

**ZONING COMMISSION  
OF PALM BEACH COUNTY**

Thursday, March 1, 2007  
9:00 a.m. - 10:30 a.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, Chairman

William Anderson, Vice Chairman

Don Dufresne, Commissioner

Allen Kaplan, Commissioner

Sherry L. Hyman, Commissioner

Alex Brumfield, III, Commissioner

Bob Banks, Assistant County Attorney

Barbara Alterman, Executive Dir., PZ&B

Jon Mac Gillis, Zoning Director

Maryann Kwok, Chief Planner, Zoning

Ron Sullivan, Senior Planner, Zoning

Douglas Robinson, Planner I, Zoning

Whitney Carroll, Zoning Consultant

Bryce Van Horn, Planning Department

Wendy Hernandez, Principal Planner, Planning

Ken Rogers, Dir. of Land Development

Jim Choban, Land Development

Robert Kraus, ERM

Kenny Wilson, Health Department

Jean Matthews, Parks & Recreation Dept.

Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

CHAIRMAN BARBIERI: All right. We'll call the meeting to order.

Would staff take the roll, please.

MS. KWOK: Okay. Good morning, Commissioner.

Commissioner Brumfield.

COMMISSIONER BRUMFIELD: Here.

MS. KWOK: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MS. KWOK: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MS. KWOK: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MS. KWOK: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Here.

MS. KWOK: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MS. KWOK: Yes, we have a quorum.

CHAIRMAN BARBIERI: All right. Would everybody please rise, and Commissioner Kaplan will lead us in the opening prayer and the Pledge of Allegiance.

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

CHAIRMAN BARBIERI: The Zoning Commission of Palm Beach County has convened at 9:00 o'clock 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 Land -- 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 Chambers, 6<sup>th</sup> Floor, at 9:30 a.m. on Thursday, March 22nd, 2007, to take final action on the applications listed below.

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?

MS. KWOK: Yes, we do.

CHAIRMAN BARBIERI: Do we have a motion?

COMMISSIONER HYMAN: So moved.

COMMISSIONER KAPLAN: So moved.

COMMISSIONER DUFRESNE: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

Those of you that wish to address the Commission today, would you please rise and be sworn in by the County Attorney.

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: Do the commissioners have any disclosures --

COMMISSIONER KAPLAN: No.

CHAIRMAN BARBIERI: -- starting with Commissioner Kaplan?

COMMISSIONER KAPLAN: No, no disclosures.

COMMISSIONER DUFRESNE: No disclosures.

COMMISSIONER HYMAN: I did meet briefly with petitioner on Item PDD2006-948. I did get a call from another petitioner. I don't even remember which petition that was, but I think it's being postponed.

CHAIRMAN BARBIERI: All right. I spoke with the petitioner's representative on DOA2006-344, Rainberry PUD.

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Yes, I spoke with the petitioner on Agenda Item 15, Coral Lakes, and also -- and I think it was -- I'll have to look at it when I get there.

CHAIRMAN BARBIERI: All right. Commissioner Brumfield.

COMMISSIONER BRUMFIELD: No disclosures.

CHAIRMAN BARBIERI: All right. Thank you.

I have another disclosure.

COMMISSIONER HYMAN: Yeah.

CHAIRMAN BARBIERI: I wasn't supposed to be here today because my daughter was supposed to have a C-section today, and two weeks ago she surprised us, and she had a C-section early 'cause she went into labor.

So I now have a granddaughter to go with my grandson, Brandon. Her name is Elena Briana. She's a very healthy seven-pound baby.

MS. KWOK: Wow.

CHAIRMAN BARBIERI: So I'm very happy.

MS. KWOK: Congratulations.

(Applause)

CHAIRMAN BARBIERI: Thank you.  
Staff.

MS. KWOK: Okay. We're going to do postponement items. We have two items on the agenda as dates indicated.

No. 1 is ZV2007-016, Morgan Hotel.

We need a motion to postpone this item 60 days to Thursday, May 3rd, 2007.

CHAIRMAN BARBIERI: Do we need the petitioner to agree to the postponement?

MS. KWOK: No. Just need a motion for that.

CHAIRMAN BARBIERI: All right. We need a motion.

COMMISSIONER HYMAN: Is there anyone here?

CHAIRMAN BARBIERI: Is there anyone here from the public to speak to this item, Item No. 1, ZV2007-016?

(No response)

COMMISSIONER KAPLAN: Hearing no members from the public, Mr. Commissioner, I move the postponement of ZV2007-016.

COMMISSIONER DUFRESNE: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MS. KWOK: Okay. Item No. 2, CB2006-947, Lee Road Property, we need a motion to postpone this item also to May 3rd, 2007.

CHAIRMAN BARBIERI: Is there any member of

the public here to speak on Agenda Item No. 2, CB2006-947?

(No response)

COMMISSIONER KAPLAN: Commissioner, not hearing any members of the public, I move to postpone CB2006-947 to May 3rd, 2007.

COMMISSIONER DUFRESNE: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MS. KWOK: Okay. Item No. 3 is a remand item, CA2006-734, Planet Kids XII.

We need a motion to remand this item to March 14th, 2007, DRO meeting.

CHAIRMAN BARBIERI: Is there any member of the public here to speak to Agenda Item No. 3, CA2006-734?

(No response)

COMMISSIONER KAPLAN: Mr. Chairman, I move to remand to March 14th, 2007, Development Review Officer meeting for CA2006-734.

COMMISSIONER DUFRESNE: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MS. KWOK: Okay. We have -- Item No. 4 is a withdrawal item, Z1976-101, Peanut Island Rezoning.

The applicant has requested to withdraw this item so there is no motion for that.

CHAIRMAN BARBIERI: All right. If there's anybody here on this Item No. 4, we're removing it from the agenda today.

Is there anybody here?

(No response)

CHAIRMAN BARBIERI: All right. Good.

CHAIRMAN BARBIERI: Consent agenda.

MS. KWOK: Okay. The consent agenda, Item No. 5, ZV2006-1916, Walter Variance, we are recommending approval of this project.

We just need the applicant to come up to the podium to agree to the condition of approval.

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

MR. WALTER: James A. Walter, 16301 127<sup>th</sup> Drive North, Jupiter.

CHAIRMAN BARBIERI: Do you agree to all the conditions?

MR. WALTER: Yes, I do.

CHAIRMAN BARBIERI: Is there any member of the public here to speak on this, Item No. 5, ZV2006-1916?

(No response)

CHAIRMAN BARBIERI: Is there any comments from --

COMMISSIONER KAPLAN: Not hearing any, I move that we adopt a resolution approving a Type II zoning variance to allow the reduction of the right-of-way buffer on CB2006-1929.

COMMISSIONER HYMAN: Wait a second.

It's to allow the single family dwelling to encroach into the front setback.

COMMISSIONER KAPLAN: Oh. That's 1916.

COMMISSIONER HYMAN: Okay.

COMMISSIONER KAPLAN: That should be 2006-1916.

COMMISSIONER DUFRESNE: I'll second that one.

CHAIRMAN BARBIERI: Repeat the motion, Allen. Repeat your motion, please.

COMMISSIONER KAPLAN: To adopt a resolution approving a Type II zoning variance to allow a single family dwelling to encroach onto the front setback on ZV2006-1916

CHAIRMAN BARBIERI: All right. Great.



The motion was made by Commissioner Kaplan, second by Commissioner Dufresne.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: Staff, you have any comments?

MS. KWOK: No.

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MR. WALTER: Thank you.

MS. KWOK: Item No. 6, ZV2006-1929, Five Partners Variance.

We're recommending approval of this Type II zoning variance, subject to one condition.

CHAIRMAN BARBIERI: Would the petitioner come forward.

Is the petitioner here on this item, Five Partners Variance?

(No response)

COMMISSIONER HYMAN: Let's move it to the end of the agenda since there's --

MS. KWOK: Sure.

COMMISSIONER HYMAN: -- a condition that, you know, we'd like to have them here to agree to it.

CHAIRMAN BARBIERI: All right.

CHAIRMAN BARBIERI: All right. Let's go to No. 7 then.

MS. KWOK: Okay. Item No. 7, ZV2007-036, Braadland Variance.

Again, we're recommending approval of this project, subject to a condition.

CHAIRMAN BARBIERI: Is petitioner here for this item? Would you please come forward.

Would you please state your name and

address for the record.

MS. BRAADLAND: My name is Vivian Braadland, 9941 Liberty Road, Boca Raton, Florida 33434.

CHAIRMAN BARBIERI: Do you agree to the conditions that staff has given you on this variance?

MS. BRAADLAND: I don't know of any specific condition.

CHAIRMAN BARBIERI: Staff.

COMMISSIONER HYMAN: Guess there are none.

CHAIRMAN BARBIERI: I guess there are none.

COMMISSIONER KAPLAN: Mr. Chairman, may I suggest that --

CHAIRMAN BARBIERI: There are no conditions.

COMMISSIONER KAPLAN: -- staff meet with them and give them a copy of conditions and --

COMMISSIONER HYMAN: Allen, there are no --

COMMISSIONER KAPLAN: -- put it to the end of the --

CHAIRMAN BARBIERI: There are no --

COMMISSIONER HYMAN: There are no conditions.

CHAIRMAN BARBIERI: There are no conditions on this.

COMMISSIONER HYMAN: I'm going to move approval of ZV2007-036.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

Thank you.

MS. BRAADLAND: Thank you, Commissioners.

CHAIRMAN BARBIERI: You're welcome.

MS. KWOK: Okay. Item No. 8, ZV2006-061, Delray Commons Variance.

There are two conditions of approval. That's on Page 30 of the staff report, and we're recommending approval to allow reduction for the right-of-way buffer.

CHAIRMAN BARBIERI: State your name and address, please.

MR. KRAMER: Yes, Lawrence Kramer, South East Architect Services, 4316 West Broward Boulevard, Plantation.

We agree to the conditions.

Thank you.

CHAIRMAN BARBIERI: Is there any member of the public here to speak on ZV2007-061?

(No response)

COMMISSIONER KAPLAN: Mr. Chairman, on ZV2007-061 I move to adopt a resolution approving a Type II zoning variance to allow reduction for the right-of-way buffer width.

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.

MS. KWOK: Okay. On Page 5 of your agenda, the abandonments.

This is to revoke a Class B conditional use to allow medical/dental clinic.

Since the Code changed, this has been a permitted use, and, therefore, we are recommending approval of the abandonment of this project, the previous approval.

CHAIRMAN BARBIERI: All right. Is there any member of the public here to speak on Agenda Item 9, ABN2006-1924?

(No response)

COMMISSIONER KAPLAN: I'll move to adopt a resolution approving the abandonment of Resolution ZR-1995-002 on ABN2006-1924.

VICE CHAIRMAN ANDERSON: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MS. KWOK: Okay. We would also like to move two items to the consent agenda. This is Item No. 13, DOA2006-344, Rainberry PUD, Pods A and B.

We are -- there are three modified conditions on your add/delete memo, and we're recommending approval, subject to these modified conditions.

CHAIRMAN BARBIERI: All right. Petitioner, good morning.

MS. MORTON: Good morning Jennifer Morton, with Land Design South.

And I believe that there's one more modification that we were able to work out with the Engineering Department.

It's just striking through the date on Condition 20.a, and Jim went over that with our office. I believe he's -- that's acceptable to him.

MR. CHOBAN: It's acceptable.

MS. MORTON: And we agree with all the conditions of approval now.

CHAIRMAN BARBIERI: Staff, do you have anything else?

MS. KWOK: No, that's it.

COMMISSIONER HYMAN: I did meet with petitioner. I don't think it was this round. It was maybe last month on this petition. I don't know. Maybe this time, also.

MS. MORTON: I think it was about a week and a half -- yeah, uh-huh.

COMMISSIONER HYMAN: It was that long ago, week and a half?

VICE CHAIRMAN ANDERSON: I also met with the petitioner, too.

COMMISSIONER HYMAN: So I met with petitioner on this item, too.

CHAIRMAN BARBIERI: All right.

Is there any member of the public here to speak on DOA2006-344?

(No response)

COMMISSIONER KAPLAN: Mr. Chairman, I move to recommend approval of a development order amendment to modify a condition of approval on DOA2006-344.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MS. KWOK: Okay. The last item on consent agenda is Item 17, 2006-963, Carlyles Shops, and we have -- they're requesting to put -- place this item on consent.

We're recommending approval, and the motion is on Page 8 of the agenda.

CHAIRMAN BARBIERI: Petitioner.

MR. MILLER: Good morning, Commissioners.

Bradley Miller, Miller Land Planning Consultants, here representing the applicant, and we do agree with the conditions.

CHAIRMAN BARBIERI: All right. Any comments from any of the commissioners on this item?

(No response)

CHAIRMAN BARBIERI: Is there any members of the public here to speak on Item 17, Z2006-963?

(No response)

COMMISSIONER HYMAN: I move approval for the official zoning map amendment from General Commercial Zoning District to the Community Commercial Zoning District with a Conditional Overlay Zone --

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER HYMAN: -- subject to all the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MR. MILLER: Thank you.

MS. KWOK: Okay. This will bring us to the previously postponed variance items. The first one is Item 10, ZV2006-1746, McKenzie Variance.

This project will be presented by Whitney Carroll.

MS. CARROLL: Good morning. This item is a request to allow for the continuation of an existing shed in the front yard of the petitioner's property.

Staff is recommending denial of this

request, primarily based on the fact that the applicants had installed the shed without a permit and in so doing had created this hardship.

The alternative location -- there are alternative locations on the applicant's property where a shed of this size and shape could be relocated to, and the applicant's lot is not unique or unlike any or other similar lots in the same zoning district.

If there are no other questions, I think the applicant wants to make a presentation.

MR. TOMBERG: May it please this honorable Board, my name is Jeff Tomberg. I'm the attorney for Mr. and Ms. McKenzie on this.

In response, before we make a presentation, I think that it's important that the Board understand that this is a unique situation that probably isn't found anywhere, not only in Palm Beach County, but not probably found anywhere in the State of Florida.

The --

CHAIRMAN BARBIERI: Excuse me a minute. Would the technical people dim the lights, please? Thank you.

MR. TOMBERG: The property is at the end of a dirt road. It backs up to a development with a brick wall. The two properties on either side of the easement -- ingress and egress easement, are the only two properties that have access to this area.

The brick wall that separates the community to the south precludes any kind of traffic. There has been a permitted fence that runs along the north property line at the end of the roadway entering my client's property, which is on the east side of the easement and the neighbor's property, which is on the west side of the easement.

COMMISSIONER HYMAN: We -- I don't even know what you're showing us.

MR. TOMBERG: Okay. As you can see the --

COMMISSIONER HYMAN: If you can use the pointer to show us which is your client's property, which is the roadway, where the wall is.

MR. TOMBERG: Okay.

COMMISSIONER HYMAN: Where's north.

MR. TOMBERG: Alrighty. As you can see the property as it's sitting on the screen, my client's property is in the bottom right-hand side of the display where the pointer is. Across from it is the neighbor's property.

My client is on the east side of the property. The -- where that dirt road is that you can see there. The north property line is in the middle of the screen, and it runs from left to right right there (indicating).

My clients have a permitted fence with gate there that denies access to anybody but themselves and their neighbors and invited guests.

To the south side, you can't see it on this picture, but at the bottom of the screen there is a six-foot high CBS wall that separates

it from the development that's there on the south. So there is absolutely no access to the property.

The road right-of-way ends at the fence line. What you see is the ingress and egress.

The neighbor's property, which is across the street, which would be on your left-hand side as you're looking at the screen, which is the west side of -- of the property area, faces towards the fenced area entrance. It's catty-corner.

The shed that we're talking about is at the very bottom of the screen on the property approximately where the pointer is now (indicating).

The only person who can see that is somebody who's actually at the bottom of the screen at the south end of my client's property based upon the foliage that's in existence.

The neighbor's property faces at least a 45-degree angle.

There is no other property that we've been able to locate that has -- that's fenced off at the end of a dirt road with a development behind it that precludes any kind of traffic whatsoever.

The staff presented two what they call similar applications that were denied for variances and setbacks.

I would point out to you that there's nothing unique about property in the Loxahatchee Groves area or out in the western Loxahatchee area that may be sitting on one and a half to five acres. There are thousands of parcels like that, but there are no parcels that dead end into the back side of a development in which there is no ingress or egress except for the people who have it because it's controlled by a private gate.

If this shed were moved approximately 80 feet to the west onto the neighbor's property, it would be in the side setback, not a front setback, based upon the staff's interpretation of what the front setback is because this house faces towards the northeast, and it would be permitted there, as opposed to where my client would have it.

The shed is anchored to a concrete driveway that was permitted, and prior to the shed being anchored there was a portable shed that sat on the property that was destroyed in the hurricanes in 2004.

My client since 2003 has been developing with an architect expansion of the property on the north side of her premises -- if you can put the pointer to the north side -- on the north side, and once they go ahead and expand it, they would be in the percentage setback on the north side of the property.

As to the south side -- there is no drainage to this property, and after the hurricanes there was substantial flooding. My clients have an approved pond that's built on the corner of the southeast corner of their property, and we've provided a topography map as part of our package to staff to show that there is substantial downgrades to allow for drainage in the property.

There have been substantial landscape improvements made to the property, as well, and there's really no practical place to put the shed.

Could we do it technically? Yes, but it would require a tremendous amount of work, and it would still violate the percentage setback requirement if expansion of the house as planned, and the planning was begun in 2003 so it's not a contrived thing.

My clients have the proposed architectural renderings that they were working on back in 2003 to show that this is not contrived in any way for this hearing.

Now you can see the location of the shed on this particular area. If you put the pointer on it, it's -- it's right there (indicating), and it does not face the front of the neighbor's property.

The neighbor has no objection to the location of the shed whatsoever, and it does not affect or offend any other person because no other person has access to the property because of the gate.

We have a picture of the gate.

COMMISSIONER HYMAN: Can I ask a question?

MR. TOMBERG: Yes, ma'am.

COMMISSIONER HYMAN: How did this come to the attention of the County?

MR. TOMBERG: What happened was my client complained about a neighbor on the east side running a commercial enterprise.

COMMISSIONER HYMAN: And so he complained about the shed?

MR. TOMBERG: So he complained back about the shed. He didn't complain necessarily about the shed, but he just complained about them. So somebody from Code Enforcement went out there because of the complaint and found it.

Yes, sir.

COMMISSIONER KAPLAN: Counselor, has any other residents in the area have any accessory buildings in the front of their property?

MR. TOMBERG: I don't believe anybody has accessory buildings in the front of their property in that area, sir.

COMMISSIONER KAPLAN: That's one of the objections staff has raised, and it's not that visible to other people, but that you have a violation of the Code as the staff has pointed out, and that's their objection, that it's in the front of your property.

MR. TOMBERG: Yes, sir. We understand that, sir, and our position is, is that that's what this Board is for is that there are times when, because of unique situation and circumstances, based upon practicalities, based upon topography, based upon location, that a variance can be allowed to one person that does not affect any other party.

As I indicated, this property is particularly unique in that it's the end of a dirt road. There's only two residents at the end of this dirt road, and which we have a security fence that has been permitted.

So there's been an abandonment of the road itself, and the only thing that exists is an easement for ingress and egress which is allowed by the -- by the agreement of the two neighbors.

So because this property's particularly unique, we've asked this Board to grant a variance. The granting of a variance would not alter or affect the Board's position that typically these things should not be in setback areas or in the front or anything else like that. The -- the --

COMMISSIONER HYMAN: Let me ask a question.

Has the road in fact been abandoned between the two



properties?

MR. TOMBERG: It was abandoned at the time that they allowed the permitting of the fence.

MS. KWOK: No.

MR. TOMBERG: So all that there's existing is --

MS. CARROLL: Was not abandoned, has not legally been abandoned.

COMMISSIONER HYMAN: And that's why there's a problem?

MS. CARROLL: Yes.

COMMISSIONER HYMAN: Had it been abandoned, you wouldn't have a setback problem.

MS. CARROLL: Well, you'd still have a setback, but it would go to the centerline of the road.

COMMISSIONER HYMAN: So you probably wouldn't have a setback problem.

MS. CARROLL: Well, it would still be existing in the front yard as we determined the front setback, but, yes.

COMMISSIONER HYMAN: Oh.

MS. CARROLL: That's true that they would have had a larger area to deal with. At this point it's only two, maybe three feet off the property line as it stands right now.

COMMISSIONER HYMAN: Why didn't you abandon the road?

MR. TOMBERG: I wasn't involved in that part of the process of getting the permitting, Your Honor.

I was just asked to attend and ask this board for a variance because this is such a unique situation.

MS. MCKENZIE: Mention our trash pickup.

MR. TOMBERG: Oh. All -- all of the public services exist outside of this fence line, as well. Trash pick up has to be outside. Mail delivery is outside. Everything is outside this --

COMMISSIONER HYMAN: See, here's the problem. You know, when you look at this just on its own, it's not a big deal, you know, nobody could see it.

The problem is the precedent that it sets because once you say okay, this person can have a shed in the front, someone else can have a shed in the front and within the setback, and that situation, you know, might be much more egregious than this, but we've already set a precedent.

So unless there's a really unusual situation and really good reason why this particular, you know, variance should be granted, there's really no reason for it to be granted.

MR. TOMBERG: Well, if the road were abandoned, would that make any difference? That's what I'm trying to find out.

COMMISSIONER HYMAN: You have to talk to staff about that, but perhaps. I think, you know, you'd certainly be -- you'd have a reduced amount of encroachment into your setback because your property line's going to move, you know, 20 feet, 25 feet?

MS. CARROLL: Fifteen feet.

COMMISSIONER HYMAN: Fifteen feet?

MS. CARROLL: Fifteen feet, right. It's at --

MR. TOMBERG: Actually, the ingress and egress doesn't go quite as far --

MS. CARROLL: Well, 30 -- 30 feet.

MR. TOMBERG: -- as the shed so we wouldn't necessarily need it.

The abandonment would put it farther away from, quote, the ingress and egress point.

COMMISSIONER KAPLAN: Counsel.

MR. TOMBERG: Yes, sir.

COMMISSIONER KAPLAN: You have one acre of property --

MS. KWOK: Right.

COMMISSIONER KAPLAN: -- according to staff report. Is there no other place to put it? Do you have to have it in the front?

Can you put it in the rear? Can you put it on the side someplace so it doesn't interfere with the Code regulations?

MR. TOMBERG: We had an engineer go out and take a look at it and submit a report, and he doesn't believe that it's possible to put it in the back because of the topography.

We need the slope. We provided a topography showing the different height variations, and if Your Honor would look at it, you would see that in the rear of the property the property drops anywhere from, you know, one and a half to three feet in about a 40 to 50-foot area, which is a severe sloping.

My client has spent a great deal of time in the landscaping of the premises and property beautifying it, and I think the staff would agree that they -- they've done a fine job as far as landscaping, everything else like that.

MS. KWOK: Right.

MR. TOMBERG: To go in there and try to sit down and tear it all out and -- and put some kind of level area, number one, would probably result in an unstable area because it's needed for drainage. So there'd be probably no way to secure it in a manner that would prevent erosion eventually and constant maintenance of -- of that particular area.

COMMISSIONER KAPLAN: Staff has pointed out, Counselor, that the engineer was not specific in identifying that no other alternative exists, and, in addition, there are six objections from your neighbors.

MR. McKENZIE: May I -- may I address that?

CHAIRMAN BARBIERI: What's your name, please?

MR. McKENZIE: John McKenzie.

CHAIRMAN BARBIERI: Put the microphone closer to your mouth, please.

MR. McKENZIE: Hello. Okay.

One of the objections is from the neighbor that complained that created this.

Another objection is from a lady in Nautica whose objection is the noise. She thinks that it's my neighbor who brought in all of the diesel equipment and was running diesel equipment. So she thinks that this shed is to further his, which is what we complained about which started all of this.

So two of those complaints are really invalid.

But the other point I wanted to make is that I'm -- I'm denied the same right --

CHAIRMAN BARBIERI: Talk in the mic.

MR. McKENZIE: I'm denied the same right that my neighbor would have. If I took that -- that shed, the very same shed, and moved it, as the attorney pointed out, straight across, which would be in plain sight of everybody in the second floor people, there would be no issue because it's in her side setback, and the reason her house is turned that way is because that road ends right there, and that's where they made her front set -- her front face that road.

When they subdivided the lot, then they created this so they put my house facing this way (indicating).

COMMISSIONER HYMAN: Well, it seems to me that you hired a company to install the shed materials?

MR. McKENZIE: We hired Ted's Sheds and --

COMMISSIONER HYMAN: I think you should go back to

them and say, you know, you -- you installed a shed without a permit and have them move it for you at no cost.

MR. McKENZIE: The problem is we've got concrete pads down. We've got --

COMMISSIONER HYMAN: Listen, I -- I understand.

MR. McKENZIE: We assumed that they knew what they were doing.

COMMISSIONER HYMAN: I understand. I understand the problem, but you -- I think you have some recourse against the company.

MR. McKENZIE: Yeah, but I still don't have a place to put it because of the -- because of the drainage.

COMMISSIONER HYMAN: Well, you have an acre, which is a lot more than most people have.

MR. McKENZIE: But, ma'am, the whole side, and I don't -- you -- I could give you pictures, but the whole place was flooded. For two weeks we couldn't leave the property. My house is high and dry. My neighbor's is not because she's lower.

So this whole thing, and we've dug it out to help assist in the drainage, but this whole side line going that way and then running up that way and then running down and running up that way (indicating) is a drainage --

COMMISSIONER KAPLAN: Mr. McKenzie, I have to correct something. I said six objections from your neighbors.

In the updated report there are eight objections, so your neighbors are not happy with your application, which is not something that the Commission can disregard.

On the other hand, it is not binding upon the Commission. We take that into consideration. So there are objections from your own neighbors, sir, other than the person who complained.

MR. McKENZIE: Okay.

COMMISSIONER HYMAN: All right. I -- I'm -- I really do empathize with you, and we've all been there, I must tell you, but I think you need to go back to the fence company, and I -- I just don't see the -- any reason to set a precedent in this case.

So I'm going to make a motion to deny this Type II zoning variance on this petition.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: A motion for denial was made by Commissioner Hyman, second by Commissioner Kaplan. Is there any further discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER DUFRESNE: Aye.

COMMISSIONER BRUMFIELD: Aye.

CHAIRMAN BARBIERI: Opposed.

VICE CHAIRMAN ANDERSON: Aye.

CHAIRMAN BARBIERI: We have -- Commissioner Anderson is opposing the motion.

Motion passes, six to -- 5-1.

MS. KWOK: Okay. This will bring us to Item No. 11, ZV2006-1906, Glades Stor All MUPD. Whitney Carroll will give us a brief presentation on this project.

MS. CARROLL: This project is for the Glades Stor All project that is located on the north side of Glades Road behind the Piccadilly Square shopping center.

The applicant has requested to withdraw Variance No. 2, as staff had recommended denial for this variance. He would like to withdraw that at this time and take some time to revise the application and bring it back to you within the next couple of months.

Staff is in support of the Variance No. 1, which is to eliminate the frontage requirement required for a planned development along an arterial or collector street.

CHAIRMAN BARBIERI: You're recommending approval?

MS. CARROLL: Approval, approval.

CHAIRMAN BARBIERI: Our staff report says you're recommending denial.

MS. CARROLL: Right, if you look at the add/delete, it does --

CHAIRMAN BARBIERI: Okay.

MS. CARROLL: -- revise that motion.

CHAIRMAN BARBIERI: Okay. All right.

MR. MILLER: Good morning, Commissioners. For the record, my name is Bradley Miller, of Miller Land Planning Consultants.

I am here representing Stor All Systems who's the applicant on this application.

This is one that I think four of you may recognize because about three and a half years ago I was here on this project, but before -- I have a chronology here that I want to go over with you briefly, but just to put it out there, the variance that we're asking for, actually, the two that we initially requested, were approved prior in November of 2005.

Because of delays through the process we have to come back and reinstate those.

The second variance, as Whitney indicated, we're withdrawing that. We want to refine our application there, and we're going to be coming back with that in regards to the sign.

So the -- it's the frontage, the variance for the frontage, which is what's before you today, and the specifics of it, the Code section is 3.E.1.C.2, and it's for the PUD frontage, which shows a requirement of 200 feet. In this case we don't have any frontage at all. So it's a complete variance to it.

To go through the outline here, as I indicated, quite awhile ago we went through, first of all, a pre-application conference with the DRO, but even before that my client actually put this property under contract in 1997. He's endured this thing for 10 years. So, obviously, he's very anxious to get this going.

Through the pre-app conference --

COMMISSIONER DUFRESNE: Bradley.

MR. MILLER: Yes.

CHAIRMAN BARBIERI: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Do we need to go through the entire history of this --

MR. MILLER: I won't. I won't. I'll be brief.

COMMISSIONER DUFRESNE: -- just for a recommended approval on a variance?

MR. MILLER: I'll be brief.

The original variance was in November of 2003. We've used all the extensions that we can. Our big hangup came into the permitting with Water Utilities where we actually submitted in December of '05 and came to a final agreement in December of '06. So it took us a year to work that out.

As my client pointed out, he also endured two hurricanes through this process, as well.

So we've come to this point. It's really a reinstatement of the variance that was granted a long time ago.

Just to give you orientation, the orange block is the property that we're talking about. Glades Road is to the south at the bottom of the slide. It's just west of the Florida Turnpike.

Our access comes off of Glades Road through the only legal access that we have with an easement. So what we have is what we have.

COMMISSIONER HYMAN: Right.

MR. MILLER: So --

COMMISSIONER HYMAN: If there's no one here, you know, I'm going to make a motion on this 'cause we've seen this one before. You've got some unusual circumstances surrounding this situation.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on Item 11, ZV2006-1906?

(No response)

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: If not, I'm going to move for approval of the Type II zoning variance to allow elimination of the frontage requirement on an arterial or collector street since you don't even have any.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion was made by Commissioner Hyman, seconded --

COMMISSIONER KAPLAN: Well, on the motion, Mr. Chairman --

CHAIRMAN BARBIERI: Yes.

COMMISSIONER KAPLAN: -- I would like to ask staff. According to this report here, we have 11 -- 28 objections. Do we have any cards from any of those people, and what are their objections? No? Thank you.

CHAIRMAN BARBIERI: What were the nature of the objections? Do you know?

MS. CARROLL: They were primarily regarding the sign height, issues --

CHAIRMAN BARBIERI: Okay.

MS. CARROLL: -- that had already been addressed during previous approval processes.

CHAIRMAN BARBIERI: Okay.

MR. MILLER: When I went through them, the majority were just checking the box opposed with no comments at all.

The ones that did make comments, a lot of them had to do with the development itself, which really isn't part of the variance application.

CHAIRMAN BARBIERI: Okay. All right.

Is there any further discussion?

Second by Commissioner Anderson.

All in favor of the motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries.

MR. MILLER: Thank you.

MS. KWOK: Okay. The next item, No. 12 --

CHAIRMAN BARBIERI: Maryann, hold on one second.

MS. KWOK: Okay.

CHAIRMAN BARBIERI: Is the petitioner for the consent item, No. 6, here yet?

COMMISSIONER DUFRESNE: Five Partners.

MS. KWOK: I don't see him.

CHAIRMAN BARBIERI: Okay. Go ahead.

MS. KWOK: Item No. 12, ZV2006-1751, Liberati Variance, again, Whitney is going to give you a brief presentation on this project.

MS. CARROLL: This is the Liberati project. It's a request to allow for an existing gazebo to continue to encroach into the required rear, side -- rear and side setbacks and to also encroach into a utility easement.

Staff is recommending denial, based on the fact that the applicant had installed the gazebo without a permit and, therefore, created his hardship.

The variance request is not the minimum necessary to achieve the placement of a gazebo on this property. The applicant was not able to provide a reasonable justification as to why this gazebo should be allowed to continue in this location.

CHAIRMAN BARBIERI: State your name and address, please.

MR. LIBERATI: Thomas Liberati, 6276 Via Palladium, Boca Raton 33433.

CHAIRMAN BARBIERI: All right. Staff is advising us that you didn't have a permit, and if you would have tried to permit, this obviously would have not been built where it's built because you would have been denied a permit.

MR. LIBERATI: Yes, sir. Actually, that's the reason I'm here. I'm assuming we had a disgruntled neighbor who brought this to the attention of the Code Enforcement, who came out and looked at it and called me and gave me a citation for it.

However, the structure's been there for between 13 and 14 years. The actual height of this thing is eight feet, four inches high. The way it's situated I don't know if you have the pictures of it that we submitted; however, it's in -- it's in a situation where it's -- no one's behind it, no one's on the side of it.

We've gotten permission from all the utilities stating that it would be okay to leave it there. It has never caused a problem.

We've had a meeting with the homeowners association of Palladium, and we have a written letter stating that, you know, it's okay and acceptable.

And, you know, it's -- like I say, it's a very costly situation, and this is just, you know, very upsetting to have, you know, this situation right now, and plus the fact that, you know, my children will be very upset that they can't play restaurant anymore.

So I guess I'm here to try to ask if you guys would grant a variance for it, and --

COMMISSIONER HYMAN: Can I ask staff.

Is there any way that this gazebo would have been permitted in that area?

MR. Mac GILLIS: No, not -- it's not meeting setbacks.

COMMISSIONER HYMAN: Even back when it was constructed?

MR. Mac GILLIS: Correct.

CHAIRMAN BARBIERI: Mr. Liberati, we've got pictures, and it's beautiful, and we -- I'm sure we all feel badly, but this is kind of new to this Commission because we didn't handle variances up until recently, but there are seven conditions that we're supposed to consider in order to grant the variance, and you're supposed to meet those conditions, and you have met none of the seven.

So I mean you're like so far out of the box with respect to, you know, getting a variance. It's just unfortunate that you built it there and didn't realize that you shouldn't have.

I don't know if this Commission has any authority, I don't believe we have any authority to go against staff's recommendations based on the fact that you don't meet any of the seven criteria to get a variance for the -- for that structure.

MR. LIBERATI: Well, if I may, I mean if the structure's been there for 14 years and hasn't caused a problem with anyone at all, I just don't understand why a neighbor can call up and cause all this. It's just not fair.

So I could see if --

COMMISSIONER HYMAN: Did you have like a poker game or something? I mean --

MR. LIBERATI: I'm sorry?

COMMISSIONER HYMAN: Did you have like a poker game with your neighbor or something?

MR. LIBERATI: No, no, it's --

COMMISSIONER HYMAN: You have no idea how this came to the --

MR. LIBERATI: I have no idea who it is, but I -- I understand it's one of the neighbors, a newer neighbor.

So it's just very upsetting. I'm sure if you or anyone in this room were in my position, you'd feel the same way, and sometimes I feel that maybe, depending upon the circumstances, things should be considered, and we've all at one time or another looked for a consideration from either this Board or some other authority in the past which -- which I feel should, you know, take a closer look at this and maybe reconsider.

COMMISSIONER DUFRESNE: Mr. Chairman, I have a question.

CHAIRMAN BARBIERI: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Jon, is it -- would there be a possibility of getting removal agreements from the easement holders to allow the structure?

MR. Mac GILLIS: If it's not a habitable structure sometimes, depending on the nature of the easement and the -- how much the owner is willing to remove something such as this.

I think a gazebo, they would allow it, the easement holder.

COMMISSIONER DUFRESNE: Would or would not.

MR. Mac GILLIS: Would.

COMMISSIONER DUFRESNE: Okay.

MR. Mac GILLIS: It's not a habitable structure and something that can be fairly easily moved. It would mean damaging the structure probably to move it, but that would be

required.

If he did have to apply for a building permit, they would require that at the time of him applying, to have the release from that easement holder, and depending on the nature of it, sometimes an easement holder will say no.

So we don't know that at time -- until permitting.

COMMISSIONER DUFRESNE: Are you -- have you been asked to get a permit for this now?

MR. LIBERATI: Yes, sir.

COMMISSIONER DUFRESNE: Okay.

MS. KWOK: What I want to clarify is that the Code does allow minor encroachment into a utility easement with sign-off from the utility company; however, this is -- this is a little bit more than minor, so that's why this variance is in front of you.

I just want to, you know, put that point in the record.

COMMISSIONER DUFRESNE: But, Maryann, would it be acceptable if you had a removal agreement from the easement holder?

MR. Mac GILLIS: Well, no, it's --

COMMISSIONER DUFRESNE: Could we give him 30 days to try to get that?

MR. Mac GILLIS: He's still in the setback, so you mean to say if you grant the variance, then would he -- he'd have to apply for a building permit and then secure release from this, and because -- I think what Maryann's indicating, if it was a barbecue or something like that that you could move or something -- I mean this is not easily movable.

You're going to destroy the structure, I would assume, trying to --

COMMISSIONER DUFRESNE: Well --

COMMISSIONER KAPLAN: Jon, what kind of utility is this easement?

MR. Mac GILLIS: Is it an FP&L easement?

MR. LIBERATI: We had all the five utilities sign off and say it was acceptable to have the structure there, and we submitted all those to you guys.

MR. Mac GILLIS: We'll pull the file.

MR. LIBERATI: We actually had some of the utilities inspect the -- come out to the actual site and inspect it and still sign off on it.

COMMISSIONER KAPLAN: Are you still looking for the type of utilities?

MR. Mac GILLIS: Yeah, we need the full site plan to see what type of easement 'cause this is the -- Page 74 is the site plan, but you can't tell what -- how it's labeled, that easement.

COMMISSIONER KAPLAN: 'Cause depending upon the type of easement, I'll have to evaluate that.

In other words, if something that is a -- that this structure could materially affect it is one thing. If it doesn't, there's another evaluation.

COMMISSIONER HYMAN: You're looking for the utility sign-offs?

MS. KWOK: Yes.

COMMISSIONER HYMAN: Is that the only problem, that it's in the utility easement?

MS. KWOK: It's FPL --

COMMISSIONER HYMAN: And the rear setback.

MS. KWOK: -- BellSouth.

CHAIRMAN BARBIERI: If we had the sign-offs --

MR. Mac GILLIS: Utilities.

CHAIRMAN BARBIERI: -- would your position be different?



MS. KWOK: Utilities.

MS. CARROLL: We have the sign-offs.

MS. KWOK: Right.

MS. CARROLL: Yeah, we have the sign-offs.

CHAIRMAN BARBIERI: Okay.

MS. CARROLL: But the -- because of the criteria and the fact that it was constructed without a permit, and then this -- the fact that it's within a side setback and a rear setback and then a utility easement, it was a major variance that possibly could even be moved over and be relocated.

Even if he had to request a variance for a rear setback, it would be a less intense variance than this.

COMMISSIONER HYMAN: 'Cause it's right smack in the corner?

MS. CARROLL: Right, and it's all the way -- it's part of a deck structure, and it's the deck, and then the gazebo's right in the corner, and then there's nothing like this in his neighborhood and nothing that I can see from aerial photographs or being out there that anything like this is a typical thing in this neighborhood.

CHAIRMAN BARBIERI: If the deck was the only thing there, would it be allowed?

MS. CARROLL: Yes.

CHAIRMAN BARBIERI: So the --

MS. CARROLL: Well, I'm not sure exactly about the easement, but it would be allowed because it's not a structure that requires a permit.

COMMISSIONER KAPLAN: Mr. Liberati, have you been in touch with the utility companies at the -- prior to the time of coming to this meeting?

Have you been in touch with BellSouth and with the Florida Power & Light?

MR. LIBERATI: The only -- like I said, sir, we had the -- each utility sign off on the encroachments. That's the only communication that we've had with them.

COMMISSIONER DUFRESNE: And what is the Building Department telling you, to come and get a variance?

MR. LIBERATI: In order to get a permit, yes, I would need to get a variance for it.

CHAIRMAN BARBIERI: Staff --

COMMISSIONER KAPLAN: Is it possible, staff, that the utility company could be willing to waive -- will give consent to this variance?

MS. CARROLL: Yes.

COMMISSIONER KAPLAN: If they could, then may I suggest then we consider giving the applicant time to get in touch with utilities, put this over for 30, 60 days, whatever time he thinks he needs, to get -- contact the utilities to see if they're willing to consent.

MR. Mac GILLIS: For the record, he does have them. They are in the file. We do have -- they did clearly label gazebo on there, so he does have the sign-offs from all the utility companies who have rights to that easement. So he does have them.

COMMISSIONER KAPLAN: All the utility --

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: -- companies have signed off?

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: Then what is the objection?

COMMISSIONER DUFRESNE: Allen, it's only one part of it, right? It's only one -- the easements take care of one section of it.

MS. CARROLL: Right.

COMMISSIONER DUFRESNE: And the side setback --

MS. CARROLL: The side setback and rear setback.

COMMISSIONER DUFRESNE: -- is the other problem and the bigger problem.

MR. Mac GILLIS: Correct.

COMMISSIONER HYMAN: Is it side, also, 'cause it -- the motion says the rear setback.

MS. CARROLL: I'm sorry, the --

COMMISSIONER HYMAN: Oh, I see, it says rear and side.

MS. CARROLL: Yeah.

COMMISSIONER HYMAN: Okay.

COMMISSIONER DUFRESNE: And the side is more substantial.

MS. KWOK: So there are really three variances. One is encroachment into easement, the side and the rear setbacks.

CHAIRMAN BARBIERI: Let me follow up on a question I asked you.

You said if there wasn't this -- if it was just a deck, then it would be allowed.

Obviously, this may not be something he would like to do, either, but I mean if he took the roof off of this and now it wasn't a roofed structure there, it was just -- left his barbecue and such on the deck with the -- without the roof, would it be permitted to leave it then without any variance requirement?

MR. Mac GILLIS: I mean we look at it for permitting purposes, anything over three feet. Usually a deck is less than three feet. It still requires a permit but does not require to meet setback requirements.

I think a -- if it just had walls on it, roof, I might be able to interpret it as being permitted under that and not requiring to have to meet setbacks.

COMMISSIONER KAPLAN: Well, Jon, do we have the authority, since -- as Chair said, this is something new to this Commission.

Do we have the authority to grant a variance on the side and rear setback? Is this our function?

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: So --

MR. Mac GILLIS: I mean you could find there was different evidence presented at that hearing or based on your cross examining the witnesses that there was additional information that staff wasn't aware of or brought to your attention in the staff report that would warrant you to go through the seven criteria and find that he met them all.

COMMISSIONER KAPLAN: Okay, so the setbacks we're talking about is the only thing left since the utilities have signed off; is that correct?

MR. Mac GILLIS: Well, yes.

COMMISSIONER KAPLAN: As far as the easement is concerned.

MR. Mac GILLIS: If you -- you still have to grant a variance to allow a structure to overlap into an easement. He would require the easement releases at the time, at a permitting. He's already secured them up front.

COMMISSIONER KAPLAN: Fine. Thank you.

CHAIRMAN BARBIERI: Mr. Liberati, I think probably what you're going to need to do is meet with staff and figure out a way to modify the gazebo so that you can leave your barbecue and whatever there so that it qualifies more as a deck than a structure so that you don't have to remove everything that you have there.

MR. LIBERATI: Sure. I'll do whatever it takes, you know, to save that, sure.

So just tell me what I should do at this point.

COMMISSIONER HYMAN: You want to take a postponement?

Yeah, why don't you -- I'm going to move to postpone you 'til the next meeting, give you some time to come up with a creative solution to this because otherwise we don't have any alternative but to deny it, I think.

So I'm going to move to postpone, give you a chance to look at that.

CHAIRMAN BARBIERI: It was seconded --

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: -- Seconded by Commissioner Brumfield.

So what we'd like you to do is meet with staff between now and the next meeting.

MR. LIBERATI: Okay.

CHAIRMAN BARBIERI: See if you can come to some agreement on what you can do to modify your structure so that it's not an issue for us.

MR. LIBERATI: Okay.

CHAIRMAN BARBIERI: All right.

MR. LIBERATI: I appreciate that.

CHAIRMAN BARBIERI: Is there any further discussion from the commissioners?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MS. KWOK: So it's postponed to April 5<sup>th</sup>.

CHAIRMAN BARBIERI: Postponed to April 5<sup>th</sup>.

MS. KWOK: April 5<sup>th</sup> Zoning Commission hearing.

CHAIRMAN BARBIERI: Right.

MS. KWOK: Okay. Thank you.

COMMISSIONER HYMAN: Every petition is different, you know, the facts are so peculiar that --

MR. LIBERATI: Thank you very much.

COMMISSIONER HYMAN: -- you know, someone just looking at this might say, you know, why are we looking at this one a little differently than the other one, and it's 'cause the facts are so different.

MS. KWOK: Item No. 14, DOA/ZV2006-185, Boynton and Lawrence Office MUPD.

Going to have Ron Sullivan do a presentation on this project.

CHAIRMAN BARBIERI: Mr. Liberati, if you want to talk to the lady with the blond hair, she

can give you some information on contact.

MR. SULLIVAN: Good morning. Good morning.

The Boynton and Lawrence office development, which begins on Page 77 [sic] of the packet, is located on the northwest corner of Boynton Beach Boulevard and Lawrence Road.

The applicant is seeking to rezone --

COMMISSIONER HYMAN: Not 77 -- 101, I think.

MR. CHOBAN: One oh one.

MR. Mac GILLIS: One oh one.

MR. SULLIVAN: Oh, I'm sorry.

COMMISSIONER HYMAN: You're on Item 14, right?

MR. SULLIVAN: Yes.

COMMISSIONER HYMAN: Okay, 101.

MR. SULLIVAN: Okay. The applicant is seeking to rezone. It's about a quarter of an acre parcel they acquired from the Lake Worth Drainage District to the north of their property, and a development order amendment to add this parcel to the existing planned development.

The purpose of the added parcel is to provide additional parking to the medical offices that are on this end of the development.

The current site plan indicates 3650 square foot financial institution with a drive-through on the west end and then an 18,430 square foot medical office building and 110 parking spaces.

The proposed plan doesn't add any square footage. It merely adds this parcel to the rear, or to the north, and a one-way drive lane and additional parking. This additional parking is on the added land which also is a Lake Worth Drainage District easement.

So in addition to the development order amendment and the rezoning, this requires a Type II variance because the buffer on that parcel has to be 100 percent on the easement once the parking is there.

So it's a situation where -- when these were approved back in the '80s, they were approved as a planned commercial development and then a planned office business park, and normally the parking should have been distributed evenly amongst the tenants; however, when it was approved, a disproportionate amount of the parking was allocated to the bank on the west end. So the medical offices don't really have adequate parking, and this is to correct that situation.

They have executed a triple-P agreement with Lake Worth Drainage District to allow the parking on this, and so the variance is only to allow the buffer to be entirely on the easement.

Staff has received 16 letters in support of this application and nine letters opposed.

Generally, the letters opposed suggest a misunderstanding because they -- they're opposed to additional traffic and congestion, and in this case there should be no additional traffic. This is merely relocating -- locating some parking behind the medical office, and there's no new square footage.

At this time if there are not any questions, I'll turn this over to the applicant.

CHAIRMAN BARBIERI: Is the applicant here?

(No response)

CHAIRMAN BARBIERI: COWBRA, did you want to speak on this?

UNIDENTIFIED SPEAKER: No, we're fine with that.

MR. CHOBAN: Is there new conditions?

COMMISSIONER HYMAN: The applicant's not here?

MR. SULLIVAN: Yes, there are conditions.

They were setting up a computer. I didn't -- I don't know what happened.

COMMISSIONER HYMAN: Okay. They were setting up, and maybe they walked out?

MR. SULLIVAN: Yeah.

COMMISSIONER HYMAN: Do you want to just -- let's move this to the end of the agenda again. We'll come back to it and go to the next one?

MR. CHOBAN: There are new conditions on this, I guess.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: All right.

COMMISSIONER HYMAN: Let's go to the next one.

CHAIRMAN BARBIERI: Well, let's go to 15 and come back to 14.

MS. KWOK: Okay. We'll reorder.

Item PDD2006-948, Coral Lakes PUD. Staff just stepped out --

CHAIRMAN BARBIERI: Wait a minute. Before we get a staff report, do we have an applicant here on this one?

MR. CHEQUIS: I was setting up the computer.

Great.

MS. KWOK: But now staff just stepped out. So we need to come -- wait for him.

COMMISSIONER HYMAN: Well, we saw this last time.

MS. KWOK: This is a -- this was a postponement item.

COMMISSIONER HYMAN: Yes. Oh, Engineering's here.

COMMISSIONER DUFRESNE: Must be a problem.

COMMISSIONER HYMAN: A problem.

MS. KWOK: I mean I can start presenting for the staff, too.

This is an item postponed by the Zoning Commission because the Zoning Commission has concerns regarding the connectivity to the commercial site -- to the adjacent commercial site. They want to provide more visible green space. Talk about access from Melaleuca Lane and a more centrally located recreational area.

Zoning staff actually met with the applicant on February 7th, 2007, to discuss these concerns, and they did come up with a revised plan and -- of which they're going to be showing to you this morning.

COMMISSIONER HYMAN: We don't have that plan.

MS. KWOK: We don't --

COMMISSIONER HYMAN: We don't have that.

MS. KWOK: It's not in your staff report, yeah. We understand that.

COMMISSIONER HYMAN: But you've had a chance to look at it, right?

MS. KWOK: Doug and I did meet with the applicant, yes.

MR. CHEQUIS: Good morning, members of the Commission. For the record, again, Brian Chequis, with Cotleur &

Hearing.

We were here before you a month ago with the same request. I'm here on behalf of Mr. Daniel Perez, the applicant, requesting a rezoning to residential PUD from a commercial high zoning designation and with that the associated site plan approval.

I won't get into a lot of the details. We'll just get to some of the issues that you had raised last month.

Again, we all know where the site's located, just north of the intersection of 6<sup>th</sup> and Congress. We're in -- within the Serafica Road Overlay and the Lake Worth Road Urban Redevelopment area.

Our original site had one point of entry, a main entry off of Congress Avenue with a secondary point of egress at the north end of the site, the northeast corner of the site.

What we're coming back with is a redesigned site, and I'm going to blow this site plan up later so you can see it clearly.

We have a -- we're proposing a secondary point of ingress-egress which is along a 30-foot public access easement along our south boundary which connects directly to 6<sup>th</sup> Avenue, and it also connects to one of the entries into the Coral Lakes -- the plaza to the south of us.

In addition to that, as per your request regarding interconnectivity to the adjacent properties, we also proposed two points of pedestrian connectivity, one at the north, the small yellow circle at the top, and one at the south. Those tie into the commercial property to the south and to the Beth-El Temple to the north.

Just so you understand what that condition is, this is the existing road that comes in off the south. You see the arrow pointing down that lane way, 35-foot paved roadway, actually, it has speed bumps in it already.

The right-hand side of that picture shows that's the entry into the commercial plaza, so in effect the residents would have the ability to get to the plaza by automobile without ever getting onto either Congress or 6<sup>th</sup> Avenue.

You had issues regarding what our conditions were on with the adjacent properties. Picture to the left shows an existing six-foot wall on that southern boundary with a chainlink fence above it.

The second picture on -- on the right shows the condition -- this is what we're looking at. That's the restaurant at the front end of the commercial plaza property adjacent to Congress Avenue.

Vehicular connectivity is very problematic in this area. We think our solution in putting it at the middle of the site works really well, and it addressed some of the major concerns, getting some traffic away from Congress and onto 6<sup>th</sup> Avenue, and 6<sup>th</sup> Avenue is a full left-right turn. They can go east or west.

Again, we're an 18-acre site. We have a large area of wetland at our western boundary and lake, a large amenity feature for the residents.

We're asking for 169 units, 12 of which will be within the workforce housing category program, but the overall project, all 169 units, are within that affordable range, the mid-200,000 range, which is within your high end of the affordable -- the workforce housing range.

This was the original site plan, and what you're going to notice if you look towards where we now have that road punched through, that's the main focus of attention in changing the site.

When I click the button, you'll see what's happened was this area here we've turned buildings. We've relocated the park on the north side of where it was before a little bit -- little bit further --

closer to the east.

We now have on-street parking, a very nice entry road, and we have a shorter run from the entry to that first turn into those buildings on the south side, better internal connectivity, better off-site -- on-site circulation and interconnectivity to the -- to the adjacent properties and to the adjacent roadways.

With respect to a concern raised by Commissioner Hyman with respect to the rec area, we have reconfigured it. It's now along -- it's a little bit pushed to the east due to this reconfiguration. We have all the same amenities, all the same area, and we have some examples of -- the real world examples of how you get to these spaces, how -- we have pedestrian connectivity tucked in between the buildings for people -- residents to get to these spaces.

Here's an example of one. These residences are tucked up next to these recreational amenity spaces, and they're -- they're what we consider some of the most valuable units in the -- in these developments, and they're usually the ones that sell first.

Another example from -- shooting from the other corner, you can see the units are very close to the amenities building and the pool area, small comfortable spaces that are tucked in within the development.

Again, to reiterate, very strong pedestrian connectivity. The furthest unit in the northeast corner to the -- to that pool cabana building is just over 700 feet, walking no further from here to the garage at Banyan and Olive Avenue, and this is a truly walkable community, new urban -- new urban in all respects.

We have all of the existing amenities, a path around the wetland area and the small tucked-in features throughout the site with gazebos, green area where -- at the north end of the property and small gazebos located in various parts of the development.

I'm not going to go through all the architecture, but we have different building sizes, which, again, adds to the visual complexity within the development. That's really what we needed for pedestrian environments. You need that complex environment with different building types, different colors.

This is one example of the architecture. I can show you all four-unit, a five-unit, six-unit. We have a full range of units from four to nine-unit buildings.

This is looking into the development, the main corridor looking down with a very formal palm theme, very comfortable pedestrian environment in which there's street trees for shading and, you know, a formal appearance coming into the development.

Here's a second rendering from in -- if I was standing in the middle of the lake looking back into the development, again, a walking path around there and a park in the area of the lake and wetland area.

Just for your information with this request we do have a traffic report that's in with the Traffic Engineering Department. We're asking for an extension of the build-out date through the year 2011. All of our analysis concludes that this should be workable, and they're working with us in reviewing that right now. Just wanted to let you know that's what we're moving forward with.

Staff's in full support of this petition. Mister -- your Zoning staff has been just incredible to work with. They've helped us through making these changes, articulating what your concerns were. We think we've addressed the majority of your concerns.

This is a workforce housing unit. We are in a countywide community redevelopment area. We're in an urban revitalization area. It is a new urban style project. It's going to promote a sense of community.

It's the first link in future redevelopment in this area, and

we see this as the initial building block for future development to the north and south of us.

If you have any questions, we are available to answer any of your questions.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I do think this is better. I did ask if you would look at reconfiguring the rec area. I see that you couldn't do that.

MR. CHEQUIS: We analyzed that, and in fact what I'll -- what I'll do is I'll show you what that would look like, and the end result was we would end up losing eight units overall to accommodate the rec center right in the center of the site, the way you wanted it kind of in the center of the site.

After our meeting last month we met with Parks staff, Ms. Jean Matthews, and she concurred. It was our vision from the get-go that rec center should be closer to the lake because that's where we're trying to focus people towards that large natural amenity. Where we have it is close to that.

When you put it in the center of the site, you lose eight affordable -- we'll lose eight units. It -- the affordability, that workforce housing price point starts to start -- crawl upwards, and you lose that affordable, and eight -- with loss of eight units you also have a rec center that's close to your main drive, and that's probably not the best place to have it.

Pulling it back, less traffic as all the traffic moves through the development and comes towards the back of the development.

So we analyzed it.

COMMISSIONER HYMAN: Okay.

MR. CHEQUIS: We looked at for you, and in losing eight units we just think that that's a -- that's a hardship with respect to the price points for the units.

COMMISSIONER HYMAN: Okay. So you've convinced me on that, but if they want the rec area to be close to the lake, was there any way to put the -- now that the rec area is so linear, was there any way to put the rec area --

MR. CHEQUIS: Well --

COMMISSIONER HYMAN: -- where the two buildings are right next to the lake?

MR. CHEQUIS: What we've done was --

COMMISSIONER HYMAN: Sort of flip it.

MR. CHEQUIS: -- right in the -- right in the -- in the crux of the lake, wetland area we have a small pocket park in there, and we have a strong pedestrian link between what is our true park -- I'm sorry, neighborhood recreational center and more of our park requirement.

So there are strong links to them. They're not slammed together, but there's -- there's very -- there's a strong linkage between them, and it's, again, good to have these separate little areas tucked throughout the development.

COMMISSIONER HYMAN: Okay.

MR. CHEQUIS: If we put it all in one area, we're going to create more of what you don't want to see.

COMMISSIONER HYMAN: Okay.

MR. CHEQUIS: Something central in one location and a hardship for people to get to at the other end of the development.

COMMISSIONER HYMAN: Well, you're very convincing.

The other -- only other question I had was do you -- do you have enough parking for the rec area because you certainly have less parking spaces than you did before, and is the rec area the same size as it was before?

MR. CHEQUIS: The rec area is virtually the same size. The parking that was once all on one side facing the rec area is



now distributed in parallel parking on the -- on the side of it and across the street.

COMMISSIONER HYMAN: There's still less spaces.

MR. CHEQUIS: No.

COMMISSIONER HYMAN: Same amount?

MR. CHEQUIS: Same amount of spaces. We didn't lose any. The -- we've reconfigured them to parallel parking parking spaces --

COMMISSIONER HYMAN: Okay.

MR. CHEQUIS: -- and they're across the road, as well.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Any other commissioners?

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Yes. I was probably one of the more verbal opponents of this the last time, and the --

COMMISSIONER HYMAN: It wasn't me.

VICE CHAIRMAN ANDERSON: My biggest objection was the fact that you're, you know, you're creating this new urban design into a gated community, which, to me, didn't quite make sense, but adding that new road exiting out and the ability of people in here to drive and get into the shopping center was probably my largest objection which you have -- you have eliminated.

The one question, is there -- will there be a condition -- you know, a lot of times, you know, a neighborhood association gets here and decides oh, we don't want to bother maintaining the exit point, and they just close that off.

Will the -- is there any requirement that that gate will have to stay open? How does -- how does that work? If I can ask staff if they know or the petitioner.

MR. ROBINSON: Well, we're going to work with staff and work with Brian, and we're going to form a condition that will allow something amenable for both of us to do.

VICE CHAIRMAN ANDERSON: Okay. I just don't want to see them -- homeowner association takes over and says oh, we don't want that road anymore and close it off.

MR. CHEQUIS: And, Commissioner, I think with respect to the HOA documents themselves, I couldn't see the residents turning down the opportunity to just drive out their -- their south entrance into that plaza in the drive before they get to 6<sup>th</sup> Avenue, but that could be -- that could be instituted in the HOA documents, and basically untouchable.

And if staff wants to condition that, we have no problem with that gate having to remain functioning.

VICE CHAIRMAN ANDERSON: Okay. And this roadway is -- staff, the roadway is -- this new roadway is wide enough to do what they're saying it's going to do, or easement? Have you looked at that yet or --

MR. ROBINSON: It's a 30-foot --

VICE CHAIRMAN ANDERSON: It's 30 feet.

MR. CHOBAN: We have not really looked at the plan yet, so we need to do that.

And then we also need to make sure that that is available for access, too, that it hadn't been abandoned. We haven't done that yet, either.

VICE CHAIRMAN ANDERSON: Okay. Just making sure what's -- what's been done, what hasn't.

And then --

COMMISSIONER HYMAN: Just make -- oh, I'm sorry.

VICE CHAIRMAN ANDERSON: Two other quick things.

One in the -- the very north of the project, and you go to the west, you have that one big open area, as we had discussed before, one of our objections was the lack of really open space.

Is there any way to -- I mean is that going to be a kind of designated play area, or was there anything designed for that little section of land?

MR. CHEQUIS: It's -- it is a drainage, a vested drainage area on the site for the historical drainage off site to our property.

I -- I believe that the homeowners, if they don't put any structures in it, would have free right to use it for that, for green space play area, and it could be recognized as such, but I'm -- I'm relatively sure that Engineering Department won't let us put anything in there, and encumber the drainage characteristics.

VICE CHAIRMAN ANDERSON: Okay. So all I would ask is that you do the best you can in developing it so that it can be multi-use so that it can be for the drainage and also have some amenity for the residents.

And then the last thing which I brought up at my meeting was an intense situation like this I know the parking requirement is 2.25, and, again, we're going with an exemplary project, and so the one thing I ask you to look into is if there's any way to add a few more parking places 'cause I know too many times when I go to these type developments on a weekend or something, it's impossible to find a place to park 'cause so many homes now have two and three cars, and if every home had three cars, there's no way they could even park them here, let alone be any room for guests.

MR. CHEQUIS: Right.

VICE CHAIRMAN ANDERSON: So I don't know if you looked for any place to add additional parking.

MR. CHEQUIS: We have started to look into that, and we are going to have to continue to do that, and we'll commit to looking at opportunities to get parking in and around where we can tuck it in where it makes sense, and where we're not going to lose any more green space on the site.

We -- we're definitely going to review that.

VICE CHAIRMAN ANDERSON: Okay.

MR. CHEQUIS: That's certainly part of our --

VICE CHAIRMAN ANDERSON: Staff, between now and Board of County Commissioners will you make sure that he kind of lives up to that a little bit? I'll trust your judgment there.

And that's all I have. Thank you.

CHAIRMAN BARBIERI: Are there anybody -- is there anybody here from the public to speak on this item?

COMMISSIONER HYMAN: I'm going to move approval. I think you did a really good job. Good job, Don.

PDD2006-948, to recommend approval of the official zoning map amendment from Multiple Use Planned Development District to the Residential Planned Unit Development District.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion is made by Commissioner Hyman.

COMMISSIONER HYMAN: Subject to the conditions.

CHAIRMAN BARBIERI: Second by Commissioner Kaplan.

Staff, did you get the condition that Commissioner Anderson wanted in there that the homeowner documents must contain a provision for --

MR. Mac GILLIS: Yes. We'll -- we'll include that.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Just make sure it doesn't say it has to be manned. It just needs to be operational.

MR. Mac GILLIS: Sure.

CHAIRMAN BARBIERI: All right. 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, 6-0.

MR. CHEQUIS: Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

COMMISSIONER HYMAN: You want to go back to 14?

MS. KWOK: The applicant for the Item No. 6, I believe, is here, Five Partners.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Oh. Where were you before?

MR. CIKLIN: Actually, I have one of the great excuses for not --

COMMISSIONER HYMAN: Yeah. I want to hear this.

MR. CIKLIN: -- being here, and you'll like this one since there's so many lawyers up there.

The young man that was supposed to be here, Ramsey Buckley, took the Bar exam on Tuesday and Wednesday, and when I called him today, I don't think he even knew what day it was.

So he -- he -- I apologize for that, and he does, too.

And -- but the condition on Item No. 6 is acceptable, and we appreciate your indulgence, and, again, I -- I truly am sorry for not being here.

CHAIRMAN BARBIERI: No problem.

COMMISSIONER KAPLAN: Mr. Ciklin, this is not Friday casual dress day.

MR. CIKLIN: Well, you know, you caught me off guard. I -- and I apologize for my wardrobe, as well.

I'm just apologizing for everything today.

CHAIRMAN BARBIERI: Still have your golf shoes on?

COMMISSIONER HYMAN: I've got to --

MR. CIKLIN: And, listen, it's only 10:15. I've got a whole day ahead of me.

COMMISSIONER HYMAN: Could I add a few there?

I'm going to move approval of the resolution approving the Type II zoning variance to allow the reduction of the right-of-way buffer.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on Item No. 6, ZV2006-1929?

(No response)

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

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, 6-0.  
MR. CIKLIN: Thank you very much.  
CHAIRMAN BARBIERI: Thank you. You can go back  
 to the golf course now.  
COMMISSIONER DUFRESNE: Have a nice day on the  
 boat.

COMMISSIONER HYMAN: Number -- we passed 14,  
 right?  
CHAIRMAN BARBIERI: Yeah, we passed --  
MS. KWOK: Fourteen, I don't believe the -- I think the  
 staff just called the applicant, and they -- they didn't realize this was  
 today, so we're going to postpone this to April 5th, 2007.  
CHAIRMAN BARBIERI: Maybe Mr. Ciklin will want to  
 stand in for that guy, too.  
COMMISSIONER HYMAN: Jeez. Okay. I'm going to  
 move to postpone that item.  
VICE CHAIRMAN ANDERSON: Second.  
COMMISSIONER HYMAN: No. 14.  
COMMISSIONER KAPLAN: Second.  
CHAIRMAN BARBIERI: Is there anybody here on Item  
 No. 14, Z/DOA/2006-185?  
 (No response)  
CHAIRMAN BARBIERI: We have a motion for  
 postponement to the April --  
COMMISSIONER HYMAN: Fifth meeting.  
CHAIRMAN BARBIERI: -- 5<sup>th</sup> meeting.  
 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, 6-0.

MS. KWOK: Okay. This will bring us to the last item, No. 16, ZV2006-1925, Public Storage, and Jon Mac Gillis will give us a brief presentation on this project.

MR. Mac GILLIS: It's found on Page 145 of your backup material. This is for a Type II variance to allow a replacement sign to exceed the maximum 12-foot height.

The applicant's proposing 55 feet for a 43-foot variance.

Just to give you some background on the Code, the Unified Land Development Code limits signs. We had a consultant come in back in 2003, rewrote the entire sign provisions. Before that date, when this project was approved in '77, the signs were allowed obviously taller along major right-of-ways.

With the rewrite of the Code, the Board directed staff they wanted to see lower monument signs along our right-of-ways.

The applicant, after result of the hurricane season a year ago, this existing 55-foot sign was damaged. The applicant has not applied -- is trying to apply for a building permit now to replace the sign.

Under Article 1 of the Unified Land Development Code, there's provisions that allow a nonconforming structure to be modified up to 30 percent of the maximum value of the sign.

The sign apparently is valued around \$3,000 now so that would allow him \$900 of repairs to that sign under the nonconforming provisions. He proposes to exceed that; therefore, he needs to come in and get this variance

Staff is recommending denial under the criterias. The seven criteria, does not demonstrate compliance with any of the criteria. Even though this is an existing sign, the Board has given staff clear direction in the Code.

I also went to the Board last year after the hurricanes to get direction on how to handle nonconforming signs.

The Board was clear that as part of the sign Code rewrite we did not put an amortization program in there because staff explained that that was just going to be impossible for us to manage that type of taking down all the signs.

So they directed us, and we recommended to the Board, that through the normal attrition of signs coming down either through replacement or natural disaster such as hurricanes, that would be the natural way to replace these signs and get them into compliance.

So we're holding strong on this that the sign has to meet the current Code.

COMMISSIONER HYMAN: I have a question. You know me, I really like the low signs.

But if the -- if the -- the property along 95 and the Turnpike, they don't allow higher signs right along those very major roadways?

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: That's strange, isn't it?

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: I mean 'cause when you're driving down 95, I guess you --

MS. KWOK: Actually, I'd like to clarify that because signs are only allowed in -- on a road where you can get access from. So most projects, you know, you've seen from I-95 or Turnpike, you don't get access. You get access from either -- you know, whatever, let's say Lantana or Hypoluxo Road.

So your sign allowed to put it on, you know, where your legal access is provided.

COMMISSIONER HYMAN: So ultimately all the huge gasoline station signs and Stuckey's, if that's still around, that are along the Turnpike, they'll come down?

MS. KWOK: Well, if they get damaged or whatever, or if they come in today, they will not be permitted.

MR. CHOBAN: A lot of those are in the city, too, the larger signs like the -- I think the one I'm thinking of.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Well, I was just -- isn't the -- isn't Hypoluxo -- I'm looking at the -- I'm looking at pictures now -- is elevated quite a bit above the property, which I know in the past when we've had similar situations, we've allowed, you know, some compromise because if the road is up so high, then -- and the property's setting down in a -- in a valley, that the whole purpose to build to see it from the road, and if it's not up high enough -- how much -- how much more height is he requesting than what's allowed?

COMMISSIONER HYMAN: Oh, a lot.

MR. Mac GILLIS: Forty-three -- 43 feet.

COMMISSIONER HYMAN: Forty-three feet.

VICE CHAIRMAN ANDERSON: Forty-three feet? And how high is the roadway above the property where the sign is sitting?

MR. Mac GILLIS: I believe staff is indicating 25 feet on Page 149 under No. 1.

VICE CHAIRMAN ANDERSON: Okay. Let me look through the pictures here real quick.

COMMISSIONER DUFRESNE: Mr. Chairman, I have a question for the applicant.

CHAIRMAN BARBIERI: Commissioner Dufresne.

COMMISSIONER DUFRESNE: If the applicant stayed under a certain dollar threshold, they wouldn't have to come before us at all; correct?

And what is the -- why isn't the applicant trying to stay below that dollar threshold?

MR. Mac GILLIS: I'm sorry. I didn't hear the question.

COMMISSIONER DUFRESNE: If the applicant stayed behind a certain dollar threshold of repairs --

MR. Mac GILLIS: Right.

COMMISSIONER DUFRESNE: -- they wouldn't have to come before us?

MR. Mac GILLIS: No.

COMMISSIONER DUFRESNE: I'd like to know from the applicant why they're -- why they can't stay within that price range.

MR. BROWN: Hi, I'm Kevin Brown, with U.S. Signs out of Houston, Texas. I'm here to represent Public Storage nationally, on a national basis.

Sara, do you want to tell him --

COMMISSIONER HYMAN: I guess the cost to rebuild it --

MR. BROWN: -- you're the applicant.

COMMISSIONER HYMAN: -- is just so huge.

MR. BROWN: This is the applicant. And Karen is from Public Storage.

And if I just may say a couple things, Chairman, and to the commissioners.

This site is unique only because when you come up on -- off the highway to go to this site, you actually have to go by this site about probably 250 to 300 feet before you come down off the ramp and then kind of take a right and have to go back on -- almost like an access road back to this property.

So I don't know if you've got this picture in front of you?

CHAIRMAN BARBIERI: No, we don't.

MR. BROWN: Well, this was taken from off Hypoluxo

Road showing you that that right there -- when the sign was hit by the hurricane, it took both of the two signs that were existing, which actually the sign looked like this (indicating) prior to it being removed by the hurricane. This was also a part of our submittal, original submittal when we tried to replace the sign.

Both of those cabinets came down crossing the entrance to the property. We were called out in Houston because we handle all the Public Storage's work nationally to get Interstate Sign Crafters to come out and remove those cabinets that were twisted up and thrown across that access road into the property on an emergency basis, which we had to, and it was, of course, a safety issue, as well.

That's quite a -- those cabinets are quite big, and to answer the commissioner's question about cost, you know, we probably exceeded that cost just in the original emergency call to get out there and get all that stuff off the road.

This property cannot be seen -- that sign cannot be seen if it's, you know, at the requested height that the Building Department is requesting us, and we've literally had more than one application, try to work with staff to figure out a way to, you know, still get this height so that the customer has the opportunity for their customers to see the business.

I know Karen and I had a meeting this morning, and the property's lost about 10 to 12 percent in occupancy rates since before the hurricane because the property not being -- having good identification.

So we're hoping that you all --

COMMISSIONER DUFRESNE: So this has got nothing -- and this has got nothing to do with being from Texas, and everything has to be bigger and better. Okay.

COMMISSIONER HYMAN: You know, if you use the --

MR. BROWN: Should I have said I was from California?

COMMISSIONER DUFRESNE: No.

COMMISSIONER HYMAN: I'd stick to the bigger and better.

If you use the criteria that the sign's got to be visible from the accessway, as opposed to the adjacent major roadway, then I guess there is no justification to have the sign be that huge, and that is a huge, huge variance.

It's always very troubling, okay, but I think we have to follow the guidance of the commission, and if the commission's telling us that the sign needs to be at a reduced height, usually we go even less than that, I don't know any way to allow it to come back at this huge height. I just don't. I don't know how.

MR. BROWN: You know, if we put the sign at the height that staff is requesting, no one will see it until you actually know where the property's at, turn right and start to head back to the property. Then you'll see this small little monument sign.

You know, signage, and we all know, is not just, you know, for the customer's benefit, but it's all -- it's for the client's -- or for the client's benefit, but it's for the customer's benefit, being able to find a property quickly and knowing where it's at when --

COMMISSIONER HYMAN: Well, perhaps there is a -- what is the -- what is the height that -- the approved height, the maximum approved height for this property?

MR. Mac GILLIS: Twelve feet.

COMMISSIONER HYMAN: Twelve feet.

MR. BROWN: That sign would not be seen at 12 feet. It's an impossibility to see that sign from Hypoluxo Road at all.

VICE CHAIRMAN ANDERSON: Yeah, I mean I drive by there just about every day, the Hypoluxo to 95, and that site -- it's

way down in there, and you don't even see it.

You know, when the sign was there, you know, you knew it was there, but otherwise it's -- it's almost invisible.

So I -- I don't agree with the, you know, the sign that was there, I remember, it was big, and it was huge.

COMMISSIONER HYMAN: Huge.

VICE CHAIRMAN ANDERSON: I don't think it needs to be as big as it used to be, but I think they need more than what the Code is allowing.

COMMISSIONER HYMAN: Perhaps you can take another look at this and see if there is something else that would be acceptable, as opposed to just replacing this humongous sign that you used to have that might be a more acceptable type of variance in light of the special conditions that exist at the property.

But just to put back a, you know, 55-foot sign is --

VICE CHAIRMAN ANDERSON: Yeah, the roadway's up 25 feet, so if you're --

MR. BROWN: And that varies.

VICE CHAIRMAN ANDERSON: -- a little bit above that --

COMMISSIONER HYMAN: Why don't you take another look at it.

MR. BROWN: That actually varies. It -- it --

VICE CHAIRMAN ANDERSON: Well, if you can --

COMMISSIONER HYMAN: Staff, can you do that?

VICE CHAIRMAN ANDERSON: If you maybe meet with staff, we maybe take a postponement and you come back and try to keep it as low and as small as you can to still meet your requirement of being seen from Hypoluxo, and maybe it'll be seen a little bit from 95, but our goal here isn't to give you this huge neon sign in the sky that's seen, you know, five miles up and down 95.

COMMISSIONER DUFRESNE: Maybe we can agree on 12 feet above Hypoluxo.

COMMISSIONER HYMAN: I don't want to set an arbitrary number. I think staff needs to look at it --

MR. Mac GILLIS: I think what staff was -- staff had recommended to me, if we added the other 25 feet that compensated for the change in grade, adding that to the 12 feet would give you 37 feet.

MS. KWOK: Right.

MR. Mac GILLIS: I think that's a reasonable compromise.

COMMISSIONER DUFRESNE: I'm okay with that.

COMMISSIONER HYMAN: Maybe.

MS. KWOK: You know, again, when we look at that, we have to deny this project because they're requesting for a 55 feet, which is extremely high sign, and then we're also understanding the problem there is a change in grade, but we don't have these, you know, informations regarding the, you know, the grade changes. So, you know, it just says 25 feet below.

So if they can -- if they can provide us with better information in terms of, you know, exactly what the grade difference between the Hypoluxo Road and where the sign base is located, then we can come up with a comfortable number, you know, between 40 -- 37, 35. We don't have that number.

CHAIRMAN BARBIERI: All right. Can you get this done in 30 days, or do you need 60 to get it?

MR. BROWN: I think if we're going to have to pull those documents, we'll need at least 60 days to try to figure out --

COMMISSIONER HYMAN: Yeah, I'm going to move to postpone -- oh, sorry.

COMMISSIONER DUFRESNE: I would also like to see



the elevation difference, not just from the road bed, but from any guardrails.

MR. BROWN: Yeah, it does vary. In fact --

COMMISSIONER DUFRESNE: Well, no, because I'd like to see 12 feet above the guardrails. I mean doesn't do you any good if you can't see -- you know what I mean?

COMMISSIONER HYMAN: Okay. I'm going to move for -- to postpone for 60 days so you can give that consideration --

MR. BROWN: Thank you very much.

COMMISSIONER HYMAN: -- and try to -- okay.

VICE CHAIRMAN ANDERSON: Second.

MR. Mac GILLIS: That would be May 3<sup>rd</sup>.

CHAIRMAN BARBIERI: Okay. We have a motion to postpone for 60 days to May 3<sup>rd</sup>, 2007, made by Commissioner Hyman, second by Commissioner Anderson.

Is there any further discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

Staff, do you have anything else?

MR. Mac GILLIS: No, no other comments.

CHAIRMAN BARBIERI: All right.

COMMISSIONER HYMAN: Good job.

CHAIRMAN BARBIERI: We're adjourned.

MR. Mac GILLIS: Thank you.

(Whereupon, the meeting was concluded at 10:30 a.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 47, 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 21st day of March, 2007.

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Sophie M. Springer, Notary Public