just spoke.

CHAIRMAN BARBIERI: Okay. I got you. Okay.

Would you state your name for the record, please.

MS. EVENSEN: My name is Lyndha Evensen, and thank you for letting me speak.

As you read, I have seen nothing in any proposal in talking to the developer or anything where people are really providing for the safety on this road.

Every major development in this area has access to a major road or a severely upgraded road where they have access to signals, safe entrance and exit.

The only safety that this developer is offering is that it's a country road, and that goes to what the former speaker addressed, is quality of life.

One of the things that brings people to Florida is the beauty that surrounds them. You can go to Green Cay, a wetland site or the preservation site, Wakodahatchee wetlands, and you can even go to the Green Cay development that this developer did at Flavor Pict and Jog Road and see a beautiful habitat.

What he is proposing here does not take this into consideration, nor does it give us safety, and I would appreciate the Board considering that.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

Mr. Schulbaum, would you come up, please.

MR. SCHULBAUM: Good morning, Commissioner. My name is Bob Schulbaum. I'm president of the Delray Alliance.

When the Morton group brought this project to show it to us prior to the construction, of course, the Board overlooked it, and we saw that it had staff approval, and the Board -- we firmly believe in workforce housing, and the Alliance Board made up of residents of our 68 communities approved the project.

When we do that, what we usually do is we call the communities within the 500 feet area, and we ask them what their thoughts are.

We called these two communities, and we asked them if they had any objection, and originally we were told no, and then we were told -- we received phone calls that said that some of the residents were upset.

I indicated to them that the best thing that they could do is to let us try to arrange a meeting with the builders and them where the builder would come into their community, their clubhouse or wherever they designate and make a presentation to the entire community.

Both of them declined to meet with the builder. They had no interest. They said they stated they were against the project, and they had no interest in meeting with the builder.

I then went to Commissioner Aaronson's office and asked him whether he would meet with them, and he said yes, and I got them all together in Commissioner Aaronson's office at which time



they also objected to the builder being there originally, and then they did agree to allow the builder to be there.

And at the commissioner's office they stated their objection. The Morton group listened, and I think, as far as I can recall, acceded to all their demands for walls and lighting. Everything they asked for, he agreed to it, and the Commissioner was there.

Now, they made -- twice they've said this, done deal. First they said in a newspaper article that Commissioner Aaronson told them they should stop protesting 'cause it's a done deal.

And now I hear they say the Alliance said it was a done deal.

Well, I'll speak for myself, and I was there when Commissioner Aaronson said the same thing. We said if this project has staff approval, it will all probability be passed. That doesn't mean it's a done deal.

But I recommended to the people who approached us at the Delray Alliance meeting that now is the time before they went to this Commission and sit down with the builder and get from them what they think they need, and I said the best time to do that is now because after it's approved by the Zoning Commission, it's more difficult to get concessions, and that's where we left it.

They met with the Commissioner. They laid their demands on the table. The builder acceded to it. We all left there with the inclination that this was a done deal. At this point we thought it was a done deal, and then we found out, of course, that they still have further objection.

The Alliance has no problem with this project as long as it meets all the requirements that the state -- the County applies.

Thank you very much.

COMMISSIONER KAPLAN: Mr. Chairman.

CHAIRMAN BARBIERI: Yes.

COMMISSIONER KAPLAN: With your permission?

CHAIRMAN BARBIERI: Yes, sir, Mr. Kaplan.

COMMISSIONER KAPLAN: Personal privilege.

I would like to discuss this question of a done deal.

COMMISSIONER HYMAN: Oh, come on, Allen.

COMMISSIONER KAPLAN: I've been on this Commission for many, many years. I have never, ever had or heard of a done deal.

I would like the members of the public to know that we are under oath to protect the interest of the public. We are prohibited by Florida Sunshine Law from talking to any Commissioner, any other Commissioner, unless the public is there, unless we go on record stating what was said.

I can state unequivocally for myself, and I'm sure for my other Commissioners, that I have not spoken to any other Zoning Commissioner, and under those circumstances I do not see how this

could be a done deal when the Commission members have not agreed in advance.

It would be contrary to our oath to agree in advance, and I personally want to stand up and make sure that the members of the public know.

And one of the members of the public did state that she thanked us for allowing her to speak. She doesn't have to thank us because that's our obligation to hear the members of the public, whether they're in favor or against any proposition.

This is an open meeting. We are quasi-judicial. We're required to make a record. You notice there's a stenographer -- a court reporter there. All the comments are recorded.

And so I want to make sure that the public understands that there has been no done deal. There is no done deal, and as long as I'm on the Commission, there will never be a done deal.

Thank you, Mr. Chairman.

MR. SCHULBAUM: Mr. Chairman, the inference of this business with the done deal was their side. That phrase was never used in any of our conversations with them.

If they interpreted us telling them that now is the time to negotiate with the builder --

COMMISSIONER HYMAN: All right.

MR. SCHULBAUM: -- as a done deal, then they misquoted us, both me and Commissioner Aaronson.

Thank you.

COMMISSIONER HYMAN: All right.

CHAIRMAN BARBIERI: I think Commissioner Kaplan made it very clear that none of us have spoken to each other about this, and there's no possibility of a done deal because we've heard the evidence today, and we'll make a decision.

We're not going to take any more of those comments.

We have the Assistant County -- the Deputy County Administrator here.

Ms. Verdenia Baker, would you please come up to the podium.

MS. BAKER: Good morning, Commissioners.

I'd like to thank you for allowing me to speak. I just wanted to let you know that we take workforce housing seriously here in Palm Beach County.

The Board did adopt a mandatory inclusionary zoning program back in 2006, and this project is primarily market rate housing. A component of it, the 40 percent, is workforce housing, and it is restricted workforce housing.

A recent study completed by Florida International University, Professor Murray, reveals that 86 percent of our households here in Palm Beach County are cost-burdened. That means they pay more than 30 to 35 percent of their household income for rent or mortgage.

It is critical if we're going to remain a viable community to maintain businesses here that serve all of us, including restaurants, including

our hairdressers, our nail technicians, our teachers, our police, et cetera, we're going to have to move forward with a serious plan to provide workforce affordable housing, and that is a critical component.

We talk about the investment, in my words, of a million dollars where we allow any restricted TDRs to be used for workforce housing, we allow the developer a dollar. He buys them for a dollar.

Well, that \$49,999 is an investment so that we will retain workforce affordable housing here in Palm Beach County so that our workers, us, can afford to live here in Palm Beach County.

Palm Beach County government has lost a number of our workers because they moved to other states. They moved outside of Palm Beach County because they can no longer afford to rent or buy here in Palm Beach County.

So, therefore, I would ask you today to consider that, not only in this particular instance, but other instances when a developer steps to the table and is going to provide and restrict housing for our workforce here in Palm Beach County.

COMMISSIONER ZUCARO: Mr. Chair.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: Ms. Baker, thank you very much for that, and I fully support the idea of workforce housing, but perhaps I'm missing something in the record that's in front of me.

I see no evidence that suggests what workforce housing is actually being applied here.

What I -- what I heard from Mr. Tuma is that the market is going to go after people that earn between 65,000 and \$90,000, and that's 60 percent to 150 percent of the medium -- the medium income of the County.

What I heard from one of the neighbors is that a one-bedroom apartment rents for \$1200, but no evidence is -- suggests what a two or three-bedroom apartment rents for.

I heard that this is designed for 35 children are expected to be here, so you could expect that those families are going to require more than a one-bedroom.

I don't see any evidence that tells me that this is consistent with what the policies of the County are with regards to workforce housing and the statistics.

I don't -- you know, if a two-bedroom apartment is going -- somebody said a two-bedroom apartment ranges above \$2100, your suggestion is that that should be 30 to 35 percent of somebody's salaries, perhaps you're satisfied or staff is satisfied with the studies, but it's not evidenced here, except for statements that are being made at a policy level and by some of the materials, but no evidence to support the conclusions that are being drawn. And I don't know if I'm missing something, but I don't see it.

MR. RUTTER: Commissioner, my name's Pat Rutter. I'm the Chief Planner with the Planning

Division. Let me try and -- very, very brief history, and then I'll directly address your question.

When staff and the Board adopted -- staff created and recommended and the Board adopted the inclusionary program, there were a number of options that were involved.

There are other programs throughout the country that specifically direct X number of units, one bedrooms, two bedrooms, and tie them directly to income categories, but we chose and the Board adopted not to do that. We wanted to maintain in our feedback that we got from industry, maintain an ability for the developer to have flexibility in assigning the units.

So in this case, in any case that will come forward with workforce housing units it does not state that X number of units will be attributed to each specific income category.

Through the DRO process and through the reporting when permits come through, they will define and assign the one bedrooms, the two bedrooms and the three bedrooms.

When people come forward and they qualify themselves as meeting those income groups, they will work through County staff, and they will be assigned the income bracket, so when they go to the building to rent a unit or go to a development to purchase a unit, they will be in those correct categories.

But getting back to your specific point, we do not say to a given project you have to have X number of units, and, you know, the same could be applied to a for a sale project, as well.

COMMISSIONER ZUCARO: Thank you, but that's not my point.

My point is is that we have no evidence to suggest that this price range, 1200 for one bedrooms -- 1200 plus for one bedrooms, 2,000 plus for two and three bedrooms satisfies any definition of workforce housing 'cause there's no definition of workforce housing here.

COMMISSIONER HYMAN: Well -- well, in all fairness to our fellow commissioner, he wasn't here, you know, when we had the presentation, and maybe somebody could spend some time with him and tell -- show him, and there's -- they gave us some documentation which told us what the formula was, and I think everybody would be very surprised at the income levels and the rent levels. They're not like you, you know, you think low -- low cost housing. They are fairly high, and that's why you're probably saying, you know, I don't understand this.

But we do have some information that perhaps someone can give to our fellow commissioner.

MS. BAKER: We'll be happy to make an appointment and sit down with Commissioner Zucaro, provide him with that information.

Again, with the workforce housing units we range from 60 percent of the median income up to

150 percent. We've got that broken down into four various categories.

The rents must adhere to the HUD guidelines for those four categories.

So they put a maximum amount that you can charge for each of those categories for rent, as well as what the mortgage rate should be.

COMMISSIONER ZUCARO: So then I would assume that we are incorporating by reference some document that is not in front of us for purposes of evidence --

COMMISSIONER HYMAN: Oh, yeah.

COMMISSIONER ZUCARO: -- here.

MS. BAKER: In order for those units to be identified and accepted as workforce housing units, they must meet the requirements of the mandatory inclusionary zoning ordinance.

COMMISSIONER ZUCARO: And the reason that I raise it is because we're holding out this workforce housing -- it is being held out to us and subsequently to the Board of County Commissioners that the workforce housing, 35 units, supports a concession or an incentive of 1.7 million dollars.

MS. BAKER: It's 61 -- all 61 of the units are workforce housing units, and, yes, that is correct.

COMMISSIONER ZUCARO: All right. All I'm suggesting is if that is going to be held out for incentive purposes, the record should have the evidence of why we're giving -- we're making that recommendation.

MS. BAKER: Point well taken.

COMMISSIONER HYMAN: Okay. Can I say something?

Let me just ask you -- go to a next issue.

Alan, about -- everybody was talking about traffic. Okay. What improvements are you going to make on Sims Road? Is there going to be a light on Lake Ida and on Atlantic?

MR. CIKLIN: First of all, the prior developer was doing things that this developer was not doing. I want to make it very clear.

I -- Ken said it, but let me say it again, that all improvements, all conditions of approval that were on the original project are on this project, as well, so --

COMMISSIONER HYMAN: Okay. So we have to make sure that the staff report just includes those.

MR. CIKLIN: And we've checked it, but I -- we welcome that review.

Secondly, we -- and I would invite, if you would like to hear Mr. Renenbaum talk about the traffic study that was done or Ken or Nick are here representing the County staff -- we did a traffic study, as is required, and that, of course, identifies whether there's concurrency capacity and what, if any, improvements are required.

It was identified that a left turn lane into the entrance is required, and we're doing

that.

There is a sidewalk, which is one of my points, that goes from Lake Ida all the way to Atlantic. That's already there.

A traffic light at this point in time is not warranted, and as you all --

COMMISSIONER HYMAN: It's okay. Go ahead.

CHAIRMAN BARBIERI: Please, please.

COMMISSIONER HYMAN: You know, just go ahead.

CHAIRMAN BARBIERI: Continue, Mr. Ciklin.

MR. CIKLIN: And as you all know that even if you wanted to do a traffic light, even if there were 1,000 signatures on a petition for a traffic light, unless it meets the warrants established by the DOT and the traffic regulatory agencies, you cannot do that.

So that's why there is not a traffic light being proposed because one is not warranted.

I would invite --

COMMISSIONER HYMAN: Just let me ask --

MR. CIKLIN: -- certainly the experts to --

COMMISSIONER HYMAN: So, Ken, how far off are they on the warrants as a developed project?

MR. ROGERS: I would just like to expound a little bit more on Alan's answer, primarily for the audience.

There are national standards that have been adopted by every state in this country for traffic signals. Those are called warrants, and there are a number of different warrants that you would have to meet in order to install a traffic signal.

We cannot install a traffic signal wherever we want. There has to be a certain minimum amount of traffic in order to meet those warrants, and there are several different ways of calculating that.

We have gone through the exercise and the traffic volumes that are there existing today plus the traffic volumes that are expected to be added to the existing traffic as a result of the approval of this project, do not appear to meet any of the minimum criteria in order to establish a traffic signal, install a traffic signal at that intersection.

COMMISSIONER HYMAN: Or at Lake Ida?

MR. ROGERS: At either intersection where Sims Road --

COMMISSIONER HYMAN: How far off were they?

MR. ROGERS: We -- at Atlantic Avenue we're probably approaching 50 percent. At Lake Ida we are much less than 50 percent of meeting the -- those minimum requirements.

COMMISSIONER HYMAN: All right. So if -- just in case, you know, there's a question about the traffic report, is there a provision that obligates the developer to pay for the traffic signal within a certain period of time after the project is completed, and, if not, I would

recommend that, you know, we get a certain amount of time after last CO, and if the traffic reports then show that the traffic signal is warranted, that the developer, you know, pay for it so that at least he puts aside some money for it.

MR. ROGERS: It is the Engineering Department's policy in putting together these recommended conditions of approval that if we feel that there is the ability to meet the minimum warrants for a traffic signal, then we recommend a condition of approval that would require that.

COMMISSIONER HYMAN: You don't think they're close?

MR. ROGERS: Because we are not -- we do not feel that the traffic volumes are close to meeting those warrants --

COMMISSIONER HYMAN: Okay.

MR. ROGERS: -- we have not made that recommendation to you.

COMMISSIONER HYMAN: Okay.

MR. ROGERS: Now, if either this Commission or the Board of County Commissioners wants to add that condition of approval, we will be happy to do that, but we feel that many times when you put a -- that type of a condition on a project and the residents feel -- have a certain reliance on that condition, and when the warrants are never met and the developer never installs a traffic signal, that the citizens feel that government somehow has let them down.

So --

COMMISSIONER HYMAN: Okay.

MR. ROGERS: -- it is our policy that we don't make those recommendations unless we feel that the traffic signal actually can be installed.

But if there is a feeling that just in case it might happen, should we put that condition of approval on, if either this Commission or the Board of County Commissioners wants to recommend that, we'll be happy to put that language in there.

COMMISSIONER HYMAN: Alan, do you have any problem with that?

MR. CIKLIN: Well, let me say this, and not -- not really.

Actually, if the Board of County Commissioners were somehow able to come up with a way to allow a traffic light now, we will pay for it now.

The difficulty becomes after this developer has built out, rented out, done his financing and all of a sudden, five years, six years, seven years from now --

COMMISSIONER HYMAN: No, no, we don't ever let it go that long. It's usually like, you know, a year after or within a year of the last CO. I don't know what the standard is.

MR. ROGERS: Typically our language says it's two years.

COMMISSIONER HYMAN: And you would budget for it now --

MR. CIKLIN: Yeah.

COMMISSIONER HYMAN: -- it would go away if it wasn't warranted.

MR. CIKLIN: Let me say this. If this will -- if this will satisfy the Zoning Commission, because we do want to do the right thing here. We will between now and the Board of County Commissioners work with the County staff regarding a condition about a traffic light.

The other reason I'm hedging a bit on that is that there's also a question of fair share, because here's what would happen.

If there's another project that comes up, that could trigger a warrant. Well, it wouldn't be fair to go back -- backwards and say this guy was here first. It wasn't warranted. He should pay for it.

COMMISSIONER HYMAN: There's no question, and they have sharing language. It happens all the time, as you know.

MR. CIKLIN: We'll work with them in the meantime to come up with a condition before we get to the Board.

CHAIRMAN BARBIERI: Mr. Banks.

MR. BANKS: If we do a condition, it will require a surety, which means the developer will, during the life of the condition, bond the traffic signal essentially.

COMMISSIONER KAPLAN: Mr. Chairman.

MR. BANKS: And right now I think for all the traffic signals the County requires a mast arm, so traffic signals are very expensive.

CHAIRMAN BARBIERI: Mr. Kaplan.

COMMISSIONER KAPLAN: I'll just ask staff a question that the members of the public have raised about Sims Road.

Is there any question whether Sims Road can take this additional traffic? They seem to think it's overburdened now. What is the status of Sims Road as far as the traffic impact?

MR. ROGERS: I'll try to address that in two different stages.

One is the through capacity on Sims Road.

Sims Road is a two-lane road. There is adequate capacity on Sims Road to handle the additional traffic being proposed to be generated by this project.

The -- actually, when you talk about roads, the capacity issue is really at intersections, and there are delays at both Atlantic Avenue and Lake Ida Road to try to exit from Sims Road to get onto both of those roads. There's no question about that.

It's all the matter of degree of the delay getting out there. To one person the delay may not be anywhere near as bad as it is to someone else, and it's more of a perception as to how much of a delay would be acceptable to you.

We have requested that the developer go out, through his traffic engineer, and have a delay study done at those intersections.

We have met with -- the Traffic Division staff, my staff and myself have met with the



traffic engineers to go over the results of those delay studies.

The results of those delay studies, based upon existing traffic, and those delay studies were done in -- within the last couple of weeks, that the delays that we saw, the average delays that we saw are within acceptable ranges.

Now, the citizens that live on the road may not feel that the amount of delay that they're experiencing is acceptable.

All that we can tell you is that based upon other delays at other intersections that are not signalized, that the amount of delays that are being experienced at this intersection based upon the delay studies information that we reviewed, that these delays are not unusual within -- at other intersections in Palm Beach County.

We have taken that information and extrapolated it to say well, how much of an impact would be with this additional traffic. And it is our conclusion that the amount of delays that will be -- the increase in the delays will still be within acceptable ranges for unsignalized intersections.

Now, the citizens that are living out there may feel totally different, but our conclusions, once again, are based upon observed time delay studies that were performed at these intersections.

COMMISSIONER KAPLAN: Thank you, Ken, for the input.

It's good to have a professional give us the opinion from a traffic engineering standpoint.

MR. ROGERS: The developer's traffic engineers are here, and if you want any specific details about those delays, they'll be more than happy to share that information with you.

COMMISSIONER HYMAN: I just -- you know, I agree that we need to put this additional condition in, just let the petitioner work with staff.

The studies are great for counting the trips and traffic and time delays today, but when the other project is built out and everybody's living there, just in case, you know, staff is off, you know, I'd like the developer to have the required funds to fund the traffic signal at that time on Atlantic.

CHAIRMAN BARBIERI: Okay. Comments from other commissioners?

COMMISSIONER BOWMAN: My comments are that, sitting up here, since the staff's worked so hard on the workforce housing projects over the last year and a half, most of them are -- I don't believe any of them have made it up to the BCC, and there's definitely a need. They seem to die right here.

This seems to be the best project that I've seen come through. I know there's concerns from the citizens, and I understand those, but there's a need for workforce housing in this County, and this seems to be a project that has

been approved -- recommended for approval by staff, and I would like the voting members to take that into consideration.

The only comment I have about the layout is I would like to see a larger recreational area. I think it's a little too small.

Thank you.

CHAIRMAN BARBIERI: Any other commissioners to my right? Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I know there's a lot of people here concerned with this project within the area, but my concern I want to talk about is the project for the people who may be living here.

I know this -- the density of eight per unit [sic] in this area, this has been increased almost to double of that, and looking at the site plan there's just a few issues I wanted to bring up.

It seems like, you know, the -- in the code there's certain allowances for, you know, things like parking and how many units and recreation area, and it just seems like every single one of them the developer has taken them completely to the max.

And just looking at the site plan there is -- it's all concrete and lake. There's very little places for the people to commingle. You know, if there's kids, you've got this one little teeny tot lot and that's it.

And then I look at the parking, and the parking says required parking, 385, provided parking, 385, and that is on the standard of two and a quarter parking spaces per unit, and, again, I look, you know, I've been to developments like this on the weekend where, you know, how many families today have three or more cars per unit, and there's -- there is no other place except -- unless people park along the canal, out on Sims Road and walk across the street.

And because they've increased the density and they've maximized everything out, I look at the -- you know, talking about this is supposed to be an exemplary project, and one of the language in there, it says to produce development that is keeping with the overall land use, intensity and open space objectives of the Unified Land Development Code.

I -- you know, they -- they've paid nothing for the additional units, and then they're getting, what is it, I think it was like 125,000 to sell out the one acre, which my one comment I would have on that is that the price of land in Palm Beach County, I would think every developer would want to sell out for that small price.

Does anybody know, are there any parks within walking distance of this development?

AUDIENCE: No.

VICE CHAIRMAN ANDERSON: Okay. I assumed there was not.

To me, it just seems like their -- the site plan has been drawn to maximize every single

square inch of this project, and if I was living here, I just -- I see very little place for kids to play except in the parking lots.

So that's probably my biggest objection is it just -- it's, you know, I like the layout, the lake in the center. All the units are up against the lake. They can, you know, they have access to the tot lot and the pool area, but it just seems to me that -- I'd like to see more parking, and I'd like to see more recreation.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I have just the -- just the opposite feeling about this project.

When I first looked at it, I said, geez, you know, here's a project that finally seems to meet all the conditions that we usually require. You've got a centrally located recreational facility. You've got a tot lot. You've got a really nice wide entrance area. Every unit, every building is on a lake.

It has additional -- it has garages for these people. I mean how many people here have, you know, garages that live in an apartment complex, and then they have additional storage facilities so people don't even have to go off site to store their stuff, and you don't have all this stuff laying around outside the unit.

I mean I can't -- you can't have everything in the whole world, but this provides workforce housing. It has a, to me, a beautiful site plan. It meets the code, according to our staff, and, to me, it's totally consistent with the surrounding neighborhood.

I think this looks like a quality community, and I don't even know anything about the developer, but he seems to have a good reputation.

I have a question about -- is there a walkway around the lake, Alan? We've asked for little walkways around the lakes. I think you need to have a walkway around the lake.

MR. CIKLIN: There is not, but one of the things, based on the comments of -- that we've already heard is between now and County Commission we're going to look at the recreational facilities --

COMMISSIONER HYMAN: Okay.

MR. CIKLIN: -- see if we can make the lake a more -- more of a recreational facility again.

COMMISSIONER HYMAN: Yeah.

MR. CIKLIN: Itself.

COMMISSIONER HYMAN: You need that -- you need that, whether it's in the lake maintenance easement or whatever, but you need access around the lake and have the people be able to walk and use the area around the lake in front of the buildings, and, you know, you've got a large rec area with the pool, and I'm sure that'll be a great area for everybody to congregate.

So I think this is a great looking project.

The fact that, with all due respect to my fellow commissioner that there's no park in walking distance, I don't know any area where there's a park within walking distance.

Nothing in Florida is within walking distance.

VICE CHAIRMAN ANDERSON: No, I just mean if they're trading out the land.

COMMISSIONER HYMAN: Yeah. So I, you know, with the addition of the walkway around the lake, with the addition of the requirement for the traffic signal, I'm, you know, I'm all for this, and I'll be prepared to make a motion.

CHAIRMAN BARBIERI: Commissioner Zucaro, Commissioner Kaplan, you have any comments?

COMMISSIONER ZUCARO: I just wanted to ask whether or not there is a prohibition of accepting the developer's offer to put a traffic light in even though it doesn't meet 100 percent of the national standards.

COMMISSIONER HYMAN: They won't do it.

COMMISSIONER ZUCARO: The developer said he would do it.

COMMISSIONER HYMAN: Yeah, but they won't let you do it.

MR. ROGERS: Atlantic Avenue is a road that's maintained by the State Department of Transportation. They have more stringent standards than what Palm Beach County has concerning their access management criteria in the spacing of traffic signals.

This project not only does not meet the national standards for installing a traffic signal based upon volumes, but does not meet the spacing requirements of the State Department of Transportation.

In order to install a signal here we would have to get a waiver from the State Department of Transportation on both their spacing criteria and the volume, minimum volume criteria.

We have not been all that successful in the past in getting DOT to change their minimum criteria. And so based upon that, that's why the -- we did not make that recommendation.

If we put the recommendation in, it's a condition of approval. The condition of approval will be worded such that the traffic signal will only be installed if approved by the State Department of Transportation, and right now it has not been our experience that we would be able to get that approval from the State Department of Transportation.

The condition -- to answer your question.

The condition could be placed upon the developer, but there is no assurance that that condition would ever be complied with.

COMMISSIONER ZUCARO: Okay. One other question that I had. Two of the people, the community people that spoke, one characterized the road as rural, and the other characterized the road as country.

CHAIRMAN BARBIERI: Commissioner Zucaro,

would you push your microphone closer.

COMMISSIONER ZUCARO: I'm sorry.

Two of the people that spoke, one characterized Sims Road as rural, and the other characterized it as a country road.

Would you comment to that? Is it a rural road? I've not driven on it.

MR. ROGERS: I'm not sure what a rural road is in the unincorporated area of Palm Beach County east of the Turnpike.

It is -- does not have the feel of a urban road because there is very little development around it. On the east side of the road is all a canal, so there's no development immediately on the east side of the road.

There is not that much intense development along Sims Road. North of the canal right now all you have is Aspen Ridge, and the rest of the land uses along Sims Road presently right now are primarily agricultural or low density residential uses.

So from that standpoint one may feel that it has a country feel to it, or it may be a rural road, but in fact the road was designed -- at least the road north of the canal was designed to Palm Beach County collector road standards.

I can tell you that previously to working for Palm Beach County I was in the private sector, and I was the design engineer for that section of road, and I can tell you it was designed to Palm Beach County collector road standards.

COMMISSIONER ZUCARO: Okay. My final comment on the road is the attorney representing the folks here argued and proffered that her experience was to make the left-hand turn took her multiple minutes.

You suggested in your comments that you've done studies to observe the traffic patterns.

That left-hand turn, dangerous or not, difficult or not?

MR. ROGERS: The traffic study that was done was done by the consulting engineer that works for the developer, it was not done by Palm Beach County. So I want to put that out there.

We did review that information. This report was signed and sealed by a registered professional engineer in the State of Florida so I do not question its veracity at all.

There are delays at that intersection that are within the normal range that you would expect delays along a major road in Palm Beach County. I don't think it's any more difficult or any more dangerous than any other similar situation in Palm Beach County. It's what we experience in Palm Beach County.

COMMISSIONER ZUCARO: Thank you.

CHAIRMAN BARBIERI: Okay. Commissioner.

COMMISSIONER HYMAN: Just want to make one last comment before I make a motion.

I do notice --

CHAIRMAN BARBIERI: Pull your microphone closer, Commissioner Kaplan.

COMMISSIONER KAPLAN: I want to make a comment before you make a motion.

The staff report shows a total of 385 parking spaces for residents and 43 guest parking spaces.

Is that a mandatory number or is that above or below the mandatory number?

MS. HERNANDEZ: That's the minimum requirement. They have to provide a certain number of -- two parking spaces per unit plus the one -- one guest parking space for every four units.

COMMISSIONER KAPLAN: So that the numbers that are on here, 385 parking spaces for the residents and 43 guest parking spaces, are mandatory requirements?

MS. HERNANDEZ: Correct.

COMMISSIONER KAPLAN: Okay. As to the comments made by some of my brother commissioners, I, too, am not happy with the recreation area.

You have 171 units here and a large portion of the requirement has been apparently satisfied with the cash-out. Frankly, I'm not satisfied with the cash-out.

I don't know if the petitioner and their designers can do anything more to increase the recreational area, but I certainly think 171 units, with the number of children anticipated, that we don't have enough spots, and for them to go outside the community is contrary to good design.

So I would ask the petitioner and their technical people to review that issue between now and the Board of County Commissioners, regardless whether or not this Commission approves or disapproves the application, because, as you know, we are an advisory commission. The BCC has the final word, and so I would urge the petitioner to work on that, regardless of what decision this Board makes.

Thank you.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: One last comment.

I think this is solely as a result of our Chair's efforts, actually, that we have schoolbus shelters for all of these projects, and I commend him for that, and I do notice that there is a schoolbus shelter in the -- near the entrance of the project, or the community. So I think that's great.

I think based on the comments from my fellow commissioners that they'd like to see some workings and improvements of the rec area, and I know staff, you know, you'll work with the petitioner with that, and the addition of the walk-around the lake and the requirement for the signal, the verbiage to be agreed to, with the petitioner, I'm going to make a motion for approval of the development order amendment to reconfigure the site plan and modify the conditions of approval as amended.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All right. There's a motion by Commissioner Hyman, seconded by Commissioner Kaplan.

Under discussion, I just want to make one comment or actually two comments.

The -- I have a suggestion for the petitioner on the rec area. I know some of the other projects we put a fishing area in where there's a dock. There's a lake there, so certainly would be beneficial for the kids to have a place to go with their father, mother and fish.

That's an easy fix to give us some more area.

Certainly, Commissioner Hyman's suggestion or whoever suggested the pathway around the lake would give them a place to ride their skateboards and their bicycles without having to go out in the parking lot so the paved parking -- I mean a paved bicycle path around the lake would certainly help.

I, too, would like you to see if you can do anything to expand a little bit on the green area.

The other comment deals with the -- several comments were made with respect to the freebie, that we're giving away these TDRs for nothing.

I just think everybody needs to recognize, and you all seem to recognize, the need. You all said you had no issue with affordable housing, and everybody recognizes we need --

COMMISSIONER HYMAN: Workforce.

CHAIRMAN BARBIERI: -- excuse me, workforce housing, but the issue is that this is basically a subsidy by the government. You know, you can call it whatever you want, but giving the -- an investment, as the Deputy Administrator, County Administrator, suggested, it's an investment by the government to allow developers to be able to build these kind of projects; otherwise, if they had to pay the \$50,000 per unit, they would not be able to build them. I mean it's simple mathematics.

So I hope everybody's clear that it's not some kind of freebie, this developer's not getting some kind of benefit that other people wouldn't get. I mean it's basically due to the workforce housing component.

And the last thing is I want to address the attorney's request that we postpone for another 30 days.

This Commission -- I've served on this Commission probably 14 years. I don't remember 'cause I was off on the Land Use Advisory Board then I was back, but I know that we have always, always insisted that the petitioner meet with the residents prior to us discussing it.

In fact, this very petition last month, much to the dismay of the petitioner, was postponed for 30 days, and the main reason for that, because we did pick up a commissioner to take care of quorum -- the main reason was we were told that the petitioner had not met with the residents in the surrounding area.

Now, I know that Mr. Morton was very angry that we postponed, because he made that clear to me, and I told him how I felt about that, and I know that over the last 30 days he's done everything conceivable to meet with the residents and try and eliminate the concerns as much as possible, and that's all we asked him to do, meet with the residents and see what you can do to try and eliminate their concerns.

So with respect to the counsel's request that we postpone, I respectfully suggest back to you that we postponed once. We gave the petitioner every -- every -- gave the homeowners every opportunity to meet with the petitioner, and I think that was done, and I am certainly not in favor of postponing this one.

So with that said, if there's any other discussion on the motion? Commissioner Bowman. I'm sorry.

The Planning -- the Zoning Director also wanted to respond.

COMMISSIONER BOWMAN: I just had one question for Ken.

Are the garages counted as parking spaces?

MR. ROGERS: Yes.

MR. Mac GILLIS: Yes.

COMMISSIONER BOWMAN: Okay. Thank you.

MR. Mac GILLIS: I just -- on Page 250 -- 'cause the discussion going back and forth related to some of your concerns with the design and maybe fine tuning it -- there was some comment made by staff on the top of Page 250 with regards to some of the pedestrian amenities.

That ties back in, I think, to some of the deficiency or the lowering of the recreational requirements, even though Parks has signed off on it. I think some of this would enhance those amenities around the lake.

So we'll work with the Parks Department --

COMMISSIONER HYMAN: Good.

MR. Mac GILLIS: -- see if they can leave that recreational requirement on site, and we'll work with the applicant.

COMMISSIONER HYMAN: Good.

MR. Mac GILLIS: Understanding this is a workforce housing and exemplary standards, we try to balance workforce housing and yet create a nice design here.

COMMISSIONER HYMAN: Great.

CHAIRMAN BARBIERI: All right. Is there any other discussion by the commissioners?

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Just real quick.

I also realize that although the land for the park area has been reduced, the area for the civic center was greater than was required by, so I didn't realize that they don't -- I guess you don't combine the two --

MR. Mac GILLIS: No, they don't.

VICE CHAIRMAN ANDERSON: -- or get any credit. They're --

MR. Mac GILLIS: They have --



VICE CHAIRMAN ANDERSON: They're totally separate.

MR. Mac GILLIS: Yes.

VICE CHAIRMAN ANDERSON: So even though the pool and the rec building is much bigger than it has to be, they don't get any credit for that and the fact that they reduced the amount of, let's say, the -- like the tot lot area.

But, again, I still think, you know, just one last time the requirement of 2.1 -- or 2.25 parking per unit with the way -- you know, I think that probably -- has that standard been the same standard for like 20, 30 years?

MR. Mac GILLIS: No, actually in 2003 we did a comprehensive rewrite of the parking code, so we did a lot of work, making sure that the standards in there are consistent with --

VICE CHAIRMAN ANDERSON: But I mean did it increase any, or is that what it's always been or do you know?

MR. Mac GILLIS: Specifically, to that residential I know we did look at the standards for residential, specifically this type of project.

VICE CHAIRMAN ANDERSON: I mean you think 2.25 is sufficient in a project like this?

MR. Mac GILLIS: I mean I don't recall getting complaints from Code Enforcement. Generally, that's where they come where the Zoning Division would -- either somebody's asking for variances or through Code Enforcement we get complaints, and I don't recall getting complaints --

VICE CHAIRMAN ANDERSON: Okay.

MR. Mac GILLIS: -- that the parking is too low.

VICE CHAIRMAN ANDERSON: I've just been to too many developments where I've seen problems like that, so.

That's all. Thank you.

CHAIRMAN BARBIERI: All right. We're ready for a vote on the motion.

All those in favor of the motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries unanimously, 7-0.

COMMISSIONER HYMAN: Move approval of the transfer of development rights for 35 units.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion was made by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Any discussion on that motion??

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval to

allow the reduced cost of a dollar a unit for the transfer of development rights.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Hyman, seconded by Commissioner Kaplan.

Any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Thank you.

CHAIRMAN BARBIERI: Thank you.

UNIDENTIFIED SPEAKER: You sold us out, people. You do it perpetually. Thanks for nothing.

CHAIRMAN BARBIERI: The --

UNIDENTIFIED SPEAKER: Come on over and visit sometime and try to get to work every day, get back into the neighborhood every day.

Why don't these guys go into the casket business?

CHAIRMAN BARBIERI: Ma'am, ma'am. You heard the testimony. We can only base it on the law. The law says that --

COMMISSIONER HYMAN: Don't even -- don't even get involved.

UNIDENTIFIED SPEAKER: Sorry I took the day off with no pay.

CHAIRMAN BARBIERI: I'm sorry you feel that you wasted your time.

UNIDENTIFIED SPEAKER: We did. We did waste our time.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: All right.

CHAIRMAN BARBIERI: We're going to take a break. The court reporter would like to take a five-minute break. We'll be back here at -- you need to take a break? Okay.

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

COMMISSIONER HYMAN: Mr. Chair, can I ask you to -- I have to leave, and there are a couple of things, if we could reorder the agenda, and I apologize for this, but I would love to be here for the election.

And, also, we were approached by a gentleman who is the representative, I guess, of

the last item, the Square Lake, and he wants to be postponed.

So can I make a motion to postpone the Square Lake project to next month's meeting?

That's DOA2007-1590.

COMMISSIONER KAPLAN: What number is that, please?

COMMISSIONER HYMAN: I just said, 2007-1590.

MR. CHOBAN: What item number?

COMMISSIONER HYMAN: Thirteen.

COMMISSIONER KAPLAN: Thank you. Second.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 13?

Yes, we have somebody here. Joe Martin.

COMMISSIONER HYMAN: That's him. I think he --

CHAIRMAN BARBIERI: All right. So we have a request by Mr. Martin to postpone Item 13 for -- 'til the next -- motion on the floor, to the March 8th.

MR. Mac GILLIS: March 6<sup>th</sup>.

CHAIRMAN BARBIERI: March 6<sup>th</sup>, and it's seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Then I would move to -- if we could move the election to now and then take a minute to do that and then complete the agenda.

COMMISSIONER KAPLAN: I'll second the motion we move the election up to the present time.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: All right.

All in favor.

COMMISSIONER KAPLAN: With that --

He said he seconded the motion.

COMMISSIONER KAPLAN: -- Mr. Chairman, may I make a motion --

CHAIRMAN BARBIERI: Well, let me take a vote on the motion to reorder the agenda.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER KAPLAN: I would like to make a motion --

COURT REPORTER: Turn your mic on. I can't hear you.

COMMISSIONER KAPLAN: It's -- it's on.

COMMISSIONER HYMAN: Speak into it.

COMMISSIONER KAPLAN: I would like to make a motion at this time, notwithstanding the fact that the Chair and I don't always agree --

COMMISSIONER HYMAN: That's an understatement.

COMMISSIONER KAPLAN: -- I will recommend that we reappoint him to Chair for the ensuing year and trust that he'll do as good a job as he's done in the past and continue successfully meeting with him.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Thank you very much. Are there any other nominations for Chair?

(No response)

VICE CHAIRMAN ANDERSON: I move to close nominations.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All those in favor of Frank Barbieri for Chair?

COMMISSIONER KAPLAN: Can I vote negative now that I made the motion?

COMMISSIONER HYMAN: You got my vote.

CHAIRMAN BARBIERI: I'll recuse, I guess.

COMMISSIONER HYMAN: You got my vote.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: All right. The motion passes. Thank you very, very much for that. I appreciate it.

I'm going to turn the meeting over shortly to Bill Anderson.

COMMISSIONER KAPLAN: Well, whoa. I think we have a vote of a Vice Chair, please.

CHAIRMAN BARBIERI: I'm sorry. You're right. We need a Vice Chair.

COMMISSIONER KAPLAN: Well, I -- can I take my motion back?

COMMISSIONER HYMAN: No.

CHAIRMAN BARBIERI: I guess I didn't do a good job on that one.

We need a Vice Chair. Do we have a nomination for Vice Chair?

COMMISSIONER KAPLAN: I'd be very happy to make the motion for our existing Vice Chairman, Bill Anderson, continue on his good job.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: Are there any other nominations for Vice Chair?

(No response)

COMMISSIONER HYMAN: I don't think you have to second a nomination, actually, but --

CHAIRMAN BARBIERI: All right.

All those in favor of Mr. Anderson for Vice Chair.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER KAPLAN: Now you can turn it over.

CHAIRMAN BARBIERI: Thank you very much.

COMMISSIONER HYMAN: Good job, you guys.

CHAIRMAN BARBIERI: Commissioner Anderson, would you take over for a minute? I have to step out.

VICE CHAIRMAN ANDERSON: Okay.

VICE CHAIRMAN ANDERSON: Okay. Staff, where are we?

MR. Mac GILLIS: This is Item 19, Page 9 of the agenda, Z2007-1175, Fitzgerald Subdivision, found on Page 277 through 292.

Staff is recommending approval of this rezoning, subject to three conditions found on Page 288.

Just some brief background before I turn it over to Sandra to present this.

There is -- this application is also subject to a small scale Comp Plan amendment that this Board does not review. It goes directly to the Board of County Commissioners.

Planning staff and the Land Use Advisory Board is recommending denial of the small scale Comp Plan amendment. It's inconsistent with the coastal high hazard area where there's a state statute that says that you cannot approve additional units in that coastal high area because of the hurricane area.

So that's the main reason they're denying that.

What you're looking at -- and there's also a variance. If you approve these, the variance will be coming next month for this particular lot to allow it to be subdivided and meet the underlying zoning district's frontage requirement, what it cannot meet.

So those are two separate applications. You will not see the land use amendment. This, if you approve this today, will move on, and both of them will be heard by the Board of County Commissioners next -- at BCC on the 28<sup>th</sup>.

So I'll turn it --

VICE CHAIRMAN ANDERSON: We only have to concern ourselves with that.

MR. Mac GILLIS: I just want to let you know that this rezoning has to be consistent with

the land use, but Planning is recommending denial on the land use, and Zoning's recommending approval on the rezoning because currently the zoning is not consistent with the land use.

So Zoning's main role is to ensure consistency between the zoning and the Comp Plan.

So I know that's kind of complex, but I'll turn it over to Sandra. Hopefully, she can go through the variance -- or the rezoning criteria for you.

MS. GONZALEZ: Good morning, Commission. For the record, Sandra Gonzalez, Site Planner II, presenting Fitzgerald subdivision, Application Z2007-1175.

The applicant is requesting to rezone 1.59-acre lot located west of Riverside Drive between Tequesta and County Line Road.

The current zoning district is residential single family, and the applicant is proposing to rezone to residential transitional.

The current zoning designation of RS is inconsistent with the current land use of low residential, one acre -- one unit per acre, and the applicant is also requesting a land use amendment from LR-1 to LR-2.

The proposed zoning district to RT will be compatible with LR-1 and LR-2; however, Planning staff is recommending denial on the LR-2 land use amendment.

We received six letters and one phone call opposing to this project and one letter approving this project.

The major concerns from residents are based on property values, increase in density and the desire of remaining a single family in this area.

Based on the findings of consistency with Comp Plan, consistency with code, consistency with the surrounding area, adequate public facilities, changed circumstances and effect on natural environment, staff is recommending approval of this item with three conditions found in the -- listed in Page 288.

And this is the end of my presentation. Thank you.

CHAIRMAN BARBIERI: You're welcome.

I'm sorry, Jon, I was outside. Is there a petitioner on this?

MR. Mac GILLIS: Yes.

CHAIRMAN BARBIERI: Okay.

MS. GLAS: Dodi Glas, I represent the petitioner. I'm with Gentile Holloway and O'Mahoney.

And as staff has said, the issue before you today is basically the rezoning which is pretty straightforward in terms of the consistency issue.

Currently we have a site that's zoned RS which is inconsistent with the current land use or anything else that we may propose on the site. The land use currently would support the RT zoning that we're asking for today.

I can go through a presentation, but I

would waive that if there is a desire by the Board to move on.

CHAIRMAN BARBIERI: Anybody particularly want to hear the presentation?

(No response)

CHAIRMAN BARBIERI: Planning, you have some -- a comment to make on this?

MR. VAN HORN: The only comment I have is that, yes, we are recommending denial on the land use amendment, which you are not hearing here today. The Board of County Commissioners will hear that at the end of the month.

The current rezoning application is required to be processed concurrent with the land use amendment; however, the rezoning to the district that they're requesting is not inconsistent with the existing LR-1 designation.

So we're not recommending any denial or inconsistency with the existing LR-1 designation, but, again, when the land use amendment goes to the Board, we will be recommending denial of the land use amendment.

VICE CHAIRMAN ANDERSON: Okay. And what all would be allowed on this property with this change?

MR. VAN HORN: One -- with the change they would be able to put two units, subdivide the property for two units, if the Board of County Commissioners was to adopt the amendment to LR -- from LR-1 to LR-2.

Currently, they can only put one unit on the property.

CHAIRMAN BARBIERI: Okay. Any other questions?

(No response)

CHAIRMAN BARBIERI: All right. Is there any member of the public here to speak on Item 19, Z2007-1175?

(No response)

CHAIRMAN BARBIERI: None. We need a motion.

COMMISSIONER KAPLAN: Not hearing any members of the public in opposition, since this is not a land use amendment, I'll recommend approval of official zoning map amendment from the Residential Single Family Zoning District to the Residential Transitional Zoning District.

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, second by Commissioner Brumfield.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0, with Commissioners -- let's see, we have both of the alternates now voting, with Commissioner Hyman -- the record should reflect Commissioner Hyman's gone, so Commissioner Armitage,

Commissioner Kelly [sic] are both voting, and the vote is 7-0.

MS. GLAS: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Brings us to Page 10, Item No. 22, ZV2007-1772, Arrigo Dodge MUPD, Pages 347, 371 of your backup.

Staff is recommending approval? I'm sorry. It says approval, but staff is actually recommending denial of this variance.

There are four conditions if the Board finds in favor of the applicant's request to approve this.

It's a Type II variance to allow a flagpole in excess of 50 feet, which is the code maximum height.

Carrie will present this for you.

MS. RECHENMACHER: Okay. Good morning, Commissioners. Carrie Rechenmacher, for the record.

Arrigo Dodge was just before you in 2007, in September of 2007, to add 14 acres onto an existing 30 acres. The final site plan has not been approved; however, they have an approval, a BCC approval, for 44.71-acre dealership.

The applicant is requesting a giant flag, essentially, 80-foot tall pole and based on the criteria on how large the flag could be, a flag there would be over 1,000 square feet. It'd actually become 1,152 square feet.

The code currently allows a flag 50-foot in height and 450 square foot for the flag, and the code allows three flags like that.

On the site it turned out, and we did a site visit, there were two flags on the site. It's like a little war memorial that was not -- never permitted.

Apparently, the previous property owner had put that -- those two flags on there, but if the applicant chose to get rid of those flags or could have gotten a variance for those two smaller flags, they could do -- they could do three flags, 50-foot in height with a flagpole 50-foot in height and a 450 square foot flag per pole.

The applicant -- staff is recommending denial on this because they're also -- giant flag that the applicant's requesting would essentially serve as a landmark and as a sign for the site.

It would be so totally out of character -- that flag would be right on the corner of the



Florida Turnpike and Okeechobee Boulevard so you'd be seeing it from the Turnpike overpass.

This -- there is no special condition why they would need a flag that size. They currently have two signs on the site that exceed current code.

There's an exhibit on Page 357 that shows they have a sign on the Turnpike which typically would not be allowed because it does not meet the frontage definition; however, it's a legally approved sign.

And they also have a 200 and -- a 25-foot sign on Okeechobee Boulevard. The current code only allows a 15-foot sign, so already they are -- their signage exceeds code.

So there's no special conditions. It's a huge site. There's signage on the building. Their request is a result of the applicant -- these are the seven criteria, by the way, that they don't meet, the staff has determined they don't meet.

This would confer -- if they were allowed to have this giant flag, this would confer a special privilege that is not allowed in any other parcel in the county.

It's not a hardship because they would be allowed to have three flags.

It's not the minimum because they don't need a flag that's that high, and it's not consistent with the code.

However, if the Zoning Commission does decide to make a determination to approve this, we have recommended four conditions to allow a slightly larger flag and also to get a permit for the existing war memorial that's on the site.

Thank you very much.

CHAIRMAN BARBIERI: Almost seems un-American to tell somebody they can't put up a giant flag, but I certainly think, you know, your assessment that it's nothing more than a, you know, a banner telling people where the -- where the commercial site is at is probably the intent with such a large sign.

I can't make the motion so is there anybody here from the public? I don't have any cards left for anybody, so --

VICE CHAIRMAN ANDERSON: The applicant.

CHAIRMAN BARBIERI: Oh, I'm very sorry. I'm very sorry.

You guys want to take back the vote?

VICE CHAIRMAN ANDERSON: We already did while you stepped out.

CHAIRMAN BARBIERI: Petitioner, before we make up our mind, which it seems like I already did, would you please give your presentation.

MS. BAXTER: Good morning. I'm Kara Baxter, from Greenberg, Traurig, on behalf of my client Arrigo Enterprises, Inc., and if you'd just allow me a bit of opportunity just to give you the two main reasons we feel the flag is appropriate for the site.

The flag as it -- the code for the flag

height, which we're asking for a waiver of 30 feet, the code allows for 50 feet, we are asking for an additional waiver to get us up to 80 feet, and we feel there are two main reasons why this would be appropriate for this site.

The code as written is a one size fits all code requirement. It doesn't make any distinction between somebody who's coming in for a flagpole for their back yard in the county versus a piece of property like my client's which is over almost 44 acres in size.

It doesn't make a distinction between the neighborhood that it's in, whether or not it's -- like I said, it's in a single family residence, residential neighborhood or a commercial MUPD like this property is.

As you can see from the aerial, the proposed location that we would like to put the flagpole is on the corner of Okeechobee Boulevard and the Florida Turnpike. And if you're familiar with this part of the county, this is actually where you're coming down from the overpass that comes down over the Turnpike.

So you're actually elevated on this portion of the property, and you're actually up and over the actual site of the property, which is one of the other reasons why the waiver would be appropriate here because the traffic oncoming is actually much higher than the grade of the property.

The neighborhood, it is compatible with the neighborhood. Even though this would be an 80-foot flagpole, it would be compatible with the neighborhood.

You can see here that the Vista Center is the property to the north. To the west you can't see, it's actually where the Home Depot site is, and there's four -- the 14 acres that just was incorporated into the MUPD in September.

And to the southeast you can tell it's a -- I don't know if you can see it from there, but it's almost actually 410 feet just to the property boundary of the property to the south, and that, to me, is a justification just for the nature of the property itself.

The second reason it's appropriate would be the nature of the flag.

You know, I think you alluded to the fact before that this is proudly an American car dealership. That does mean something to my client. He is proudly serving American cars, which you can tell, you know, lately -- he's very proud of that fact, and the fact that there are existing signs there, to me, there's a fundamental difference between signage and the American flag.

After September 11<sup>th</sup> and the war that's going on right now there is a distinction to be made between the signs that are on the property which are existing signs -- they did conform with the code as it was written at that time.

The code was changed, and they are slightly larger than would be permitted. One is

210 feet versus 200 -- 200 square feet, and the other one's 250, ballpark range, and there's only two signs that are actually on Okeechobee Boulevard.

There is a third sign on the Florida Turnpike, which is part of the reason why we agree to limit the signs on Okeechobee only to two, as opposed to the three that's permitted by code when we came in for the amendment to the PUD in September.

And staff also did let you know that we would be permitted to have three flags, 50-foot flags on site. There are two small flags now that were a part of a war memorial that were constructed from the previous owner that we do intend to get permitted.

This was brought to our attention when we were applying for this variance that there was two flags on site that we couldn't find permits for, that we did search for permits for, that we intend to, but they're very small flags.

So if you add up three 450 square foot flag that we would be permitted by code, you're almost at 1350 -- 1,000 square feet.

The size of the flag is commensurate with the size of your pole. It's an analysis done under the code, so technically, yes, we would be -- if you have an 80-foot flagpole, you would be somewhere in the neighborhood of an 1100 square foot area of the flag. We don't intend to put that here.

The -- one of the conditions of approval would have it be limited to 500. We would probably be amenable to something less than 700. We're not looking at having 1100 square foot flag, but just because, as we mentioned, the nature of the property, we feel that it needs to be elevated higher in order to make it compatible and proportional with the actual size of the property that I said before is almost 45 acres.

And I think that pretty much summarizes my presentation.

COMMISSIONER KAPLAN: Mr. Chairman.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: As a former infantryman, combat officer who enlisted at age 17 with the consent of his parents I don't think I am unpatriotic by supporting staff's position to deny this application.

I am not in any way questioning the patriotism of the applicant, but I think 80 feet does not serve the public, there's no benefit to the public, and I think that staff's position is absolutely correct.

I don't want to see 80 feet flag mast without the flag there, even. I think it's a disgrace to the community. It opens a Pandora's box to other commercial enterprises asking for the same condition.

And so I will move, when the Chair recognizes it's time to move to make a motion, to make a motion to deny this application.

CHAIRMAN BARBIERI: What would be your compromise? Would you -- what your client would be willing to accept if we allowed a larger than typical flag here? What would be your compromise?

You're saying you're not -- you would not agree with the conditions that staff has as to the limitations?

VICE CHAIRMAN ANDERSON: Or did -- staff, did you have a recommended compromise?

MS. RECHENMACHER: Yes. We had a -- we had a sign 65 feet in height, which is 15 feet over what the code allows, and 500 square feet. The code allows 450.

So that'd be 50 square feet more than what the code allows, and I believe the applicant did say that she was agreeable to that.

COMMISSIONER KAPLAN: Mr. Chair, we also --

COMMISSIONER BOWMAN: Mr. Chair --

MS. RECHENMACHER: I also want to point out there's an American flag, it's a state statute to have them lit at night, so essentially it functions as a 24-hour sign for them, so --

MS. BAXTER: Well, flag etiquette demands that if it -- the flag is raised at night, it be lit. That's just proper etiquette.

COMMISSIONER KAPLAN: And besides the height --

MR. Mac GILLIS: Just so the Board knows, that when we did the sign code in 2003, there was considerable discussion on the height of the poles and was considerable research done across the country, in addition to Palm Beach County and input from the County Attorney's Office of not being too restrictive on this.

And the number we came up with was to prevent this type of thing happening where people are going to come in and start getting variances and open a Pandora's box where dealerships were going to use them, which historically is where we were finding they were going up, illegally putting them up where on dealerships, unfortunately.

So I think our position, more than trying to negotiate, would be we would request the Board deny this, rather than opening up a Pandora's box where people think they can come in and get variance to deviate from this code requirement because it -- a lot of discussion on the code amendment was put into this where the current code requirements that were before you this morning.

CHAIRMAN BARBIERI: All right.

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I just want to make a comment. I know with the overpass -- last year we approved a sign for a Public Storage at Hypoluxo and 95.

MR. Mac GILLIS: Correct.

VICE CHAIRMAN ANDERSON: And I don't know if anybody, if they drive by there sometime and look like it, but the sign looks like it's down in a hole, even with what we allowed them to increase it, and if knowing what I see it now, I probably

would have recommended they be allowed a little bit more, just something to think about.

Now, in this area, because the special -- maybe the only special circumstance, again is because it's near, you know, the high overpass going over the Turnpike. So that could be a special circumstance to allow them to go up in height a little bit more but maybe, you know, not go that much larger in size of the flag itself, so I would probably --

MR. Mac GILLIS: I think there's a big distinction between that sign and a flag.

The other one was to give visibility to the point of purchase of a business.

This is a flag where it can be patriotic on your site. You don't need to have everybody driving down I-95 to be patriotic, to see a flag of this size.

So I think there is a distinction that the Board can make between the Hypoluxo one and this one.

MS. RECHENMACHER: And they actually do have a sign on the Turnpike which typically would not be allowed because it's not defined as frontage, so.

VICE CHAIRMAN ANDERSON: Right. I understand.

MS. RECHENMACHER: And the site is so huge you can clearly see a big dealership there. I mean there's no question, and they could have a sign that's 50 feet in height. I mean that's -- the code already allows sufficient signage so they could demonstrate their patriotism, there'd be no problem with.

MS. BAXTER: If I could just answer the question about the condition of approval that my client would agree to, I think that something along the lines of 65 feet if the size of the flag was measured proportionate with the calculation in the code, so something less than 700 square feet.

It'd be actually, 722 if you do the calculation by the code, for a 65-foot flagpole.

COMMISSIONER BOWMAN: Mr. Chair.

CHAIRMAN BARBIERI: Commissioner Bowman.

COMMISSIONER BOWMAN: I have one question.

She just brought that one up.

So you're saying if you go down to 65 feet, you're going to want a 700 and some square foot flag, but if you stay at 80, you're willing to take a 450 square foot flag?

MS. BAXTER: No, it would be 700 -- something around the 700 was what we are proposing, even if it was an 80-foot flag.

It's because of the configuration of the property and the fact that it comes to a triangle right by the overpass was why we thought the increased height would be appropriate.

We're not looking to have a, quote, huge, enormous, end quote, flag. We just want something that fits with the scale of the property.

COMMISSIONER BOWMAN: And my first

comments for staff, when I travel north on the Florida Turnpike just south of Lantana Road, on the right-hand side there's a cell tower with an enormous flag there. How did that happen?

MR. Mac GILLIS: Whether it's legal or not I'd have to check into that 'cause it could be --

COMMISSIONER BOWMAN: I mean that --

MR. Mac GILLIS: Somebody could go up there and stick it --

COMMISSIONER BOWMAN: I mean that cell tower is probably 100 feet high, and the flag's at least 1500 square feet from my perspective.

MR. CHOBAN: Those are stealth towers.

MS. RECHENMACHER: We have some cell towers up that have flags.

MR. CHOBAN: Those are stealth towers.

MS. RECHENMACHER: Stealth towers.

COMMISSIONER BOWMAN: And they're -- they're allowed to have flags of that magnitude, but a car dealership's not?

MS. RECHENMACHER: They have -- they have to be lit at night, if it's an American flag.

MR. Mac GILLIS: That one I -- I can't --

COMMISSIONER BOWMAN: I mean from my --

MR. Mac GILLIS: I can't respond to your question on that one. That could be illegally put on the flag unless --

COMMISSIONER BOWMAN: I mean that's a very obvious flag there, and if that's allowed there, I don't have any problem with it being allowed here.

MS. HERNANDEZ: I'm not familiar with the site, but under the code we have different types of communication towers, one of which is considered what we call a stealth tower, and there are different means of doing stealth towers.

Some people do trees, campaniles, and there is an option to do what they call flagpole.

The flag would then be in the same size of which the pole that they would propose, so if it was 100-foot stealth tower, they would have a flag on it.

COMMISSIONER BOWMAN: And they would use the same formula that we talked about earlier. That's why that flag is so huge there?

MS. HERNANDEZ: Correct.

COMMISSIONER BOWMAN: They're able to put it there?

MS. RECHENMACHER: But the flag -- the flag would not be as large as what the applicant is requesting.

MS. BAXTER: And the code allows --

MS. RECHENMACHER: But the stealth towers I've seen, they're not -- they're much smaller flags.

MS. BAXTER: The code allows 450, so if there's some compromise that we can reach that wouldn't be considered enormous in your minds.

Again, if we can get to the 65 height, I think we can come to an agreement on the actual area of the sign -- the flag.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: You'll have an

opportunity to tell me I don't know what I'm talking about because I'm new to this game.

But the other day I had an opportunity to meet with staff, and they provided me with a book that's about six inches thick and a lot of paper in it, and I gave a little bit of an overview to it to this end, the other motion, before.

And I have -- I have to tell you that I'm -- this being my first meeting, I hate to take a position in opposition to staff.

To the Director, in terms of we would rather see you reject than create an opportunity for a variance? That's a sky is falling kind of argument. I don't buy that at all. It's what lawyers use all the time when they have nothing else to say, if we do this, everything bad's going to happen. So I don't -- I don't accept that. Personally I don't accept that.

Second point that I want to make is I think it's an extrapolation and a bad extrapolation to equate signage to a flagpole.

Now, the argument has been made that they're going to use this as a landmark. Well, maybe that's -- that's a subjective read. Maybe it's even objective because the backup suggests that they have said that in public, but, you know, so what? What's the big deal here?

And then my third observation is that this is a 43-acre parcel of land that's under -- that's lower than the land around it and it's the same formula if I had a half an acre parcel of land for a flagpole and a flag.

So I think that there is room here for some compromise to accommodate what is being asked for by the applicant.

So on those three points I would argue against rejecting and find the compromise.

If their position -- if staff's position is a compromise of 65 feet and the applicant's willing to take that, now it's the size of the flag. Five hundred to 700 square feet on the face of the flag is not that big a deal.

I don't see why we're creating a win-lose situation here in terms of a very significant business to our economy in this community and a very reasonable request that's couched in all sorts of mom, apple pie and the American flag.

CHAIRMAN BARBIERI: The Executive Director, Ms. Alterman.

MS. ALTERMAN: If I may, just -- and I understand where many of you are coming from about compromise; however, I just need to remind you that when you're looking at a variance request, there are criteria that have to be met.

Staff is advising you that in their professional opinion the criteria have not been met, and then in order for you to grant the variance or a compromise of some sort, you would have to determine that in fact the criteria has been met.

The code does say that, and the failure to meet any one of the criteria should result in a

recommendation of denial and a denial of the variance.

So just based upon the code requirements and the legal requirements, unless you disagree with staff that the criteria have been met and justify that they have been met, I'd advise you that you probably need to deny it.

COMMISSIONER KAPLAN: Mr. Chairman.

Thank you, Barbara.

I had intended to bring up the Article 2, Section 2 of the variance standards.

There are six qualifications. All six have not been met, and that's another stone to throw at the glass roof there.

I feel very strongly that the commercialization of the American flag is personally abhorrent to me. That's all this is, is a use of the flag to sell the business of the applicant. I don't see any distinction because it is a car dealer than someone selling computers.

Why not have an 80-foot flag for one of the computer stores? Now, where do you stop?

Where you open a Pandora's box and all these things -- I think that the application is in poor taste. I would not personally accept any conditions.

When the Chair permits it I will make a motion to deny the application as specified by staff in its entirety.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Just getting back, kind of the reason I brought up the sign issue is because of the fact of the overpass, as far as the height of the flag you could argue that the special condition exists is because of the overpass going nearby.

So you could use that argument saying that there's a peculiar circumstance would be true. It wasn't something, the result of the applicant, because of the overpass. They didn't create that.

Will not confer upon applicant any special privileges. We've in similar situations with signs we have allowed things to go a little bit higher because of an overpass. So to me that's a similar argument as to the signs.

Literal interpretation and enforcement of the terms and provisions of the code would deprive the applicant rights by others that we've -- we've allowed others.

Grant of the variance is the minimum variance, will make possible the reasonable use. They're asking for an increase of -- was it -- compromise, it'd be 15 feet. The overpass is more than 15 feet so I don't think that would be unreasonable.

Grant of the variance will be consistent with the purposes, goals, objectives and policies of the Comprehensive Plan.

Grant of the variance will not be injurious. I don't think it'd be injurious or detrimental to the public welfare.

So looking at it that way I could see



going to the 65, and then if we agree with our attorney, then we would keep the sign -- the flag the same size.

COMMISSIONER KAPLAN: Mr. Chair.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: Staff has found -- one of the conditions required, No. 2, is special circumstances and conditions do not result from the actions of the applicant.

And staff's answer is no, and I agree with it. Special circumstances and conditions do result from the actions of the applicant as a configuration and location of the property is inherent to the site and is the result of the actions of the applicant.

The applicant knew very well when they got into this situation that he is -- they or it is looking to get around a requirement that we are bound to uphold, so --

MS. BAXTER: May I respond?

CHAIRMAN BARBIERI: When he's finished.

COMMISSIONER KAPLAN: So based upon the applicant's attempt to commercialize the flag, the height of the flagpole and the fact that the applicant did a positive step to cause this condition, I cannot support the application in its entirety, and I support the staff's recommendation for denial. Period.

CHAIRMAN BARBIERI: Petitioner.

MS. BAXTER: I'd just like to respond on two fronts, more -- one on the personal nature, but I'll save that for the end.

We did not construct the overpass. So that wasn't an action that the applicant created.

The overpass was created when Okeechobee Boulevard crossed the Florida Turnpike. So that was not anything that we did.

You know, we did buy the site, but we had nothing to do with how the elevation over the Turnpike was created.

And the location of the sign has to be -- now I'm saying it -- location of the flag is actually set -- demands certain setbacks so it had to be located in a certain spot on the site that would provide the setbacks that are required by code.

Just on a personal front, when we talked about this application being in poor taste, my husband served in the military, as did other members of my family.

So I personally just would like to respond that I don't think any time you fly the American flag it's ever unpatriotic, and, yes, we do sell American -- my client does sell American cars. So I think it is a little bit different than a computer.

I'd just like to finish on that.

CHAIRMAN BARBIERI: Thank you.

Any other commissioners?

(No response)

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: At this point, Mr.

Chairman, I'd like to make a motion to adopt a resolution denying a Type II zoning variance to allow a flagpole in excess of 50 feet in height.

COMMISSIONER BRUMFIELD: Second.

COMMISSIONER ZUCARO: Discussion.

CHAIRMAN BARBIERI: Motion was made by Commissioner Kaplan, seconded by Commissioner Brumfield.

Discussion, Commissioner Zucaro.

COMMISSIONER ZUCARO: My concern here is that unless I'm reading that book wrong, this is an extrapolation that suggests that a flag is a sign.

I don't accept that proposition. A flag is not a sign, and, therefore, when you attempt to stop -- when you -- if we want to deny it as a flag and not extend them the additional privilege of 30 feet, I would perhaps not make the argument I'm trying to make now.

But staff's objection is a clear extrapolation only that this flag is being used as a landmark; hence, it is equivalent to a sign and, therefore, should be denied.

MR. BANKS: It's regulated as a flag and a flagpole. It's considered one of the signs on the dealership, and the height limit for 50 feet is not for signs, it's for the flagpole.

So staff has been -- analyzed this, and the code is, you know, legal regarding flagpoles and flags.

COMMISSIONER ZUCARO: Throughout --

MR. BANKS: It's not a sign.

COMMISSIONER ZUCARO: Well, thank you very much, but I think that your response makes my argument.

If you read all of the material that staff has provided and the logic that they use to recommend the denial, it is infused in everything that they said that they're treating this as not a flagpole, but an extrapolation to being a sign.

If it's clearly just being treated as a flagpole, then their arguments are not supportive of what's -- their arguments in this document do not support denial just as a flagpole. It's supporting denial as a sign, and I'm arguing that that's not appropriate.

I'm suggesting, and I'm -- you know, I'm -- I don't have any stake in the outcome of this.

I'm suggesting that we're taking a position that accepts the proposition that the policy question of is a flag -- when is a flag a sign is something that we need to consider.

I'm rejecting the notion of denial because of the subjective inference that this flag as a landmark is equivalent to a sign.

That's all I'm saying. It's bad policy to say that and not say specifically we're denying them because they want a flag, and for all of these reasons they shouldn't have a flag. That's not the reasons that are being purported.

Purported are that it is not to be granted because it's equivalent to a sign. That's an

improper position.

COMMISSIONER KAPLAN: Al, if I may say, you have misread the application. I'll read it to you.

The legal ad titled "Resolution Approving a Type II Zoning Variance Application of Arrigo Enterprises by its Agent to Allow a Flagpole in Excess of the 50 Feet."

That's the only thing before this Commission is the flagpole.

The findings by the staff is very clear that they have failed to comply with Article 2, Section 2 of the variance standards, and this is what this Commission is bound to follow.

The Board of County Commissioners set the standards. They have not met -- there are six requirements. If you look at Page 360, 361 and 362, all seven of the requirements have not been met by the applicant.

The requirement is only to the height of the flagpole, period, and that's the only issue that we have before us.

MS. BAXTER: Can -- if I could just respond one more time. I know I'm kind of pushing my limit here, but they did in fact apply the signage requirements, and in those seven findings they used the sign code to find it incompatible.

The sections that they cited in the staff report were for signage.

If you look at a definition of a sign, a flag is not a sign, yet the staff applied the code provisions for a sign to that --

MR. BANKS: Provisions regarding flags are in the sign portion of the code, but the requirements are separate, but that's -- if they're going to be citing the code, they're going to cite that portion of the code.

COMMISSIONER ZUCARO: Thank you for attempting to make my argument, and I appreciate you doing that, but I just -- I understand, Commissioner Kaplan, what you're saying, and I appreciate what you're saying when you quote the applicant's -- the documentation that establishes what's trying to be done here.

All I'm saying is that the underlying premise for denial mixes apples and oranges, flags and signs. Okay.

The underlying premise throughout the entire document and inside of all of the responses that staff made as to why they should not be granted this additional privilege suggests crossing the line between a flag and a sign.

I'm saying that's not good -- I don't accept that as good policy. I would accept -- a better argument would be to deny them based upon the specific provisions in the code on flags, not the -- not in the code that uses signage, that equates signage to flag.

And I appreciate that it may be in the same general section of the code, but I'm arguing that there is a subjective element being applied here that is trying to make that crossover.

That's a policy question that I raise, and I don't know that we need any more argument on it. We --

CHAIRMAN BARBIERI: I just have a question.

In the staff report there is three things that are printed in black and white. One is the applicant maintains that the major roadways that exist surrounding the property and their configuration have long created a problem in terms of site visibility due to the traffic speed and traffic congestion in the area.

The applicant states that signage restrictions for the site have created little opportunity to alleviate the financial hardship. The applicant has clearly indicated that the requested flagpole is for identification of the site and, hence, serves a similar purpose as the site signage.

If in fact this applicant told you that -- told staff that they were putting this flag up because they couldn't put up the signs that they wanted to put up, which is exactly what this says they said, then I would agree with Commissioner Kaplan.

We should not allow them to put this flag up based on patriotic reasons when in fact it's done for commercial reasons, and I know that we're probably in an area we're getting close to not -- should not be in, but the question is the intent here, I think.

I don't know -- I'm not sure if we should be looking at the intent here, but we're mixing signs and flags, and it looks like the applicant has made it clear, as opposed to what she's telling us today, that she made it clear when she talked to you that --

MS. BAXTER: That's not true.

CHAIRMAN BARBIERI: -- it was a deal with the signage.

I mean these statements in the staff report, is that what was --

MS. BAXTER: There is -- there is no deal. There is no deal at all.

The staff report says it was in response to something that happened, and that's definitely not true. They're completely separate events.

I'm under oath, and I'm telling you that it was not in response to any -- in fact, if we want to get into this, I mean we did learn that we could not get a third sign on Okeechobee Boulevard.

We were informed that there was a, quote, gentleman's agreement about that third sign, and that was the end of it.

We didn't put it before you when -- I didn't put it before you when I was in front of you in September. We didn't try to get anything, a third sign on Okeechobee Boulevard.

When we learned that we -- that there was a, quote, gentleman's agreement when it was Auto Nations, that was the end of it.

This was not in response to anything to do

with signage.

MS. RECHENMACHER: The applicant's justification is attached that -- where they do ask -- they do compare signage and landscaping for their -- as part of their request.

MS. BAXTER: We alluded to the fact that there are strict signage regulations, which is no secret, in the county.

COMMISSIONER ZUCARO: Is the applicant here?

CHAIRMAN BARBIERI: She's the applicant. She represents the applicant.

Ms. Alterman.

MS. ALTERMAN: Mr. Chairman, I just don't normally argue this, but I just really need to point out to you on Page 370 of your report is the applicant's justification statement, and one of the statements in there is, "While the applicant continues to conform to the approved plan, it nevertheless seeks to -- continues to seek methods to adequately and appropriately reveal the site's location."

I mean that's on letterhead of the applicant. So it's not that staff decided or heard something and made it up, and I don't think you're implying that, and I certainly don't think that Ms. -- that Kara's doing that, know her very well, but I'm just -- this is what the applicant states as part of their justification.

So when staff picks that up and uses that, I think it's appropriate that they look at what the applicant says and reflects that.

CHAIRMAN BARBIERI: All right.

Is there any further discussion?

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Just forgetting the whole sign argument, if we just go back. The applicant's coming before us with a 50-foot flag, and because of the overpass I would be willing to grant them an extra 15 feet because of the overpass, like we've done in other situations.

And that's my position.

COMMISSIONER KAPLAN: Move the question, Mr. Chairman.

CHAIRMAN BARBIERI: Do we have a -- do we have a second on Commissioner Kaplan's --

COMMISSIONER BRUMFIELD: Yes.

CHAIRMAN BARBIERI: Yes, we do. Okay.

All in favor of denial. Commissioner Kaplan moved for denial of the variance.

All in favor.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Commissioner Bowman, Commissioner Brumfield -- I'm sorry, Commissioner Armitage, Commissioner Brumfield, Commissioner Barbieri and Commissioner Kaplan are opposed to the denial -- or are in favor of the denial.

So the motion passes. The petition is denied.

COMMISSIONER KAPLAN: One more -- one more

application?

CHAIRMAN BARBIERI: It was 4-3, I'm worry, 4-3, for the record.

I would assume that. I mean the other commissioners didn't vote.

Commissioner Zucaro, you're voting?

COMMISSIONER ZUCARO: I would vote in favor of --

CHAIRMAN BARBIERI: Okay. And Commissioner Bowman.

COMMISSIONER BOWMAN: I voted in favor.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER BOWMAN: I was not voting in favor of the motion. Sorry.

CHAIRMAN BARBIERI: Okay. So Commissioner Zucaro, Commissioner Bowman and Commissioner Anderson voted against Commissioner Kaplan's motion.

So it went 4-3.

COMMISSIONER KAPLAN: We've got one more, I think, to go, Mr. Chairman?

MR. Mac GILLIS: Yes.

CHAIRMAN BARBIERI: Yes.

MR. Mac GILLIS: Item 23 is ZV2007-2021, Georgia Pines, found on page 372, 388.

Staff is recommending approval of this Type II variances found with -- subject to four conditions found on Page 380.

This could -- if you don't need a presentation, staff has recommended approval. I don't think now there is actually anyone showed up to oppose this variance, so --

CHAIRMAN BARBIERI: We wore them down.

COMMISSIONER ZUCARO: Move approval.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on Item 23?

(No response)

CHAIRMAN BARBIERI: Is the petitioner here? Do you agree?

MS. HALPERIN: We agree to all the conditions.

CHAIRMAN BARBIERI: Would you state your name for the record.

MS. HALPERIN: Ellie Halperin, attorney for the applicant, John Jacobs, and, yes, we agree to all the conditions.

CHAIRMAN BARBIERI: All right. Is there any --

VICE CHAIRMAN ANDERSON: Why was this not on consent?

COMMISSIONER KAPLAN: You need a motion for the record, Mr. Chairman?

MS. HERNANDEZ: There were people that had called in objection to it so that's why we had put it on the regular agenda, but nobody showed up, so --

CHAIRMAN BARBIERI: All right. So we need a motion.

COMMISSIONER KAPLAN: I move to adopt a resolution approving a Type II zoning variance to eliminate the 15-foot right-of-way buffer, eliminate the 10-foot and 15-foot incompatibility buffers and to eliminate the plant material required for those buffers within the 50-foot ingress-egress easement.

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Okay. Commissioner Kaplan made the motion, second by Commissioner Armitage.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Commissioner Zucaro, we're not done yet.

Please sit down.

COMMISSIONER ZUCARO: Sorry.

CHAIRMAN BARBIERI: Staff.

MR. Mac GILLIS: Item --

CHAIRMAN BARBIERI: And I had 13 set at the bottom of the pile. Is that the one we pulled afterwards, the guy came up -- okay.

MR. Mac GILLIS: Last item is -- I provided you just with a draft of our annual workshop that we'll be holding after the next month's regular meeting.

Unless you have any comments on it, what we typically do is do the annual report, give you an update on all the projects you approved and any background information you need.

The second item we're going to provide you this year a little bit different is some updates on the urban redevelopment area that the Planning Division is currently coordinating, an update on our annual TDR report, redevelopment ULDC regulations.

The Zoning Division's taking a large project to amend our regulations to address the

redevelopment which is really beginning to affect a lot of the projects that are coming in here now that were in the redevelopment stage and not having all the land out west that's -- to develop.

EPZB automation, we're almost at the final stages of automating the entire Zoning Division, and to update you on the role of the development review officer and -- it's an oversight committee that looks at the zoning code and recommends changes to the regulations, as well as the process.

They've been working very closely with us over the last years, and some significant changes have been made, and I think it's worthwhile to update you on that.

The third item would be just discussing the role of the Zoning Commission and the Zoning staff that -- not only the Zoning staff, actually all the various agencies that sit up here, how we can do a better job of preparing the backup material for you, responding to your questions.

And if there's anything else that you would like us to put on this, this is supposed to be a dialog between staff and the Commission to improve our hearing. So if there's anything you would like added to this, please don't hesitate to call me, and we'll add that on.

We -- hopefully, this will take no more than 30 minutes unless there's, you know, discussion on any one of the topics that you want.

CHAIRMAN BARBIERI: Okay.

MR. Mac GILLIS: Okay.

CHAIRMAN BARBIERI: Does anybody have anything to ask him now?

Yes, ma'am.

MS. ALTERMAN: Not on that one.

CHAIRMAN BARBIERI: Okay. I would like to have your attention for one second, the other commissioners.

I -- I --

MS. ALTERMAN: Mr. Chairman. I'm sorry. Maybe I missed it.

Did we do that one item that got pulled, the Square Lake?

CHAIRMAN BARBIERI: Yeah, that was --

MS. ALTERMAN: Oh, I'm sorry. I apologize.

COMMISSIONER KAPLAN: Pulled it off.

CHAIRMAN BARBIERI: -- postponed, they asked for postponement.

That's okay. I did, too.



CHAIRMAN BARBIERI: I sent all of the Zoning Commissioners an e-mail, and I checked with the County Attorney first, and I was permitted to do that under the Sunshine Laws, provided that none of you responded to me, and none of you did as I requested that you would not do that.

And I just want to -- I want to tell you a situation that's come to the -- my attention.

The County Attorney has also told me that I need to disclose to everyone that I'm running for the Palm Beach County School Board. When I talked to you about this issue -- so I'll tell you what the issue is, and I'll tell you why. It has nothing to do with that.

As all of you know, I've been involved in west Boca for many, many years, and it's been brought to my attention by two of the schools in west Boca that there was about to be a change in the policy of the County to kind of turn their head the other way with respect to signage on the fences at the schools.

Apparently, there -- I guess there was a lawsuit filed up in northern County, plus there's been some concerns in south County with respect to the signs on the fences, and they don't meet the sign code, and we deal with sign variances all the time, and -- but the signs that I'm talking about, they're the advertising signs that are hanging on the fences.

Now, everybody agrees that they probably could look a little nicer, but the issue has become Code Enforcement for the County needs to enforce the sign code, and the sign code says that those signs cannot remain there.

I talked to Deputy Mayor Susan Welchel with the City of Boca Raton. She says they have the same exact situation with the sign code in the city, and they're getting pressure to enforce the sign code against those schools, also.

The problem is those signs bring in a lot of money for the schools. To give you an example, Boca High School brings in over \$140,000 per year from those signs, and that is anticipated to increase.

Jeff McKee, the principal there, says probably to 200,000 once the new stadium's done.

This morning I spoke with representatives from Spanish River High School. There's about \$75,000 a year that they get from the signs.

Loggers Run Middle school gets \$15,000 a year. They use that money to buy supplies for the classroom, specifically, toner cartridges for the printers.

Omni Middle School gets about \$14,000. That's turned over to the PTA or PTSA, whatever it's called there, and they use it directly in the classroom to assist the teachers and the students.

It's a major, major funding issue for the schools.

In Palm Beach County alone it probably exceeds well over two million dollars in funding

that comes into the schools in the county. I think there's 166 schools.

This has nothing to do with me running for the School Board, it has everything to do with me being involved with the schools for so many years, that I know these issues have come up because they called me and they've asked me to see what I can do to help.

Now, I contacted Ms. Alterman, and I spoke with Jon Mac Gillis. I spoke with Len Berger, and I was told that, unfortunately, there's no exemption for the schools in the sign code. You know, that -- they've looked, and they just can't find anything.

I suggested then well, if we can get the County Commission to change the code, the County code, to allow this and Len Berger was very clear, and he said it's a textbook classic case of First Amendment right violation. You can't tell a school that you can't put a sign on your fence and -- you can, and then across the street at a shopping center you tell the shopping center you can't do the same thing.

So they all suggested that we needed to find some kind of state exemption. Well, unfortunately, there is no state exemption currently.

So I took it to the next step, and I contacted Senators Deutsch and Aronberg, and I also spoke with Representative Mrachek, Skidmore, and Maria Sachs.

All of them have agreed there's several bills that have been filed in Tallahassee. They're looking at an education bill where they can attach an amendment to the bill to exempt the signs -- the schools from the sign code.

Now, that brings up some issues for a lot of people, including me and Barbara Alterman and the City of Boca, and I'm sure the City of Wellington has issues with respect to we need some kind of guidelines in place.

If we're going to exempt the schools from the sign code, then obviously we don't want it to look like a carnival. There's got to be some kind of regulations, and the best place for those regulations is with the School Board.

Let the School Board put regulations in place, working with the County, that there would be regulations as to the size of the signs, the color, the placement, so that we have some uniformity so it doesn't look like a carnival, but this is an area where we absolutely need to get involved to make sure this gets done because Barbara Alterman told me as long as she knows we're moving towards trying to get a solution that the County can take -- put it on hold, not look the other way, but kind of put this issue on hold until it gets resolved, but if it doesn't get resolved, we're going to lose it.

We're in the current legislative session in Tallahassee, so what I'm asking my fellow commissioners is if you would agree to send a

request by unanimous decision of this Board to the BCC that they work with the School Board and the state legislative delegation to change the state law to enable the schools to continue with this very important funding source at this time when the schools are under attack from every direction with respect to education funding.

So I would ask for a motion that we request the Palm Beach County Board of County Commissioners to contact the state legislative delegation and work with the state legislative delegation to urge them to change state law to exempt the schools, not in Palm Beach County, but in the entire state.

So I would ask for a motion to that effect, and I would hope that I would get unanimous support on that motion.

COMMISSIONER KAPLAN: Well, Mr. Chairman, I would make that motion, subject to the fact that it contain a provision that standards will be set so that unruly signs will not be posted, and the decorative area not be imposed so that it will interfere with the beauty of the school or the school area.

With that condition I move to send that recommendation to BCC and the state legislature if you so desire, and since you're so interested in it, I will also add in that you draw up the petition.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion was made by Commissioner Kaplan, second by Commissioner Anderson.

I thank both of you.

Is there any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries unanimously.

Thank you very much for that.

COMMISSIONER KAPLAN: Move we adjourn, Mr. Chairman.

CHAIRMAN BARBIERI: Mrs. Alterman has a comment.

MS. ALTERMAN: If I may.

Just thank you this morning for your

support on the workforce housing project.

What Verdenia was too modest to tell you when she was standing up there was that the County, the unincorporated County, won an award for their workforce housing program from the Housing Leadership Council.

They had done an assessment of all of the cities in the County and in Palm Beach County, and the County scored the highest on the scorecard that they put together, and we were very, very honored and very pleased that we won that award.

So we continue to support workforce housing in this County, and just to let you know -- and you've seen it. It's getting more and more difficult for staff and for you as the Zoning Commission for the Board of County Commissioners because what we're doing is we're ending up with smaller infill projects, rather than the large projects that are kind of out west or wherever they were with no one around them.

So we all realize that it's becoming a little more difficult to work with these projects.

Staff is doing the very, very best they can to bring you the best project possible, and we all recognize that we need to be, you know, supportive of these projects, and as long as they're good projects, we will continue recommending approval of them.

So just wanted to let you know that.

Thank you.

COMMISSIONER KAPLAN: Mr. Chairman, since you're writing petitions, I suggest that we send a letter if the panel approves, congratulating the BCC on its workforce housing.

MS. ALTERMAN: Thank you.

CHAIRMAN BARBIERI: Thank you.

Is there any other comment?

(No response)

CHAIRMAN BARBIERI: All right. The meeting is adjourned.

Thank you very much.

(Whereupon, the meeting was concluded at 12:10 p.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA )

COUNTY OF PALM BEACH )

I, Sophie M. 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 84, 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 29th day of February, 2008.

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Sophie M. Springer, Notary Public