

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, March 6, 2008
9:05 a.m. - 12:45 p.m.
Jane M. Thompson Memorial Chambers
301 North Olive Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

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

Barbara Alterman, Ex. Director of PZ&B

Bob Banks, Assistant County Attorney

Jon Mac Gillis, Zoning Director

Maryann Kwok, Chief Planner

Wendy Hernandez, Zoning Manager

Ora Owensby, Site Planner II, Zoning

Ron Sullivan, Senior Site Planner, Zoning

Carrie Rechenmacher, Senior Site Planner, Zoning

Douglas Robinson, Site Planner II, Zoning

Carol Glasser, Site Planner II, Zoning

Anthony Wint, Site Planner II, Zoning

Joyce Lawrence, Site Planner II, Zoning

Sandra Gonzalez, Site Planner II, Zoning

Donna Adelsperger, Site Plan Tech, Zoning

Isaac Hoyos, Principal Planner, Planning

Bryce Van Horn, Senior Planner, Planning

William Cross, Senior Site Planner, Code Revision

Ken Rogers, Dir., Land Development Division

Allan Ennis, Asst. Dir. Traffic Division

Jim Choban, Land Development

Kenny Wilson, Health Department

Bob Kraus, ERM

Lorraine Cuppi, Zoning Secretary

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P R O C E E D I N G S

CHAIRMAN BARBIERI: All right. We'll get started. I'm sorry for the delay.

Would staff call roll, please.

MR. Mac GILLIS: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MR. Mac GILLIS: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: Here.

MR. Mac GILLIS: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MR. Mac GILLIS: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MR. Mac GILLIS: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MR. Mac GILLIS: Commissioner Zucaro.

COMMISSIONER ZUCARO: Here.

MR. Mac GILLIS: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MR. Mac GILLIS: We have a quorum.

CHAIRMAN BARBIERI: All right.

Would everybody please stand for the opening prayer and Pledge of Allegiance led by Commissioner Kaplan.

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

CHAIRMAN BARBIERI: The Zoning Commission of Palm Beach County has convened at 9:06 a.m. in the Jane M. Thompson Memorial Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach, Florida to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments, Type II Variances and other actions permitted by the Palm Beach County Unified Land Development Code and to hear the recommendations of staff on these matters.

The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing at 301 North Olive Avenue, West Palm Beach, Florida in the Jane M. Thompson Memorial Chambers, 6th Floor, at 9:30 a.m. on Monday, March 24th, 2008, to take final action on the applications listed below.

I want to point out to everybody that that's a different day than we normally -- the BCC would normally meet, so it's Monday, March 24th, 2008.

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

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

In this regard, if any group of citizens or other interested parties wish to cross-examine witnesses, they must appoint one representative

from the entire group to exercise this right on behalf of the group. Any person representing a group or organization must provide written authorization to speak on behalf of the group.

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

Staff, do we have proof of publication?

MR. Mac GILLIS: Yes, Mr. Chair.

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

COMMISSIONER HYMAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

The record should also reflect that Commissioner Armitage is a voting commissioner this morning filling in for a vacancy.

Those of you that wish to address the Commission this morning would you please stand and be sworn in by the Assistant County Attorney.

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: We need disclosures from the commissioners starting with Commissioner Armitage.

COMMISSIONER ARMITAGE: No disclosures.

CHAIRMAN BARBIERI: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: I -- one disclosure, I met with the representative for the Lantana MUPD, Merchants Walk, which is Item 11.

VICE CHAIRMAN ANDERSON: I met with the petitioners on Agenda Item No. 22.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I met with petitioner's representatives on several items, and I got a call on one item.

PDD2007-848; 2007-1411; 2007-846; 2007-1774, and there might be another one. I'll pop in when I see it.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: Yes, I received a phone on Items No. 24, did not meet with the applicant or representative, just a courtesy phone call.

And I did meet with the applicant and representatives on Items 20, 21 and 22, and no matter what that meeting is my decision will be made on the evidence presented here today.

CHAIRMAN BARBIERI: All right.
Commissioner Kaplan.

COMMISSIONER KAPLAN: Yes, I spoke to the petitioner's agents on Items 11, 20, 21 and 22.

CHAIRMAN BARBIERI: All right. And I've spoken or met with the petitioners' representatives on 14, 17, 18, 20, 21, 22 and 24.

COMMISSIONER HYMAN: And I also was on, if I didn't say it before, 20, 21 and 22.

CHAIRMAN BARBIERI: Okay. Before we get into the postponements and such --

COMMISSIONER HYMAN: And I think I had a conversation with the petitioner's representative on 23.

CHAIRMAN BARBIERI: The staff has advised the Zoning Commission that although legal -- the legal requirements were met for notice of this meeting, that the courtesy mailings to the property owners within 500 feet of a location were not mailed and have asked the Zoning Commission to make a decision as to which items we wish to hear today and which we don't.

I've spent quite a bit of time talking to different people about how to handle the situation.

The Zoning Commission makes some final decisions on zoning -- on variances and also on the Class B conditional uses.

I would suggest that we don't hear any of the petitions today that have -- that where we make the final authority unless those are -- been postponed and before us again where the mailing has already been out on those and would not have gone out again.

And the other ones that we don't take final authority on, those move forward to the BCC, and I've been advised by staff that the letters will go out before the BCC meeting so people will have the authority to be at the BCC meeting.

So the -- going through the agenda we have item -- the only one on the consent agenda where we have final decision-making authority is Item No. 14, Jog Commerce Park, and Brad Miller is the -- is the one on that one.

So -- and before you say anything, Brad, we also have decision-making authority on 16, but I understand that that's being withdrawn, even though it was on our agenda.

Nineteen is a variance. I don't remember what we're doing on --

MR. Mac GILLIS: Postpone 30 days.

CHAIRMAN BARBIERI: That's being

postponed, right.

And then there's the ones on Lyons West -- Lyons West AGR PUD. The petitioner's indicated that the petitioner has no issue with us postponing that one, so I will ask for a motion at some point to postpone 23.

Also, on Item No. 24 -- excuse me, 25, that is a reestablishment of an expired variance, so -- and I spoke with Commissioner Kanjian's office. They didn't have any issue with us going forward with that one.

And on 26, again, that's a final authority by the Zoning Commission, and the petitioner on that one has also said he's okay to take a postponement. So I'll ask for a postponement on 26, also.

So that'd be 23 and 26 we postpone because of the lack of the courtesy notices.

COMMISSIONER HYMAN: Do we need motions for this?

CHAIRMAN BARBIERI: Yeah, we're going to need motions for that, I understand from the County Attorney. Yes?

Mr. Miller, did you want to -- sorry, go ahead.

MR. BANKS: Yes, we need a motion.

CHAIRMAN BARBIERI: Okay.

MR. MILLER: On No. 14 -- for the record, Bradley Miller, Miller Land Planning, representing the applicant on No. 14, Jog Commerce Park.

Our preference, obviously, is to keep this thing going. We have no opposition. It's the variance components of it that I think is your concern, which one is related to parking, is a glitch, if you will, in the code on how parking is calculated for warehouses.

The others pertain to a landscape buffer that are actually adjacent to another industrial property and by the same owner, that is already in the process.

So we have no opposition to those. Our preference is to keep going.

I understand you're in a tough spot, as well. We all are.

CHAIRMAN BARBIERI: All right. Let's -- let's make a decision on -- that's the only one we have to make a decision on.

So, staff, can I get some comments.

MR. Mac GILLIS: I'll --

CHAIRMAN BARBIERI: Go ahead.

MR. Mac GILLIS: Item 15, I want to bring that to your attention, too. That is actually a -- that's a Class B conditional use --

CHAIRMAN BARBIERI: All right.

MR. Mac GILLIS: -- for the Development Order Amendment. You would be making the final decision on that one, too, so --

COMMISSIONER ZUCARO: Mr. Chair.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: With regards to Mr. Miller's comment on his item, my -- concern would be that would this be reversible error at some

point in the future if someone were to stand up and be -- and object.

And if the answer to that is yes and they accept the proposition that it could come back to haunt them, then is there -- there would be no harm, no foul for us to allow it to go forward, and I would -- you know, I know how long these things take so if their preference is to go forward under the caveat that it could come back at some point, then let them go forward.

CHAIRMAN BARBIERI: All right. The County Attorney's assured us that the legal requirements were met for all of these petitions so there's no issue with legality.

The other thing is, since you're new on the Commission, you probably are not aware of the fact that this Commission has always made it very clear when a petitioner comes forward and we have opposition from neighbors that said they didn't know or there was no opportunity to speak with the petitioner, we always ask the petitioners -- or generally ask the petitioners to take a postponement.

So that's the concern we have is that we're hearing some that people may not have been aware of because they didn't get the notice.

Commissioner Hyman.

COMMISSIONER HYMAN: I'd like to take them one by one. The ones, like you said, Mr. Chair, where we have -- we take final action, I would postpone. I'd be consistent across the board, postpone all the ones we take final action on, and we can hear the others.

CHAIRMAN BARBIERI: All right. So let's -- let's go through the agenda from the beginning, and as we get to them, we'll make a decision on what we're going to do based on the situation. All right.

MR. Mac GILLIS: Okay. We'll begin on Page 2 of your agenda, the postponements.

Item 1, CA2007-205, Lake Harbor Quarry. It's a request to postpone this item 30 days to Thursday, April the 3rd, 2008.

CHAIRMAN BARBIERI: All right. Is anybody here to speak on Item No. 1?

(No response)

CHAIRMAN BARBIERI: All right.

COMMISSIONER HYMAN: Move for postponement for 30 days to April 3rd.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 2, Z/DOA/CA2007-
 1185, Winners Church, postpone 30 days to
 Thursday, April 3rd, 2008.

CHAIRMAN BARBIERI: Anybody here to speak
 on Item 2?

(No response)

COMMISSIONER HYMAN: Move to postpone to
 April 3rd, 2008.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 3, DOA2007-1590,
 Square Lakes North, a motion to postpone 30 days
 to April 3rd, 2008.

CHAIRMAN BARBIERI: Anybody here on Item
 3?

(No response)

COMMISSIONER HYMAN: Move to postpone to
 April 3rd, 2008.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Page 3 of the agenda,
 Item 4, ZV2007-2016, Marquez-Jones PUD, motion to
 postpone 30 days to April 3rd, 2008.

CHAIRMAN BARBIERI: Anybody here to speak
 on Item 4?

(No response)

COMMISSIONER HYMAN: Move to postpone to
 April 3rd, 2008.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 5, ZV/PDD/R2007-
 1592, Jupiter RV Resort RVPD, postpone 30 days to
 April 3rd, 2008.

CHAIRMAN BARBIERI: Anybody here to speak
 on Item 5?

(No response)

COMMISSIONER HYMAN: Move to postpone to
 April 3rd, 2008.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 6, PDD2006-1682,
 112th Northlake Office, a request on -- as fixed
 on your add and delete to postpone 60 days to May
 the 1st, 2008.

CHAIRMAN BARBIERI: Anybody here to speak
 on Item 6?

(No response)

COMMISSIONER HYMAN: Move to postpone to
 April 3rd, 2008.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

MR. Mac GILLIS: That was --

MS. HERNANDEZ: It's May 1st.

MR. Mac GILLIS: -- May the 1st.

COMMISSIONER HYMAN: May 1st?

MR. Mac GILLIS: Sixty days, yes.

COMMISSIONER HYMAN: Sorry, May 1st, 2008.

CHAIRMAN BARBIERI: All right.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Page 4, Item 7, CA2007-1199, Bergeron Sand Rocks and Aggregate Expansion, postpone 30 days to April 3rd, 2008.

CHAIRMAN BARBIERI: Is anybody here to speak on Item 7?

(No response)

COMMISSIONER HYMAN: Move to postpone to April 3rd, 2008.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 8, ZV2007-1617, Westgate Station.

CHAIRMAN BARBIERI: Anybody here to speak on Item 8?

(No response)

COMMISSIONER HYMAN: No motion.

CHAIRMAN BARBIERI: Okay. There's no motion required on that one. That'll be postponed for 30 days. Is that -- it's going to the April --

MR. Mac GILLIS: This is being postponed?

MS. HERNANDEZ: No -- yeah, it's postponed. It's the wrong application number. It's ZV2008-089, Westgate Station. It's on the add/delete.

CHAIRMAN BARBIERI: Okay. That's being postponed --

MS. HERNANDEZ: Postponed 30 days.

CHAIRMAN BARBIERI: Okay.

MS. HERNANDEZ: No motion.

CHAIRMAN BARBIERI: All right. No motion required.

CHAIRMAN BARBIERI: Item 9.

MR. Mac GILLIS: I'm sorry. Item 9, ZV2007-1798, Boca Grove Center Planned Office Business Park, postponed 30 days.

CHAIRMAN BARBIERI: Is anybody here on Item 9?

(No response)

CHAIRMAN BARBIERI: That's being postponed by right for 30 days to April 3rd, 2008.

CHAIRMAN BARBIERI: No. 10.

MR. Mac GILLIS: Item 19, found on Page 10 of your agenda, ZV2007-2015, Vista Center Lot 19. This is a request for a 30-day postponement to April 3rd, 2008.

CHAIRMAN BARBIERI: Do we have anybody here to speak on Item 19?

Yes, sir.

MR. ROYCE: I'm not here to speak on Item 19, but I'm here to speak on Item 10.

CHAIRMAN BARBIERI: Okay. I called it by accident. We're not up to that one yet. I'll get back to you in a minute.

COMMISSIONER HYMAN: On 19 is there nobody here?

CHAIRMAN BARBIERI: There's nobody.

COMMISSIONER HYMAN: I'm going to move to postpone 2007-2015.

CHAIRMAN BARBIERI: For 30 days to April 3rd?

COMMISSIONER HYMAN: To April 3rd.

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

COMMISSIONER ZUCARO: Second.

CHAIRMAN BARBIERI: -- Commissioner Zucaro.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 17, the applicant originally was requesting a postponement for 30 days. That's found on Page 9 of your agenda, PDD/TDR/R2007-1407, the Carlyle CLF.

He's requesting now a remand back to the Development Review Officer. After meeting with residents they're going to some redesign, so that'll be April 9th it'll be going back to the Development Review Officer.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 17, Carlyle?

(No response)

COMMISSIONER HYMAN: Move to remand.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by **Commissioner Hyman**, seconded by Commissioner Anderson for remand to April 9th, 2008.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Next item is found on Page 5, Item 10, for withdrawals, CB2006-947, Lee Road Property.

The applicant actually was requesting an additional postponement on this item. This item's been on our agenda since -- it was February, 2007.

Staff was recommending withdrawal.

The applicant met with staff again this morning and said he would -- if we'd give him one 30-day postponement, he's working stuff out with the South Florida Water Management. He hopes to have this resolved.

So staff would support one additional 30-day on this.

COMMISSIONER HYMAN: Okay.

MR. Mac GILLIS: That would be 'til April 3rd, 2008.

CHAIRMAN BARBIERI: Is Ray Royce with the county?

MR. Mac GILLIS: Yes -- no. He's the applicant.

CHAIRMAN BARBIERI: Oh, I'm sorry.

Mr. Royce, would you come up.

I guess staff is concerned when we keep postponing this, postponing this. At some point -- so you think you're going to get this

done now? 'Cause I think the last time we gave you 90 days when you asked for 30 or --

MR. ROYCE: Well, I think you gave me 60, but, yes, it's been postponed a number of times. I appreciate your patience. It's a complicated matter.

I think we're making good progress, and I told the staff if I could get one more 30-day postponement, I would not seek another postponement, and so I would appreciate your consideration.

CHAIRMAN BARBIERI: All right.

Is there anybody here -- else to speak here on Item No. 10?

(No response)

COMMISSIONER HYMAN: I want to disclose I did have a brief discussion with Mr. Royce, and I have no problem with this.

I'm going to move to postpone 'til April 3rd.

VICE CHAIRMAN ANDERSON: Second.

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

Under discussion, Commissioner Kaplan.

COMMISSIONER KAPLAN: I have no objection to postponement, but I would like the record to show that it's conditioned upon petitioner's statement that they would no longer ask for a further adjournment.

I'd like that on the record, and that -- on those conditions I will support it.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER ZUCARO: Mr. Chair.

CHAIRMAN BARBIERI: Yes, sir. Commissioner Zucaro.

COMMISSIONER ZUCARO: Since I'm new, as you remind me, what is the policy for that?

I mean there is a legitimate argument that the postponement over and over again wears down any opposition that might want to come and speak.

So is there a policy, or is it strictly an ad hoc decision?

CHAIRMAN BARBIERI: I don't think we have a policy, although Commissioner Kaplan I know would be the first one to tell you that he sure would like to have a policy in place where we don't continuously postpone.

The Lee Road property is -- COWBRA is very aware of that, and the community knows what's going on with that, so I agree with them.

We keep postponing, at some point people have lost track of where it's at and they're not at a meeting when they should be, but I think on Lee Road there's been adequate notice, and the community's very much involved in what's going on with that.

MR. ROYCE: And by the way, I'm staying in touch with Cindy Fury (ph). I talked to her yesterday on the telephone, I pledged to her that before we go forward, we would let her know and so forth.

So she and I are cooperating. She sent me an e-mail approving from her standpoint of the postponement, and I am in touch with her all the time.

CHAIRMAN BARBIERI: Okay. So I don't think we have -- do we have a motion on that yet?

COMMISSIONER HYMAN: I made the motion, and I think there was a second.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER KAPLAN: With the conditions as stated.

CHAIRMAN BARBIERI: All right.

Any further discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries for postponement to April 3rd, 2008.

MR. ROYCE: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: We have Item 16 on your add and delete, ZV2007-1177, the Fitzgerald Type II variance.

There's a motion to withdraw this application without prejudice.

This application was contingent upon a large -- or a small scale Comp Plan amendment that the Board of County Commissioners denied earlier this month.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 16?

(No response)

COMMISSIONER HYMAN: Move to withdraw.

CHAIRMAN BARBIERI: Motion made by Commissioner Hyman.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Second by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: That will bring us to Page 6 of your agenda, Item 11, the consent agenda, PDD2007-848, Merchants Walk, found on Pages 25 through 50.

Staff is recommending approval, subject to 25 conditions found on Pages 42 through 46.

There is one motion on this.

We received no letters of objections or supporting this item.

CHAIRMAN BARBIERI: Okay.

MR. Mac GILLIS: We ask the applicant would come to the podium and state their name and accept the conditions.

MR. CHEQUIS: Good morning, members of the Board. For the record, Brian Chequis, with Cotleur and Hearing.

We're in full agreement with all the conditions.

CHAIRMAN BARBIERI: Brian, I forgot to disclose I did meet with you on this.

All right. Is there anybody else here to speak on Item 11?

(No response)

COMMISSIONER HYMAN: I'm going to move approval --

CHAIRMAN BARBIERI: Yes. Wait a minute. There --

COMMISSIONER HYMAN: Oh, there is?

CHAIRMAN BARBIERI: Would you come up to the podium, please.

I'm sorry. I have two cards.

MR. DEVELLIS: Hi. Good morning. My name is Cosmo Devellis (ph). I am a direct abutter of this particular parcel.

CHAIRMAN BARBIERI: Yes.

MR. DEVELLIS: I must say that we have not received any certified mail on this particular agenda.

CHAIRMAN BARBIERI: Okay. What we're going to do then, we're going to pull this from the consent agenda. We'll hear this under the regular agenda, so we'll give you an opportunity to speak --

COMMISSIONER HYMAN: It'll come back.

CHAIRMAN BARBIERI: We'll -- we're going to hear it today.

MR. DEVELLIS: Today?

CHAIRMAN BARBIERI: Yes.

Go to the next consent item.

MR. Mac GILLIS: Okay. Item 12, ABN/PDD/R2007-878, Holloway Properties MUPD, pages 51 through 79.

Staff is recommending approval, subject to 32 conditions found on Pages 67 through 73.

There are two motions on this item. There was no letters of objections or support.

CHAIRMAN BARBIERI: Petitioner. Good morning.

MR. SCHMIDT: Good morning. Jon Schmidt, agent for the applicant.

We are in agreement with the conditions of approval.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item No. 12?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of official zoning map amendment from General Commercial Zoning District to the Multiple Use Planned Development Zoning District.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the requested use to allow the convenience store with gas sales and allow the Type 1 restaurant and amend a condition of approval, subject to all the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Page 7 of your agenda, Item 13, PDD2007-890, East Group Industrial, Pages 80 through 102.

Staff is recommending approval, subject to 12 conditions found on Page 97 through 98.

There's one motion on this item.

There were no letters of objection or support.

CHAIRMAN BARBIERI: Mr. Schmidt.

MR. SCHMIDT: We are in agreement with the conditions of approval.

CHAIRMAN BARBIERI: Okay. Is anybody here to speak on Item No. 13?

(No response)

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

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to all the conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. SCHMIDT: Thank you.

MR. Mac GILLIS: Item 14, ZV/DOA2007-1417, Jog Commerce Park, found on Pages 103 through 144.

Staff is recommending approval, subject to 35 conditions found on Page 122 through 129.

There are add and delete conditions on this one and an add and delete the motion on the first Type II variance.

There were no letters of objections or support.

COMMISSIONER HYMAN: Okay. So this is the one where we wanted to postpone it --

MR. Mac GILLIS: Yes.

COMMISSIONER HYMAN: -- because it's the final action, so is there anybody here to speak?

CHAIRMAN BARBIERI: Is anybody here to speak on Item 14?

(No response)

COMMISSIONER HYMAN: If not -- I'm sorry. I'm going to move to postpone this to April 3rd.

MR. MILLER: Can I give you a quick show of the -- no?

COMMISSIONER HYMAN: No.

CHAIRMAN BARBIERI: Do we have a second on Commissioner Hyman's motion?

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Seconded by Commissioner Armitage.

Discussion.

VICE CHAIRMAN ANDERSON: What was not properly noticed on this? I just want to make myself --

MR. Mac GILLIS: The courtesy notices that go out.

The Palm Beach Post legal ad went out. The postings on the site, the yellow boards were posted.

The courtesy notice that we send to everyone within 300 -- 300 and 500 feet of the property were not sent out.

VICE CHAIRMAN ANDERSON: So they have not received them yet?

MR. Mac GILLIS: Correct.

CHAIRMAN BARBIERI: Mr. Miller, I apologize for this. It's unfortunate. This has happened twice to the Zoning Commission in I think the last five months.

I suggest that whatever agency the County's using to do these mailings, we should find somebody else if they're going to make these kind of mistakes.

It's very costly for the petitioners to pay their people to come here. It's expensive for staff to get things ready and then have to do it again the next month, but, unfortunately, if we're going to be consistent on these items I guess we don't have any choice but to postpone this.

So is there any further discussion on this motion?

COMMISSIONER HYMAN: I'm sorry.

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: That brings us to Page 8, Item 15, DOA2007-1800, Everglades Farm Equipment. Staff -- it's found on Page 145 through 175.

Staff is recommending approval, subject to no conditions.

This is the Class B condition where you're

doing a Development Order Amendment on it so you may want to consider postponing this.

Staff was recommending approval of this to delete land area.

MS. TAYLOR: Good morning. Susan Taylor, Perry and Taylor, on behalf of the applicant, Everglades Farm Equipment.

You know, similar to Bradley's situation, I would prefer to see this move forward, but I understand the predicament and respect your decision.

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

(No response)

COMMISSIONER HYMAN: I apologize. I move to postpone to April 3rd. Sorry.

VICE CHAIRMAN ANDERSON: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Okay. Then we have on your add and delete, Item 24, DOA/R2007-1774, Smart Car Dealership, Pages 432, 462.

Staff is recommending approval, subject to 74 conditions found on Page 445 through 458.

There are two motions on this item.

MR. BRANDENBURG: Good morning. I'm Gary Brandenburg.

Staff is also going to recommend deletion of Engineering Condition 7.

MR. CHOBAN: That's correct. It is going to appear on the next month's agenda, so that condition will be on next month's.

MR. BRANDENBURG: And with that we do agree with all the conditions.

Thank you.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 4 -- excuse me, 24, Smart Car Dealership?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of the development order amendment to add the square footage, 25,000 square feet, and reconfigure the site plan.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move to approve the requested use to allow the vehicular sales and rental, subject to all the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: And it's the conditions as modified, I'm sorry, 'cause there were conditions modified on the add/delete.

MR. Mac GILLIS: That'll take us to Item 25, found on Page 13 of your agenda, ZV2007-1786, Sunoco Lake Worth and Kirk, found on Page 463, 499.

Staff is recommending approval, subject to five conditions found on 484 through 485.

There was a motion to adopt this Type II variance.

CHAIRMAN BARBIERI: All right. This is one where we have final authority, but I understand that this -- since this was before us before, that the mailing went out, and another mailing would not have gone out? Yes?

MS. HERNANDEZ: The mailing has not gone out. There was a previous variance approval on it.

CHAIRMAN BARBIERI: Okay.

MS. HERNANDEZ: This application is coming forward again to bring the variances 'cause they had expired previously.

CHAIRMAN BARBIERI: Okay. So this is just a re -- set the new date for the variance.

MR. Mac GILLIS: Correct.

CHAIRMAN BARBIERI: Okay. What's the zoning commissioners --

COMMISSIONER HYMAN: So this has not been noticed?

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: All right. I'm sorry, but I'm going to move to postpone to April 3rd.

Is there anybody --

COMMISSIONER ZUCARO: Second.

CHAIRMAN BARBIERI: Is there anybody here on Item 25?

(No response)

CHAIRMAN BARBIERI: All right. The motion was made by Commissioner Hyman, seconded by Commissioner Zucaro for postponement, 30 days.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: That'll bring us to Page 9, the regular agenda.

The first item that was pulled was Item 11, PDD2007-848, Merchants Walk.

Joyce Lawrence will do a presentation on this.

CHAIRMAN BARBIERI: I'm sorry.

Yes, sir.

MR. RATTERREE: Mr. Chair, it's pretty evident, based on what you've done with the prior items that have been postponed -- while I don't have an objection to a postponement, I have an objection to paying my consultants to sit here and wait for a postponement.

So for those items that you're going to postpone, would you mind pulling those up so that we don't have people sitting here getting paid to --

COMMISSIONER HYMAN: I think that's right.

MR. RATTERREE: -- for the inevitable?

CHAIRMAN BARBIERI: Certainly. That's 23 is the first one of yours?

Is there anybody here to speak on Item No. 23?

(No response)

COMMISSIONER HYMAN: I'm going to move to postpone Item 23 to April 3rd.

COMMISSIONER ZUCARO: Second.
CHAIRMAN BARBIERI: Motion made by
Commissioner Hyman, seconded by Commissioner
 Zucaro.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

CHAIRMAN BARBIERI: The other one for GL
 is 25 -- I'm sorry, it's 26, Canyon Town Center.
 Is anybody here to speak on Item 26?

(No response)

COMMISSIONER HYMAN: I'm going to move to
 postpone to April 3rd.

COMMISSIONER KAPLAN: Second.

COMMISSIONER ZUCARO: Second.

CHAIRMAN BARBIERI: All right. Motion was
 made by **Commissioner Hyman**, seconded by
 Commissioner Zucaro.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Thank you. Sorry about that.

CHAIRMAN BARBIERI: Okay. Back to No. 11.

MR. Mac GILLIS: Maybe I'll bring your
 attention to Item 20 'cause that's a variance
 attached to that one, as well.

CHAIRMAN BARBIERI: On Item No. 20, that
 deals with the Palm Beach Cathedral, and the other
 ones that are attached to that are Northlake Value
 Place Hotel.

I've spoken to Commissioner Marcus' office, and she's indicated that her constituents are very much aware of this petition. In fact, there are a lot of them here today, and she would appreciate if the Zoning Commission would hear that because they have taken off work to be here, rather than postpone this.

So it's not a question of the neighbors not having notice. She's sure that they all do because they've been calling her office and other offices in the -- so that one, I would ask the other commissioners to go ahead and keep that on the agenda.

All right. No objection? Okay. And what's the other one? That's it, right?

MR. Mac GILLIS: Twenty.

CHAIRMAN BARBIERI: Twenty, 21 and 22 are all the same --

MR. Mac GILLIS: Yes, correct.

MR. Mac GILLIS: Okay. That'll bring us then back to the one item pulled off the consent agenda, which was Item 11. I don't know if you want to go to the applicant or the person requesting why to pull it.

CHAIRMAN BARBIERI: Yes.

Mister -- I'm sorry, I can't read your last name, Devellis?

We're going to limit speakers to three minutes, so -- state your name for the record, please.

MR. DEVELLIS: Yes, it's Cosmo Devellis.

Is this -- my concern is that all the others that didn't get proper notice have all been postponed, and this one hasn't been postponed, and I want to know why.

CHAIRMAN BARBIERI: The reason is the ones we postponed, we have the final decision-making authority on those, the Zoning Commission does.

This one will move forward in 30 days to the Palm Beach County Board of County Commissioners, and all the residents around that area will have notice of that one because a mailing will go out prior to that meeting. So there will be an opportunity for the residents to be notified.

On the ones we have final authority on there's no further opportunity, so we make the decision today, and it's done.

MR. DEVELLIS: However, if you approve it today, it's one step forward that these people

have not had an opportunity to be here and object to.

CHAIRMAN BARBIERI: That's true, but they will be given their opportunity to do that before the next meeting.

MR. DEVELLIS: Okay. I mean I will tell you I ran all the way to your new building out on Jog Road for a 9:00 o'clock meeting because the signs that were posted only had the PDD number on it, no notice of where the hearing was, and only at the bottom it said Jog Road.

And I ran around that office of yours for 15 minutes before someone could tell me that everybody was down here.

So I mean I don't know how many more people in the neighborhood did the same thing or just gave up and went home.

I think the whole thing is flawed, quite frankly.

This is the third time we're here on the same -- the same owner who continually brings in different clients to do different things on this piece of land, and it's been turned down on every instance for the past three years.

We have not seen any plans on this. We don't know what is being proposed. As of yet I don't even see a drawing on the board for this.

The piece of land I'm concerned about is not the commercial aspect of this, but there's a piece on the corner of our, what I'd call an enclave of two-acre homes that are zoned residential, two units per -- I'm sorry, two units per acre -- or one unit per two acres, I'm sorry, and this is our objection.

Because it is on the corner of one of the foremost leading corners into our development, and it's on the -- I guess it's on the western -- southwest corner of 86th Drive and Lantana Road, to put anything in there that's other than a residential component which was planned many years ago, will adversely affect the values of our homes and everybody else's in the development.

So I strenuously object to anything that's going to be of any kind of commercial zoning. It's zoned now for two or four houses, and it's my opinion that's what it should be used for.

We continually talk about annexing pieces of land from Lyons Road all the way down to Jog Road and keep changing residential zoning into industrial, at some point -- or commercial, at some point in time we're going to end up with Lake Worth Road, and I don't think that's what the planning originally was when you guys drew the planning maps.

There's agricultural. There are farm lands there. There are nurseries. They all have wonderful landscaping and everything else.

Around our neighborhood there's an Albertson's that has over 125,000 square feet that closed six months after it opened, and it remains empty to this day.

Within three miles of my home there's at

least six abandoned major stores, big box stores, at corner of Jog Road, all about 300,000 square feet of aggregate commercial retail space that's available for people to walk in and rent.

So I don't know why we have to have a little strip mall in an area which would enhance the -- this current owner by selling it, obviously, instead of commercial into a retail or a storefront.

I just don't think the neighborhood needs it. I don't think we need it, and it's going to depreciate my values.

COMMISSIONER KAPLAN: I'd like -- Mr. Chairman.

I hear your objections, but what are you asking this Commission to do? Are you asking us to postpone or to consider it today?

MR. DEVELLIS: Well, I mean if you -- I mean I'm here now. That's my -- that's my objections, and --

COMMISSIONER HYMAN: Can I ask a question?

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Was there an error on the sign on the property?

MR. CHEQUIS: No, Madam Board Member.

The signs are made out by the Planning and Zoning staff. We basically take that verbiage and replicate it on all the signs. It's the same verbiage on every sign. That's how the signs are posted.

COMMISSIONER HYMAN: So staff --

MR. CHEQUIS: So it's -- it's not -- it's not a matter of the applicant trying to mislead Mr. Devellis away from this hearing.

Mr. Devellis was the only person who came up to the LUAB hearing to object with respect to the surrounding neighbors, and he's here -- again here today, which we have no problem presenting the site plan to him. We tried on multiple occasions to get a hold of him.

COMMISSIONER HYMAN: Did you meet with him?

MR. CHEQUIS: Would not return our phone calls.

COMMISSIONER HYMAN: Is that true?

MR. DEVELLIS: I'm sorry?

COMMISSIONER HYMAN: You would not return their phone calls to meet with you?

MR. DEVELLIS: I have not been able to. I've been traveling on business, but the sign -- back to the sign, the sign does not have this address on it.

VICE CHAIRMAN ANDERSON: Have you met with the community, homeowners association or --

MR. CHEQUIS: There is no homeowners association. Remember, this is an individual homeowner adjacent to our property.

The other planned developments that are surrounding us, there have been no objections, and we have been in contact with their Board since the Planning -- since the Land Use Advisory Board and getting feedback from their representatives.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: You know, I must say that it's a little bit concerning, at least to me, that you wouldn't respond to the petitioner. We always encourage very seriously the petitioners to reach out to the surrounding neighbors to try to resolve differences.

When a neighbor doesn't respond to them, then there's no chance of that happening, and then you come here and you voice your objections when you could have at least met with them beforehand and try to -- for them to try to meet some of those objections. So these --

MR. DEVELLIS: This was never done in the past. I mean none of the previous three petitioners have -- I'm not even sure if it's the same engineering company or --

COMMISSIONER HYMAN: It doesn't matter. We're just talking about this one right here.

MR. DEVELLIS: Okay. Again, he called my wife on two occasions and both occasions I was traveling.

CHAIRMAN BARBIERI: All right. Staff, a question on the signs. What do they typically say -- I've seen them, but I've never stopped to read them. I mean it just --

MR. Mac GILLIS: I mean there are standard lines where the staff has to put in the petition number, the -- what the request is, and I believe the board itself has the actual imprinted on it where the hearing is. It's not -- we don't write it in. I think it's in there.

They have a check-off box that it's a public hearing, and it's in the Jane Thompson -- and the telephone number of the project manager to call if they have questions.

COMMISSIONER HYMAN: Okay.

MR. Mac GILLIS: And they're posted for every 100 feet of frontage for the project.

VICE CHAIRMAN ANDERSON: What happened to the previous item, you know, he said that it was brought before us a few other times. What happened with those petitions, do you know?

MR. VAN HORN: I'm sorry. Bryce Van Horn, with the Planning Division.

The property, a portion of the property is the subject of a small scale land use amendment.

If you look at Page 28 in your packet, you'll see the future land use atlas site location map. The eastern 2.25 acres of the property is currently LR-2, which is low residential, two units per acre, land use designation.

This application is running concurrently with a small scale land use amendment to change the land use designation on that portion of the site from LR-2 to commercial low.

And previously it was the subject of a small scale land use amendment which was denied. So this application is running again.

VICE CHAIRMAN ANDERSON: Okay. It was denied by us?

MR. VAN HORN: The land use amendment was

denied by the Board of County Commissioners.

VICE CHAIRMAN ANDERSON: Okay. So it never came before us before?

MR. VAN HORN: Well, it would have come before you -- the zoning application would have come before you because the zoning application is required to run concurrently with the land use amendment.

CHAIRMAN BARBIERI: Okay. We have another card from -- is this your wife, Mrs. Devellis? Would you please come up to the podium.

Would you please state your name for the record.

MS. DEVELLIS: Hi. My name's Susan Devellis, and I live south of the area that is proposed.

I know that my husband didn't respond to Brian and I did speak to Brian. I think it was because this has been going on, and obviously we don't want the commercial to go next door to us.

In our area there is commercial land available across the street. There is -- and for just one small parcel that's the entrance to a dirt road development.

I don't know if you're familiar with the area, any of you. It's not a commercial area.

We moved there to be on a lot to be in the serenity of a quiet neighborhood, not to be next door to a commercial area. You know, the area that is already zoned for commercial has been used -- been being misused since I've lived there.

The area in front of us has been misused, but apparently all those things have been grandfathered in as described to me in past meetings.

I don't think that it should be continued that commercial keep moving down. My fear is that this get approved, and the agricultural that's in front of my house, years to come, will also be a mall that I'm looking directly into.

I feel it has to stop somewhere from Lyons Road on Lantana.

COMMISSIONER HYMAN: Can I ask a question? On this -- could you show us on the site map where your house is in relationship to the property?

MS. DEVELLIS: Can I show -- yeah.

COMMISSIONER HYMAN: Do you have -- do you have something that you could put on the screen so we can see?

MR. CHEQUIS: Board member --

COMMISSIONER HYMAN: That's it.

MR. CHEQUIS: This is it right here (indicating). This is the subject two and a half acre parcel to our south, and it's -- it's front -- it fronts along 86th Drive South, which if we can go to the presentation, I'll explain how it all works.

COMMISSIONER HYMAN: Okay. So you're immediately to the south of the site --

MS. DEVELLIS: Immediately to the south.

COMMISSIONER HYMAN: And there's a road

between you? Is there a road?

MS. DEVELLIS: No.

MR. CHEQUIS: No.

MS. DEVELLIS: 86th Drive is a dirt road that I drive in on, which is maintained by the neighborhood, so I mean obviously it isn't commercial. It's unincorporated Lake Worth.

COMMISSIONER HYMAN: Okay.

MS. DEVELLIS: And --

COMMISSIONER HYMAN: You just have that retention area or something like that right there, right?

MR. CHEQUIS: Right, right.

MS. DEVELLIS: Right. I mean it's a commercial area. We moved there with the understanding that obviously that in the future this would be a residential site next door to us, and we're hoping that it will stay that way. We plan to continue to live there, and I'd like to live there in a neighborhood, not in a commercial zone.

I'm already living with an agricultural in front of me that's been running a business out of the front of it and dealing with the big trucks and the loud noises every day.

To have more of it there just doesn't seem appropriate because of misuses in the past that are being left to go and just to keep adding more to depreciate my values.

VICE CHAIRMAN ANDERSON: How long have you lived in your house?

MS. DEVELLIS: Since 2003.

VICE CHAIRMAN ANDERSON: And did you come before us before?

MS. DEVELLIS: Yes.

VICE CHAIRMAN ANDERSON: And I kind of remember this petition, but I can't remember what we did, though. I remember the land location.

MS. HERNANDEZ: The resolution isn't pulling up on my computer, but the decision date was November 17th, 2005, and it was denied.

VICE CHAIRMAN ANDERSON: That's what I thought.

MS. DEVELLIS: Well, it seems there's no eminent need for commercial in that area, basically.

CHAIRMAN BARBIERI: Okay. Thank you.
Harriett Helfman.

MS. HELFMAN: Good morning. I'm Harriett Helfman, second vice president of COWBRA.

If you look at Page 37 of your backup documents near the bottom, you will see that it says it's -- on September 7th, 2007 at the LUAB hearing the LUAB recommended denial, and a representative from COWBRA, that was myself, spoke in opposition to the proposed amendment stating that a study -- our study of the area shows there is no need for commercial at this time.

In September of '07 we had 37 empty commercial sites. This Tuesday of this week we did this again because we noticed that Merchants Walk was on your agenda, and as of Tuesday of this

week there are 42 empty commercial sites. So that's an increase of five in a five-month period in our area.

We do not see the need for more commercial in the area, and if you're wondering why I'm speaking about something with a Lake Worth address, it is because, according to the County regulations, unincorporated Boynton Beach extends to the south side of Lantana Road, and we represent 87 communities, 100,000 homeowners, in unincorporated West Boynton Beach.

I must say that the petitioner has not come to the COWBRA growth management meeting, as all the other developers who come before you relating to unincorporated West Boynton Beach proposals do.

So we're at a loss because it was denied in September of '07. That was the last we heard of it, and this -- seeing it on your consent agenda came as a big surprise to us as an organization, and we are opposed to this proposal.

MR. CHEQUIS: Mr. Chair, can I correct something?

I went before the COWBRA Board prior to the Land Use Advisory Board on September 7th, 2007. I was asked to attend their meeting, made a presentation before their Board out in the west Boynton area. That is -- that's the fact.

MS. HELFMAN: But since September --

MR. CHEQUIS: I've been to their Board.

MS. HELFMAN: But since September of '07 we have not heard from the petitioner.

I'm talking about since we had the LUAB we have not heard from the petitioner about this new -- a variation of the original proposal which we spoke about in September, and we were opposed to it in September, and we're still opposed to it.

COMMISSIONER KAPLAN: What is COWBRA's position as to what to do with the piece of property?

The property's been here before. I remember it. We denied it at that time, but what is COWBRA's position?

MS. HELFMAN: Given the current economy, we have many MUPDs and even residential communities coming before us, our growth management meeting, which we agree with, but we're finding that the developers are not going vertical because of the economy.

So at the moment I really can't give you a good suggestion about what should be done, but I can say that doing commercial on that piece of land which adjoins a -- the Sherbrooke Shopping Plaza, which has got a lot of empty stores in it, is kind of pointless.

You're replicating an empty commercial site. They build them, and then they're empty.

At Town Commons Mall, which is Hypoluxo and Lyon, our neighborhood Publix mall, we've got at least three empty storefronts now.

COMMISSIONER KAPLAN: Are you in effect recommending, from COWBRA's standpoint,

residential units there?

MS. HELFMAN: Residential would be nice, but given the reality of the current residential economy developers, I doubt -- I live in Venetian Isles on Lyons Road, and we have five empty acres sitting in front of us, which you approved as the Johnson property, which is now known as Lyons Ranches.

On that five denuded acres we have three fire hydrants and a paved street and a few culverts that were left over, and I sincerely doubt those five acres at 100 -- \$800,000 a home for 15 homes are going to be developed any time soon.

Ladira (ph) was proposing 82 homes on the Jack Rabbit farm property, and those plans have now been withdrawn, as well. The builder is in bankruptcy.

So I can't, Mr. Kaplan, honestly say to you yes, there should be homes there because we're finding we're living in an area where there are not homes being built.

COMMISSIONER KAPLAN: Well, forgetting the real estate bubble, as we all know, this property borders Lantana Road.

MS. HELFMAN: Yes.

COMMISSIONER KAPLAN: Is that a well developed area so that residential units could be built there, forgetting the bubble for a moment?

MS. HELFMAN: The residential areas could be built there because they are surrounded by Lacuna Golf Club and San Messina, so you do have residential sites there already.

COMMISSIONER KAPLAN: Thank you.

MS. HELFMAN: Whether or not it's economically feasible I can't tell you.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Well, I want to hear from the petitioner, but there is two things that were raised.

One is that the economics, and, you know, we don't consider the economics in reviewing land use, and, two, we've got to be able -- you know, they've got to have a -- be allowed to some reasonable use of their property, and, you know, if it can't be residential, then it's going to be, you know, office or a commercial.

So I'd like to hear from the petitioner and go from there.

MR. CHEQUIS: Do you want me to do my presentation now?

CHAIRMAN BARBIERI: Yes, sir.

MR. CHEQUIS: Great. Members of the Board, good morning. For the record, Brian Chequis with Cotleur and Hearing, representing the applicant, W&W XXIV, LLC, which is basically the Ward family and Rich Elliott, in their request for rezoning of the property from commercial -- general commercial and LR-2 to MUPD, multiple unit planned development on this 4.82-acre property.

They're also seeking site plan approval for up to 37,000 and change square feet of

neighborhood serving commercial use.

Subject site is located just east of Lyons Road and Lantana Road in unincorporated Palm Beach County. This is the site plan plugged into the five-acre parcel, what it looks like.

What's surrounding us are to our west is the Shoppes of Sherbrooke, a Sunoco gas station, a commercial property between the Sunoco and us and then our property.

To our south is San Messina. It used to be called Country -- Golf Country Club Estates. It's now called San Messina PUD.

To our east on Lantana Road is Bushel Stop, and to the south of that is Hollandia Plants, Incorporated, two agricultural commercial uses up on Lantana Road.

Across from us is Sherbrooke Baptist Church, very large site for the church, and a portion of our property's across from Lakes of Sherbrooke PUD.

Important to note that Lakes of Sherbrooke PUD on the north side of Lantana and on the south side of Lantana is Lacuna Golf and Country Club, two large PUDs that have walls and buffers up against Lantana Road, and that's an important point to note with respect to residential development along Lantana Road.

What I'm showing you here is the future land use designation of commercial low, slash, low density residential two. Half our property is part of that originally contemplated commercial node at Lyons Road and Lantana.

This is significant because this node is the commercial node that serves hundreds upon hundreds of rooftops within the four major communities that surround this intersection, and I'll get into that with respect to the commercial needs analysis that was conducted by our professional planner, Mr. Jim Fleischman, from Land Research Management.

Surrounding us, again, are the residential developments, low residential two with either residential single family designation zoning, agricultural residential or Planned Unit Development for the property just due south of us.

Across the road is that church use, and, again, these blue parcels to the east of us are indicated as the Bushel Stop use, which is a commercial use. It's very intense with respect to heavy equipment, piling up mulch, sand, stones and stuff like that that was alluded to by the Devellises.

A quick view of the site coming in. We have one main point of entry as this -- as the road is divided by a median. We have one right in at our center and a secondary right in reliever on 86th Drive to the west.

It's important to note that the majority of the traffic will come from the center of our property.

What you see in the top corner picture is Bushel Stop's operation across their five acres on

Lantana Road, and to the south of that is the Hollandia Plants, Incorporated, nursery.

To walk you through the site, how it circulates, again, main point of entry off of Lantana, center of the site, secondarily off 86th Drive South. We have, as part of the site plan -- and I think it's important to note because the site plan has not been shown to Mr. Devellis. We have not been able to meet with that one neighbor.

But what we're introducing is a very extensive pedestrian network system that runs along Lantana Road and pulls people through the site and back out, importantly, to that existing sidewalk system along Lantana Road.

We have broken up the building massing which was presented to you two years ago by Mr. Bob Basehart, and pushing that architecture to the street and at a scale that's at a neighborhood scale, what that does is it doesn't put parking and circulation on Lantana.

It puts buildings on Lantana, pedestrian friendly, very kind of new urbanist type approach to it, and in doing so it puts green and building frontage on Lantana to keep it at a very low scale development.

These are small format retailers, not big box retailers. It's important to note that, as well.

And also in keeping with your Planning staff's prime goal we have proposed interconnectivity to the west and to the east of our property.

The west connection goes to an existing development that's currently under construction. It's an office building. The site has been cleared. It's in the works now, and we are proposing to go to 86th Drive South, which is currently a dirt tract, which is a 50-foot easement, access easement, owned by us and by Bushel Stop.

Bushel Stop is in full agreement with us improving that, putting sidewalk, putting in street trees, improving that so that it's not a dirt tract to nowhere. It actually leads into our site.

Very important, we have some very significant pedestrian amenities and focal features on the property coming into the site as you drive in.

There is a large planting hardscape area, and, more importantly, to the west end of the property we have a large group of natural sabals growing to help buffer from the residential uses to the south and to provide a very nice unique natural planting area with this hammock of palms.

We're proposing significant landscaping along Lantana Road, which is basically going to be bermed, as well. Again, that hides the little bit of parking that is up along the roadway, and we are proposing a significant landscape buffer on the south boundary.

We are sensitive -- since we had the

opposition from Mr. Devellis at the Land Use Advisory Board meeting, we went ahead and proposed a green landscape buffer that will come in very full, maintain the existing pine trees that are there to the greatest extent possible and make a very green natural buffer.

More importantly, what came out of the Land Use Advisory Board meeting and the opposition from Mr. Devellis, not having spoken with him, was we met with your Planning staff, and they suggested to us please work with the -- with this site, and if you would, designate this portion of the site, I think it's 0.72 acres, and make -- and designate it with a future land use designation of CLX.

And what that does, it effectively makes that area undevelopable. It can only be green or parking. In this case it's green. We're going to buffer. We're going to put landscape, plant around it, and it'll stay that way in perpetuity.

This is significant because when you look at the site, how it's been developed, the majority of the building massing has been pushed to the west side of the property which currently has a CG zoning designation and an underlying commercial land use, and we put the protections of the CLX to the southeast and a small building pushed up to Lantana Road.

That building separation from Mr. Devellis' house, over 170 feet, and we have extensive landscape buffering between us and him.

This is what the proposed architecture would look like. It's one story in height. The tower elements are -- the upper level is faux. There's no usable space in there. It's very low key, and in keeping with the surrounding neighbors we have a lot of movement in the building frontage with colonnades and pedestrian friendly areas under canopies.

Quick elevation of the building one up on the northeast -- west corner of the site, the central building in the center of the site and the small bank building on the east end of the property.

What's important to note here is the commercial needs for this area. Information was provided to you by -- and at the Land Use Advisory Board by COWBRA which was anecdotal and inaccurate at best.

The reality is in our findings and in our three-mile radius analysis of the commercial needs for this area, this area has not had as much commercial activity in its history.

We have centers that have historically, such as Lee's Square, had high vacancy rates, which have now been redeveloped and are now at 100 percent occupancy.

Pinewood Square has a very large store that's being remodeled in the tens of thousands of square feet to bring in a TJ Maxx.

Lantana Square is also holding out for a large format store that will fill up the remainder

of its space.

Woods Walk to the north of us is 100 percent occupied, and two new centers that have been developed as of late, in the past eight months are now at 75 percent occupancy and rising.

So the reality is, is there is enough rooftops. These areas are thriving, and they are in demand of retail space.

What's important to note with this application is we are part of that commercial node at Lyons Road and Lantana, and as you can see by the red line, the Turnpike is a -- is a manmade barrier for us to be able to freely move back and forth to get to commercial services to the east.

They all get funneled to Lantana Road, and they all get pushed with traffic eastbound to that very big intersection at Jog Road and Lantana.

What we're proposing is neighborhood commercial serving uses that will reach the hundreds of rooftops that are within a half and three-quarters of a mile of our center, and which was always contemplated at the Lantana-Lyons Road intersection, and we're part of that.

Some examples of Lee Square's 100 -- over at Jog and Lantana, 100 percent occupied; Pinewood Square Two, 70 percent occupied; Woods Walk, 100 percent occupied.

Target outparcel, it's a new parcel, a new development. Again, as a new development it's thriving. It's already 75 percent occupied. Shops at Wycliffe to the south, 98 percent occupied.

There is no issue with occupancy and the need for commercial in this area, as been proven by our professional planning staff.

In summary, Merchants Walk was designed to serve these existing residential rooftops west of the Turnpike within three-quarters of a mile of the development.

We have superior site programming and site design elements which are sensitive to the needs of Mr. Devellis and his wife, the only people who came out and objected to this project.

We have off-site improvements at 86th Drive South to actually pave it and have that entry to be a secondary reliever and potential future connection to Bushel Stop, and we are minimizing trips eastbound on Lantana Road where traffic is forced right now to go east to that intersection to get basic services, dry cleaning, bag of milk.

The basics can't be found in this area.

And we also have proven that we -- that there's a need to service the hundreds of rooftops that are in this area.

The rezoning and site plan approval is timely, logical and practical in this instance. We would not come on line until well into 2010.

From all the economic forecasts we believe that by 2010 the residential market will bounce back, which doesn't preclude this development from moving forward today, but just the reality of development and construction, we know we're not

going to be in the ground 'til 2010. We know the timing's right for this.

With that, we thank you for your time and attention to this request, and I would ask that any additional time be made available for me to respond to any of the public's comments or any questions from the Board.

Thank you.

CHAIRMAN BARBIERI: Commissioner Hyman has a question for you.

COMMISSIONER HYMAN: Two questions.

First, you said the dirt road to the east of the property is owned jointly by you and the --

MR. CHEQUIS: Bushel Stop.

COMMISSIONER HYMAN: How do the people get down that road? Do they have an easement?

MR. CHEQUIS: There's an easement that's owned by our party and Bushel Stop, and everyone else has -- they cross over it as an existing dirt track.

There is a U-shape -- 86th is actually a U-shaped road, and it comes out at 86th, I think, South Trail to the east of that around Bushel Stop, and so they have access from two points into the development, not just our 86th Drive South.

COMMISSIONER HYMAN: Okay. Well, I think that we should then add something that, if staff agrees, that requires the easement to the people to the south so that they can legally go south from Lantana Road over the property that apparently they're going over now if that's what they want.

I mean if that's -- if they don't care, then I'm not going to say they should do that, but it seems like that would be an appropriate thing if they're using it.

And then the second thing. Why isn't -- why aren't we imposing a Conditional Overlay Zone on the retention area to make sure that its use is limited?

MR. VAN HORN: Well, the -- that retention area as currently proposed is for a land use designation of commercial low with crosshatching.

The Comprehensive Plan restricts those areas that have -- that are designated on the future land use atlas with crosshatching to drainage, landscaping, parking, so those areas would not be able to be built with any structures.

A condition is really not necessary 'cause the Comprehensive Plan already restricts those areas.

CHAIRMAN BARBIERI: I have a question for the petitioner.

If we did approve this project, would you consider taking away -- us taking away your right to use that green area for parking?

I mean if we give the maximum protection to the neighborhood behind you, I would personally prefer to see that area always green so that you could never park cars up against their property line.

MR. CHEQUIS: Mr. Chair, we don't have a

problem with that. We agreed to doing the CLX overlay. We have no problem with that.

COMMISSIONER HYMAN: Well, if he's agreeing to it, why aren't we doing it?

MR. Mac GILLIS: Generally, the COZ is attached to the rezoning. The Comp Plan has conditions in it.

Planning may suggest that you want to add a condition referencing the Comp Plan amendment just so those -- they put fairly strict conditions on the Comp Plan amendment with that hatching.

MR. VAN HORN: Right. We have recommended previously for crosshatch areas to further restrict them with such as what you're suggesting, no parking, and we would take that to the Board of County Commissioners when they hear the item for the small scale amendment.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Other questions from commissioners?

COMMISSIONER HYMAN: Well -- anybody else?

CHAIRMAN BARBIERI: Staff, you have anything else to add?

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: I'm going to move approval of 2007-848, Merchants Walk, official zoning map amendment from Agricultural Residential and General Commercial zoning to Multiple Use Planned Development Zoning District, subject to all the conditions as modified.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: And that would include the requirement that that land stay green; correct?

COMMISSIONER HYMAN: Right.

VICE CHAIRMAN ANDERSON: Under discussion.

CHAIRMAN BARBIERI: Discussion, Commissioner Aaronson.

VICE CHAIRMAN ANDERSON: I just remember the last time this came before me I objected because of the impact it had on the surrounding neighborhood.

I think you've done a wonderful job with the retention area up against their property, try to mitigate your project to the neighbors as much as you can.

My biggest objection to this project would be the continuing of the strip, continuing the project farther to the east, other companies coming in and wanting to -- like the Bushel Stop or so on and so on.

The fact that we've restricted the -- basically this parcel that was residential to almost half of it being non-commercial, that I would want to see something -- if anybody were to come and try to do anything farther to the east, I'd want to see something similar to that on this.

Thank you.

CHAIRMAN BARBIERI: Staff, a question.

With respect to what Commissioner Hyman said about the access, if the residents back behind this project currently have no legal right to use

that property, that access, I would like to make sure we include something that gives them the legal right forever to access it across that paved area now so they can get in and out.

MR. CHOBAN: Why don't we just go ahead and add the condition that that would -- they would convert that to a public easement.

CHAIRMAN BARBIERI: Okay. The makers of the motion okay with that condition added?

COMMISSIONER HYMAN: It's okay. I mean you going to decide who's going to maintain it, also? You said a public easement.

MR. CHOBAN: It would be a public easement. They would -- the public would have the right -- the applicant --

COMMISSIONER HYMAN: Okay.

MR. CHOBAN: -- would be required to maintain.

COMMISSIONER HYMAN: Okay. So let's just make sure we write that in.

MR. CHEQUIS: The agreement that was -- just for your information, the agreement that was made with Bushel Stop was for us to improve it. We'd be responsible to maintain it.

COMMISSIONER HYMAN: Perfect. Okay.

CHAIRMAN BARBIERI: Any further discussion?

(No response)

CHAIRMAN BARBIERI: All right. All those in favor of the motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. CHEQUIS: Thank you.

MR. Mac GILLIS: Okay. That brings us to Page 10 of your agenda, the regular agenda, Item 18, Z/CA2006-1912, Planet Kids, found on Pages 217 through 253.

Staff is recommending approval, subject to 32 conditions found on Page 236 through 241.

Staff is recommending -- there's two motions on this item.

Anthony Wint will give a brief presentation on this.

And just to let you know, this is another application that's --

MR. SCHMIDT: If I may -- if I may, we sent over a letter -- I'm sorry. Jon Schmidt, agent for the applicant.

We sent over a postponement letter late in the afternoon that didn't make it to staff in time. We also sent the notice to the neighbors who we've been working with very diligently and didn't think that it was fair to bring this forward if the whole neighborhood wasn't notified.

So I would like to request a postponement today and as well as the neighbors have been told that we are postponing so none of them showed.

UNIDENTIFIED SPEAKER: I did.

CHAIRMAN BARBIERI: Okay. All right. But you did notify a lot of the neighbors, apparently, not to show up?

MR. SCHMIDT: Yes, I notified their -- one of their main agents that we've been working with, part of their HOA.

CHAIRMAN BARBIERI: Okay. I've got a card from Mr. Chesler.

You heard us earlier. The objective here is to make sure that the public has full opportunity to have input in this process, and if the petitioner has notified the neighbors, I don't know why you didn't get notified, but if the neighbors have been told that we're not hearing it today, I think it would be very unfair for us to move forward with this one, especially because of the lack of the notice that went out by the County for the courtesy notices.

So I would hope that the Commission would postpone this, and you can come back next month, and I apologize that you're here and took the day off work if you did, but --

VICE CHAIRMAN ANDERSON: Maybe you could get together and discuss any of your objections.

MR. SCHMIDT: Yes, sir.

COMMISSIONER HYMAN: I'm going to move to postpone 2006-1912 to April 3rd.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: We have a motion by **Commissioner Hyman**, seconded 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, 7-0.

MR. CHESLER: May I ask a question?

CHAIRMAN BARBIERI: Yes, sir. Come up to the podium if you're going to ask a question.

MR. CHESLER: I'm Craig Chesler. Is there any way I could be notified by mail on what's going on 'cause I'm not at this point -- I did leave my card --

CHAIRMAN BARBIERI: Is it 13161 179th Court?

MR. CHESLER: Correct.

CHAIRMAN BARBIERI: We'll make sure that staff has this and --

MR. CHESLER: Thank you very much.

COMMISSIONER HYMAN: Talk to staff.

MR. Mac GILLIS: We're -- just so the public knows, we are sending out a notice for the BCC hearing.

COMMISSIONER HYMAN: If he's within the --

CHAIRMAN BARBIERI: This one's being postponed so there'll get notice for that.

COMMISSIONER HYMAN: Depending on where he lives.

MR. Mac GILLIS: That's true.

CHAIRMAN BARBIERI: If I give you the card, would you make sure he gets notice on this one?

MR. Mac GILLIS: Okay.

CHAIRMAN BARBIERI: Thank you. Okay.

MR. Mac GILLIS: Okay. That'll bring us to Item 20. Item 20, 21 and 22 are companion applications.

Item 20 is the existing cathedral site where they're deleting acreage from and adding it onto the Item 21 and 22 site, which are -- is proposed for a new hotel.

Item 20, ZV/DOA2007-845, Palm Beach Cathedral, Pages 268 through 293, staff is recommending approval, subject to 17 conditions found on Pages 282 through 286.

There are two motions on this item. Doug Robinson will give you a brief presentation.

MR. ROBINSON: Good morning, Commissioners. Doug Robinson, for the record.

There's a correction, staff is recommending denial of the Type II variance and also the Development Order Amendment.

This Development Order Amendment is Palm Beach Cathedral to delete 0.68 acres from a 4.16-acre parcel.

The Board of County Commissioners previously approved this project back in July of '74 for a place of worship.

The parcel currently supports an existing church with a daycare and the Type II variances to allow a reduction.

What the applicant is doing, they're deleting the -- the 0.68 acres of land from the church area to help develop the parcel to the south which is application 2007-846, and what it's doing -- the church is an existing non-conformity, and once you delete the land area from that, you lose your vesting of your existing -- what you have existing and what it's doing is causing an increase to the non-conformity, which today's code

it's not meeting, which is the pervious area, which is 30 percent, and the previous approval was for 20 percent.

The area surrounding the church is residential, single family homes, with future land uses of HR-12.

South of the project is the vacant site, which is the companion application, and east of the site is the east right-of-way for I-95.

And during the review of this project staff expressed concerns about deleting the land area which would cause the non-conformity which would cause for the applicant to request a variance from the pervious area.

And also in -- there's a shared parking agreement with this application which allows for the whole site with the hotel site to function as one so they can have the proper parking, and what staff is saying that if you delete the land area, you cause a non-conformity to be increased, and it's not meeting code, and the site can function together.

Zoning doesn't look at the ownership of the property, but they can use the -- the hotel can use the site, and they can function together.

So staff is recommending denial of the Type II variance based on the applicant's failure to meet the standards that I expressed, Article 2, Section 2.D.3, and the DOA has been -- being denied, that it does not meet the changed circumstances under Article -- under No. 9 under Section 2.B.2.B of the zoning code.

That's for the -- just for the church, the Cathedral and the --

MR. Mac GILLIS: Would you like --

MR. ROBINSON: Would you like the presentation for the next -- the next project?

CHAIRMAN BARBIERI: Is the petitioner here?

COMMISSIONER ZUCARO: Wait. Can I --

CHAIRMAN BARBIERI: Yes, sir.

Commissioner Zucaro.

COMMISSIONER ZUCARO: Staff has presented now on Item 20?

MR. ROBINSON: Yes.

COMMISSIONER ZUCARO: Okay. And that's your -- that's your position?

MR. ROBINSON: Yes, we're recommending denial based upon the applicant's failure to meet Article 2, Section 2.D.3 of the variance standards --

COMMISSIONER ZUCARO: I understand.

MR. ROBINSON: -- and the changed circumstances. They don't meet the changed circumstances under the ULDC of Article 2.B.2.B of the ULDC.

COMMISSIONER ZUCARO: My question is, is it appropriate to ask questions at this point or wait 'til after the applicant makes their --

CHAIRMAN BARBIERI: Whatever you would prefer to do is fine with us.

COMMISSIONER ZUCARO: Well, I have had an

opportunity to review this at length, and I did not speak to staff because staff has outlined its position in the paper.

But my reading of this and then having talked to the applicant suggests that we are really talking about two major items.

One major item has to do with this shift of 20 or 30 percent, an old code versus a new code, and the other is a circumstance that is being attributed to the applicant by the applicant's actions.

So I have a couple of questions that I'd like to ask.

It's my understanding that the applicant moved to acquire the parcel of land at the request of staff creating the circumstance --

MR. ROBINSON: Planning.

COMMISSIONER ZUCARO: -- that you're complaining about.

MR. ROBINSON: Planning.

COMMISSIONER ZUCARO: Planning, okay, but at the request of the County.

So if they -- if they were requested to do something and they did it and now they're being penalized for doing what they were requested, I find that completely egregious. I find that offensive, actually.

Second item that I -- that I want to raise is the issue of -- oh, and I want to point out that it's my understanding that even with the transfer of land which was made -- which was done at the request of Planning staff, I'm going to say staff, even with that they still meet the 20 percent under the 1974 agreement, which was the condition in place.

So I find the position to be untenable with regards to penalizing them for that issue.

The second item that you raised is the shared parking. My understanding on the shared parking is it's not for the benefit of the applicant, but actually for the benefit of the church for their needs, and it -- and I don't see where that becomes a negative.

And then finally I want to point out, and I'm -- I suspect I know what the answer is going to be, but on Item No. 7 it says the grant of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The answer is no, granting of the variance will not be injurious. Seems to me that the answer should be yes, granting of the variance will not be injurious.

So, tell me what we're doing here. Is it injurious or is it not, because the statement is inconsistent with the position.

MR. ROBINSON: Well, the actual -- the actual application is not changing anything.

What the technicality is that they are deleting land from an approved petition, and they have been vested for that, and once you do a Development Order Amendment and you delete that

land, you lose your vesting.

So you have to meet today's standards, today's code, and that's the technicality. That's what they're doing.

When they're deleting that land area, they're losing their vesting for the existing site, which is an existing non-conformity.

If it was under today's code, they wouldn't meet today's standard, but it was approved in '74 so they -- it's built out, everything is built out, so they meet today's standard.

If they were not to delete that land area, then they wouldn't have a problem, but deleting that land area, it causes them to be -- to have to meet today's code.

COMMISSIONER ZUCARO: At the risk of being redundant and not wanting to be argumentative, they deleted the land area at the request of somebody inside the County, and now they're being penalized for it.

And as far as I know, they still meet the 20 percent area even with the deleting of the -- so what you're trying -- what you're arguing is that because they deleted something at the request of somebody inside the County, they now lose what they had.

They didn't have to delete the area. They didn't have to sell the land. It was at the request of somebody inside the County, and they're being penalized. That's egregious. That's unfair.

MR. Mac GILLIS: Well, I'd have to ask whoever --

COMMISSIONER ZUCARO: Correct me if I'm wrong.

MR. Mac GILLIS: -- is sitting up at this table representing the department, Planning, why staff would have requested them to delete the acreage.

The applicant brought the application to the County for the two uses. He brought in the vacant site to build a hotel on. It doesn't meet -- have enough land area to meet the parking, so he went to the church site.

The meetings that I was involved with with the applicant were clearly they were to do a shared parking agreement, just open the parking lot up. The church didn't use the parking for most of the week, and the hotel could use that overflow parking.

So I'm not aware. There was no one in the Zoning Division that asked them to acquire that property or delete it.

Our direction was was to do a shared parking agreement. Everything would work out within the parameters of the code without creating an expanded non-conformity with respect to the drainage on that site.

CHAIRMAN BARBIERI: Yes, sir.

MR. HOYOS: Yes. Isaac Hoyos, with the Planning Division.

When the companion application for the hotel to the south of this property, when they came in, we suggested them to acquire the property in the back so they could square off the property, so just a little sliver along 95.

We suggested them to come together with the two properties for the land use amendment.

COMMISSIONER ZUCARO: Thank you very much, sir.

CHAIRMAN BARBIERI: Okay.

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I'm just in support of staff. I don't see any problem with them suggesting they combine the property. Then the property owner, when he owns that new property and whatever is there, he has to follow the rules, and he's coming before us following the rules except that he's wanting a variance.

So I don't see any problem with what -- anything that's happened.

COMMISSIONER HYMAN: Can I make a suggestion? I mean I think we're jumping the gun.

You've made a presentation on the first. I think we should hear a presentation on the second and the third.

I think we should give the petitioner time to talk about this and so we stop this arguing, and then we can sit down, and we can, I think, discuss this more intelligently.

CHAIRMAN BARBIERI: Yes, so I think what -- since these are companion petitions, why don't we get staff's -- your presentation on all three of those. Which ones are they, 20, 21 and 22.

Let the petitioner then give us his entire presentation, and then we'll have a full picture of what we're discussing here so that we have a better idea why that property's being moved and the ramifications.

So would you --

MR. Mac GILLIS: Twenty-one and 22 are companion applications.

Twenty-one, ZV2007-1411, is for a Type II variance to allow the hotel to operate -- to exceed the hours of operation, to allow it to operate 24 hours a day because commercial zoning districts, if you're adjacent to residential, you have to cease operation of the use before 11:00 o'clock.

They're asking for it to be 24 hours, and the Item 22 is the actual conditional use approval for the hotel and the rezoning with the COZ.

So I'll turn it over to Sandra to present both of these items.

MS. GONZALEZ: Good morning, Commissioners. For the record, Sandra Gonzalez, Site Planner II.

I am -- like it was already mentioned, Northlake Value Place Hotel, two applications on this site.

The first is the variance, and the second will be the request to rezone the site from

residential multi-family to commercial general and a Class B conditional use to allow a hotel.

This is a vacant lot with a zoning designation of residential multi-family future land use of High Residential 12.

Concurrent with this application there is a small scale amendment to change the land use from High Residential 12 to Commercial High, and this item was heard by the Land Use Advisory Board on October 26th of 2007, and the Board recommended approval on this item.

The surrounding area is to the north, the Palm Beach Cathedral with the zoning designation of residential multi-family future land use of institutional.

To the west is the I-95 right-of-way. To the south is Capitol Lighting and the gas station with a zoning designation of commercial general and high -- and future land use of high commercial.

To the east is the Roan Lane, and across Roan Lane is single family residences with the zoning designation of residential multi-family and future land use of High Residential 12.

The proposed site plan shows 42,984 square feet hotel, or a four-story hotel with 121 rooms and 192 parking spaces with 77 shared parking spaces with -- there is an agreement with the church as was already mentioned.

Based on the variance, the staff is recommending denial.

The purpose of this variance is to protect -- the purpose of the restrictions of hours of operation is to protect residential areas from adverse impacts on adjacent uses; therefore, there are no special conditions peculiar to this parcel.

The circumstances are self-created by the applicant by selecting this commercial use, and there are other commercial uses that are not subject to the hours of operation and don't need the variance.

And also this request for the variance is injurious to the area because the residents has expressed a lot of concerns related to drainage, traffic. Roan Lane is a dead-end road.

And also there is a concern on crime. The residents feel that this hotel create more crime in the area, and the size of hotel is a concern.

Residents feel that there is going to create an adverse visual impact on the area, those considered nuisances to the residents, and also hours of operation are very hard to enforce.

Therefore, like I said, staff is recommending denial on the variance.

On the Class B conditional use to allow a hotel, based on the standards for the conditional use, staff is recommending denial because it is not consistent with the code. It isn't going to be -- it's going to create adverse impact on the area, and this use creates -- is subject to hours of operation and, therefore, will need a variance

for that.

There are other commercial uses that are not subject to hours of operation.

Finally, on the rezoning, staff has recommended approval based on the rezoning standards.

And that concludes my presentation. Thank you.

CHAIRMAN BARBIERI: Petitioner.

MR. KINO: Good morning, Commissioners. Thank you for the opportunity to address you. My name is Greg Kino of Casey, Ciklin.

I'm pleased to represent Value Place Hotels this morning and its founder, Jack De Boers, who is a fine business leader on the national scale and is one of the -- one of the pioneers in the extended stay hotel industry, and you'll hear a little bit about Mr. De Boers in a minute.

It's important to note this is not going to be a franchise location. This will be a corporate location for Value Place Hotels, and so they have a direct vested interest in maintaining it in the manner that they're going to tell you about this morning.

Got a little bit of good news and bad news this morning. The bad news is I am a lawyer, and no offense, Barbara, and all the other lawyers in the room.

Good news is you won't be hearing from me much this morning because I'm not an expert in traffic and drainage and crime. I'm an expert, at least licensed to be an expert in the law, and if there are any legal matters, I'll address those, but I'm going to be turning it over to the experts that will provide the evidence to you this morning.

You'll be hearing from some other people that are not qualified this morning to speak on those technical items that the staff raised, traffic, drainage and crime, and while they're important to be heard, they're not competent substantial evidence. I just want to remind you that's why we're here, to evaluate that.

And because the residents, and there are a few of them here this morning, and out of about 1,000 units in the Roan Lane area there are a few residents here, and because those opinions are important to us we've met with them several times, and we'll go over with you the changes we've made to the site plan as a result of those meetings, and I think that's important to note.

I also want to just briefly address staff's presentation. I will address in detail, but, you know, I can already see, and the reason I -- I don't have to teach you about competent substantial evidence and what it is, but it's the traffic engineers and the civil engineers and the planners, but when staff says the neighbors have some concerns about traffic, drainage and crime, and because of those concerns they constitute a nuisance, and that's one of the reasons why

they're recommending denial.

In all due respect, we hear the residents, and we've addressed those, but that's not the basis to deny these variances or any application before you.

So with that being said, I'm going to turn it over to Jeff Brophy, an expert from Land Design South, and he'll address you, and also Steve Sutter of Value Place Hotels is here on behalf of the chain, as well as Mr. De Boers.

Thank you for your time this morning.

MR. BROPHY: Good morning. Jeff Brophy, with Land Design South. Expert. I like that. That's -- that doesn't happen often.

I wish I could say I'm going to be brief, but I do have a lengthy presentation, but the good news is it's based on all three applications. It's inclusive of both the Development Order Amendment and the variances and the rezoning.

The subject property itself is located on the northeast corner of Northlake and I-95, and it comprises actually two areas.

Right now there's the existing Palm Beach Cathedral boundary, and there's a vacant 2.4-acre site.

And as stated previously, originally we came forward with a small scale amendment for just the 2.4 acres. In order to complete that node on the corner, Planning Department requested that we go to the church and see about that thumb piece that's adjacent to 95, acquiring that, so we have a complete corner and there's no missing land uses that are tucked in between 95 and this requested commercial use.

The resultant acreage is the Palm Beach Cathedral turns into about 3.5. The Value Place Hotel site is approximately three acres.

Just to give you some context on the site, this is looking down Northlake Boulevard, and directly south of this site is the Edwin Watts Golf store, the Shell gas station, the existing Capitol Lighting, and these shots here are taken looking directly into the site, and as you can see, you can see the raised 95 there. This actually will give you a better shot.

This actually shows you the on ramp, as well, and really explains why this development has stayed vacant for so -- or this property has stayed vacant for so long because, really, the residential is inconsistent with the surrounding uses.

To the north we have the Covenant Centre church, and to the east we have the October Park duplex complex.

To the north of us even further is additional multi-family housing.

The request -- the first request is the -- for the Palm Beach Cathedral, and we're requesting a Development Order Amendment to reduce the land area and a variance for the pervious area deviation.

Although we disagree with staff's

interpretation of the code that this variance is required, we did file it.

Staff recommends denial of the DOA and variance due to the assumption that the deletion of land area is a self-created non-conformity. We've already talked about where that originated from, but just to give you a brief explanation, this is the current configuration of the church site. This would be the remaining acreage here (indicating).

The variance is actually from Table 7.C.3-1, and pervious area requirement for 30 percent.

Pervious area requirement, when this was approved in 1974, was 20 percent, and the pervious area existing out there for the entire site as it exists today is 22.8 percent.

When we take out that thumb piece and we're left with just the three and a half acres, it actually just went up just slightly to 22.9 percent, so as you can see, we're not increasing the non-conformity.

In addition, one of the problems is we weren't allowed to use grass parking as determined to be pervious area. This is an argument we had where we didn't agree that, first, that the variance needed to go in and, second that we did meet the pervious requirements because the grass parking could be utilized.

If we utilize the grass parking, it puts the site up to 37 percent.

CHAIRMAN BARBIERI: I have a question right here for staff.

Why can't they use that? I mean I -- I don't understand that. Why -- we looked a few months ago at a pervious new type of pavement that had holes in it that was going to be paved, and there was consideration to consider that pervious, but now we have grass that were not considered pervious? Why --

MR. Mac GILLIS: The grass parking is -- has a sub-base on it that doesn't allow the water to go down the normal rate on pervious areas by definition of the code.

I did tell the applicant, and when the applicant was before you two months ago, that is one of our priorities on the code amendment list.

The code is very clear in the definitions. You look, it does not allow the grass parking to be included per the ULDC. There are -- some other departments are asking the Zoning staff to fix the ULDC to allow it.

But the way the definitions read now and the sub-base that's required to support the grass parking, you just don't allow somebody to park on the grass. You have to have it -- they have to prepare the area and put gravel and stuff down underneath it and then put the grass back on it so it's not all full of ruts when it rains and --

COMMISSIONER HYMAN: Well, did they? Do you know that there's a sub-base under this grass parking that you're talking about?

MR. BROPHY: I can't say for sure, but --

MR. Mac GILLIS: Well, even now they can't because of the way the definitions are currently in the code, and we have to fix the code, which is -- we're working on it right now, will be brought back to the Board in August to fix the code to allow grass parking to be counted towards the --

COMMISSIONER HYMAN: Okay, but it's conceivable that this project was approved back in 1970 or whatever with the grass parking that didn't have the sub-base which makes --

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: -- it impervious.

MR. Mac GILLIS: You would have had to have a sub-base even back then.

I've been here 20-some years, and even when we approved variances, they had to set a cross section, and the Engineering Division would have reviewed that because if you have parking and it rains in Florida, you would have it full of ruts and water sitting there stagnant during the heavy rain period, so --

CHAIRMAN BARBIERI: Mr. Rogers.

MR. ROGERS: The way the term "pervious" is defined in the code, it refers to the ability of the soil to percolate in its natural state such that any compaction of that soil would then hinder or reduce the ability of that soil to percolate water at that same rate; therefore, any time that you run any equipment over that soil, whether it is an actual subgrade there built or not, you will then compact that soil to a degree that will be less than what its natural state is.

Therefore, there is a problem with using a grass parking area and defining that as pervious area according to the definition that is in the zoning code.

CHAIRMAN BARBIERI: All right. Thank you.

MR. BROPHY: One thing I would like to point out is that the pervious area with the existing church -- and I think Douglas made mention to it, what we could do is go along with the existing church boundary and then develop the vacant parcel without doing the Development Order Amendment.

That's really -- actually, it would create a further non-conformity in our opinion because it would be less area that would have the 30 percent requirement.

As of right now you're over 4.15 acres at 20 percent and then a smaller area at 30 percent.

So the pervious area with the existing church boundary and the vacant parcel would be 1.65. If we include that -- I guess the best description is the thumb piece -- within the new hotel, it actually increases. There's a larger area that needs the 30 percent. I goes up to 1.73 acres.

According to the staff report -- I just wanted to point out a couple things. The staff report does mention that the DOA does minimize adverse impacts on the neighborhood. The DOA is

compatible with surrounding land uses as a transition from commercial to residential, and, more importantly, contrary to what was stated by staff, the proposed hotel to the south is also compatible, providing a transition of uses.

The only reason for this denial is the implication that this is self-imposed. As we talked about, we went to Planning. It was a request to acquire that to complete the commercial node on the corner. We went forward with that request.

We still disagree with the fact that this even needs to meet a 30 percent requirement, that the net acreage, as long as it's not increasing the non-conformity, can go along with the code that was in existence when it was approved.

Should the Board approve the variance, we do agree to all the conditions as stated in the staff report.

The second request is for the hotel itself and the rezoning to the south of the church. First, we do have a small scale Comp Plan amendment going from HR-12 to CH.

There was a staff recommendation on the Comp Plan of approval and LUAB recommendation of approval.

We also have the accompanying rezoning from RM to CG, and staff supports the rezoning. In addition, we have the Class B conditional use and variance for the hours of operation deviations mentioned by staff. Staff recommends denial of both of these based on the hotel's need to operate on a 24-hour basis, and that, again, this is a self-created situation.

Based on the actual code language is that commercial uses adjacent to residential districts shall not commence business activities, including stocking, prior to 6:00 a.m. nor continue business activities later than 11:00 p.m. daily.

This is an extended stay hotel. I'm going to after this go into a brief description of actually how Value Place operates, but just to give you an idea, this type of hotel, and not just in this location, but nationwide, they're actually only open Monday through Friday, 9:00 a.m. to 6:00 p.m., Saturday, 10:00 a.m. to 2:00 p.m. and closed on Sunday. So it does fall within the hours listed in the code.

It's staff's opinion or Zoning's opinion that a hotel use, because people are coming and going 24 hours a day like a residential use, I guess, they feel that, therefore, there's a 24-hour requirement for the hotel.

Again, we disagree with that, based on our hours of operations that will -- that this operates on, and we'll accept a condition of approval that'll limit us to that.

CHAIRMAN BARBIERI: Mr. Brophy, let me ask you a question. If somebody shows up that has a reservation at your hotel at 11:00 o'clock at night, are they going to be told to come back tomorrow when the office is open?

MR. BROPHY: If they're -- if there's, you know, there will be circumstances because there's staff on, located in the building 24 hours a day, if someone has a reservation and is coming in late, then I'm assuming that they can come out and still allow them to check in, but the actual office is closed.

They discourage the use of that after those hours. For the most part because this is an extended stay hotel, you don't get people pulling off the highway staying for a night because, obviously, the price is going to be too high, and it's -- it doesn't -- it doesn't cater to that clientele, so for the most part these people have reservations.

Again, no guest check-ins and no deliveries allowed outside of the office hours, I guess except for the circumstances if someone's flight is late or someone's coming in late from traffic.

When we presented this with staff and we were told that we needed to apply for a variance, they used the example of the Morgan Hotel. Some of you may remember that. I think it came through last year sometime, and it's actually a very similar circumstance.

It's adjacent to residential. It's an infill site such as this. It's in an overlay zone such as this, and this -- that hotel was actually recommended for approval and was approved by the Zoning Commission.

Now, I can't recall whether there was conditions placed on its hours of operation in terms of its office use, but I was assuming that it was -- actually, the office was going to be open 24 hours for that location.

Again, the staff report, it does mention that this site is ideal for other commercial uses, just not the hotel, and I think that's based on, at least as listed on Pages 302 and 303, based on the fact that we have to apply for the variance.

We completely disagree with this, that this location is not compatible for all commercial uses. We don't think retail or office is going to work here, and mainly it goes to that second point, which is the traffic.

Hotel is a very low generator of traffic in terms of a commercial use. It's close to residential.

Anything in terms of a retail or commercial or office use is actually -- we looked at the numbers, and it's three times higher than what we generate.

Another reason why they requested this for denial is the ULDC does not differentiate between types of hotels. I'm assuming they're meaning the regular type of hotel, the nightly stay, and then ours, the weekly stay; therefore, it can eventually become a nightly stay in the future.

Now, instead of talking about maybe applying a condition of approval, which I think would work in this situation, staff recommended

denial, and I, you know, I disagree with that. I think we can put a condition of approval that states that this has to stay as a weekly stay hotel, however we want to word it.

If we want -- if there is any deviation from that, then it has to come back to the Board.

And lastly, one of the -- again one of the reasons for staff's recommendation of denial was the residents want the site to stay as residential.

And as much as we're concerned about what the residents want, and you'll see later that we've met with them, and we have things in place that we've done in order to help the situation, I don't think it's appropriate for staff to recommend denial based on what the opposition or even what the supporters say. I think it needs to be based on the code and the code alone.

Again, should the Board approve it, we do agree to the conditions of approval as listed in the staff report.

Just to give you an idea of the site and its context to the surrounding commercial areas, the site here is outlined in red, and the other red area here is all the other commercial along the corridor.

You can see we're not inconsistent with the rest of the depth as it goes into the rest of the residential areas along the corridor.

In addition, those spaces with the orange dots you can see are actually areas where commercial developments are accessed, not off Northlake Boulevard, but off of side streets that are also used by residential developments.

To give you a brief history on the Value Place Hotel, this is a 121-room extended stay hotel. Currently they have 80 locations nationwide and 300 planned.

It was created by Jack De Boer. He was the same gentleman who started Residence Inn and Fairfield Inn and Summerfield Suites.

Markets to the small business traveler offering weekly rates, this is to someone who doesn't have a huge expense account that can go and stay up on PGA somewhere every time they come to visit, someone who needs to stay in the area, train or work for a few weeks.

It's an alternative to single night occupancy hotels, something that actually in the area there's no other extended stay except I think the closest would be on Belvedere Road, I believe, near the airport.

Rates here would start 359 a week with a \$150 deposit. That's for the smallest room. It would equate to approximately 16 to \$1700 a month.

And, again, this use, we feel, provides a better transition from the commercial to residential. We don't find that, again, any commercial use is right for this place.

This is a very unique parcel, and I think it needs to be treated carefully, and I think this use is almost a good use as a hybrid between the

intense commercial along Northlake and the high residential in behind it.

Value Place also has some corporate requirements that I want to discuss, and that's -- we have three staff members on site at all times, including security.

All managers are trained at Wichita corporate office to ensure that everything's held to a corporate standard.

There's no bars or lounges on site. We have our limiting -- limited operating hours. All guests must be registered with the office, and all guests must provide government ID.

That ID is actually checked against a Family Watchdog database, and after we've met with the Palm Beach County Sheriff's Office, in addition, the wants and warrants database.

In addition, to explain, I guess, the -- this was originating in Wichita and to -- I guess the best way to describe it would be the midwest values, is they don't offer the pay for view movies, either, which is, you know, they don't want to have any R-rated or X-rated movies so they don't offer that at all. Obviously, they offer regular cable, but there's no pay for view movies allowed in any of their locations.

Just to briefly talk about the proposed site plan, it's three acres, 43,000 square feet and 121 rooms.

Access is directly across the street from Van Cott. Cross access is to the church to the north to allow for the shared parking.

We have buffers surrounding the property in accordance with the ULDC, and actually the conditions of approval have higher standards, including undulating berms and additional palms.

We have a dry detention in the back and approximate 300-foot setback to the nearest home. You can actually see. We actually lined up the building with the Capitol Lighting to the south and the church to the north.

We'd also like to make mention that we are going to improve the roadway from the entrance to Northlake Boulevard.

This here gives you a good panoramic view of the existing site conditions. We have a concrete wall to the south. This is rather unsightly so we're going to provide adequate buffering down there to hide that.

In addition, we have Interstate 95 in the back. You can see here how this is completely incompatible, especially for a residential use. It is a huge overpass.

And, in addition, I just wanted to show you the conditions along Roan. This, you can see the garbage strewn along the right-of-way, and just to make mention that this shot is actually taken from the -- close to the proposed entrance, and south of this that roadway will all be improved.

This is actually a graphic we prepared showing the proposed hotel. As you can see, it

acts almost like a screen or a buffer against the 95, and we're going to provide the adequate buffering in the front to screen the hotel, as well as provide a sidewalk along the right-of-way.

Community concerns. We did have three community meetings, two of which were held before the LUAB hearing. One was held approximately three weeks ago where four major issues were identified. It was traffic, the schoolbus stop, drainage and security.

Just to talk about traffic briefly, one of the issues is that we have three lights in close proximity to one another, and currently those wishing to go -- I guess come down Roan Lane, you're forced to go right. It's a right out only situation.

If you want to go eastbound, you have to take the alleyway behind Edwin Watts, and there's a full lighted intersection there which you can use to go eastbound.

As I mentioned, the hotel is a low generator compared to many other commercial uses that could be out there, and there was a comprehensive analysis that was completed.

We actually completed an analysis of traffic for traffic performance standards based on all traffic going down Roan Lane, all traffic going out the light at Sunrise and a combination of the two, and in reality the combination of the two is what happens today.

With our proposed hotel we meet all traffic performance standards.

Again, I just wanted to make note that we will also improve Roan Lane from Northlake to the project entrance.

The schoolbus stop, there is a location of existing schoolbus stop right at the corner of Roan Lane and Van Cott's. We spoke to the School Board, and they weren't interested in moving it north.

We were hoping to get it more internal to the community because I think a lot of the kids right now have to travel down the road to this location which is one of the busier intersections along Roan Lane, and -- however, for a couple of reasons.

One, there wasn't the adequate turnaround radius required now at the cul-de-sacs. In addition, it would add time to their trip to the school, which they didn't want to add to.

So what we've done is we actually redesigned and restricted our entrance to avoid conflict. This is the current -- this was the current layout as originally submitted. You can see the bus stop directly across from our entrance.

Our entrance location is really locked due to the fact that anything north or south of that is going to create turning movement problems with Van Cott.

And you can see there was the three turning movements allowed, although realistically

people going through Van Cott and going up north on Roan probably wouldn't happen.

What we did is we modified it to include a median to actually restrict our exit to go right out only and force them to go southbound, adding distance between our moving cars and the bus stop.

Third issue was drainage, and there is a current flooding problem on Roan Lane.

Currently the site actually sheet flows out onto Roan Lane, which I believe has its own problems, but the existing vacant site is adding to that by sheet flowing out there.

I would like to point out that the required road improvements that we're going to put in are going to alleviate that section of Roan Lane from flooding because we're going to have to take that drainage.

In addition, all the historical drainage, as you know, that we have on the site, we're going to have to retain everything from both the church and the proposed hotel. We're going to actually have to contain that on site, and it won't outfall into Roan Lane as it does now. It's actually going to outfall west underneath 95.

Lastly was crime, and I think this was one of the biggest issues. Currently, there's a -- there's an existing hotel on the west side of Northlake, which I think is causing a lot of people a lot of heartache. It's called the Inns of America.

It's owned by just a single mom and pop. It's not part of a conglomerate, but it is a -- it's a nightly stay motel, and it's a relatively cheaper price, and I think it's -- I think it's creating a bad name, especially when we came in and started to request this proposal.

But just to give you an idea, currently there -- you know, the area does have a high crime rate. Within the Roan Lane and Sunrise area we actually pulled the police reports from January to October of this year. There was 339 calls. That equated to over one call per day just for that area.

So it's definitely not something where we're creating. This is an existing problem. We recognize that, and I think we've put things in place to resolve that.

Again -- and, also, you know, right now the property could be home to vagrants on the site.

Just to speak briefly, if this was to stay a residential development, I mean the majority of those calls that we pulled, those 339 calls, they're not coming from commercial development. They're coming from residential developments.

Not to say that all the people here are adding to the problem, but I think it's -- I think we need to make sure that we understand the hotel is not going to generate the problem. The problem is there, and it's generated by the residential.

The residential is going to be a by right approval. They have everything in place that they

need to submit a site plan only. There would be no conditions of approval that would need to be placed. No security would be required, and there's no screening of residents required for residential uses.

Our hotel development has innkeeper's rights. We have three staff members, as I said, including security, on staff 24 hours a day. We have strict corporate guidelines. We have security cameras inside and outside the building, and we participate in local community watch programs.

This -- as I said, this company originated in Wichita, and this letter is actually from the Wichita police, and it was stated, "We'd like to recognize Value Place for the innovative development of its Safe Program, a program setting the standard for safety in the hotel industry. Their initiative confirmed that Value Place was interested in taking the Safe Program beyond the hotel walls and into the surrounding communities," which is exactly what we intend to do with this location.

In addition to that, we've also had meetings with the Palm Beach County Sheriff's Office. We met with the patrolling Palm Beach officers, and I think out of a couple of really good meetings we came up with some really good ideas.

One is to agree to provide a parking space with WiFi access at the entrance to the hotel, and, really, it's the entrance to the community.

This would be a joint partnership, we hope, if we can get the others on board. I think Palm Beach County -- the Sheriff's Office is on board, but also with Palm Beach Gardens police and the Highway Patrol. So there's always going to be a car there to create that presence.

In addition, it's a plus at its location because it's directly across from the existing bus stop.

We also agree to provide a camera and signage at the parking space. Again, as the entrance to the community, we want -- you know, we want people to see exactly what they're getting into when they pull up that road.

We also agree to provide additional cameras around the building to make sure all four sides are covered. We agree to provide a room within the hotel for police use, again, joint between the three agencies.

They can come in. They can do paperwork. They can use their computers, print, whatever they need to do.

We also agree to run the government's -- government ID's against the wants and warrants database at the Sheriff's Office request.

And, in addition, as we go on, we agree to work with the Sheriff's Office on lighting and landscape standards for the hotel to make sure it's safe.

We do have some conditions of approval.

Again, we haven't really negotiated these with staff as we just received these Monday, but I would like to read these into the record, and these are self-imposed conditions that we're willing to accept in order to make sure that this site does stay as the hotel use, and it's the subject site will be limited to 120-room, 43,000 square foot hotel use only.

Office hours are to be restricted to 9:00 a.m., 6:00 p.m. Monday through Friday, 10:00 a.m., 2:00 p.m. on Saturday, closed on Sunday, including loading, unloading and garbage pickup.

One space shall be dedicated with appropriate signage for use by Palm Beach Sheriff's Office at entrance along Roan Lane with camera and WiFi access. One room shall be dedicated for use by Palm Beach Sheriff's Office within the hotel, and security cameras to be installed on all four sides of the building.

Yes.

COMMISSIONER HYMAN: Would you add to the first one extended stay? You said just hotel.

MR. BROPHY: Yes, that's --

COMMISSIONER HYMAN: Extended stay hotel.

MR. BROPHY: Yeah, we agree to that.

In addition, there is an objection -- I believe Palm Beach Gardens is here to speak an objection to the proposal. Objection was based on a letter dated August 21st of '07, based on traffic, water, sewer and incompatibility.

Now, we provided staff with a traffic study that shows that we meet all traffic performance standards as approved by the County. We showed that we do have water, sewer concurrency available. We wouldn't be here if we didn't.

And, in addition, in terms of the compatibility, we have both Palm Beach County Zoning staff and Palm Beach County Planning staff saying that these uses are compatible.

Over the last couple months we have requested to meet several times with Palm Beach Gardens, especially Palm Beach Gardens police, to get them involved with our program.

We haven't met with them yet. I understand the last meeting, which was a couple weeks ago, I believe there was a funeral and -- that day, and perhaps that's why the police didn't show up to the meeting, but, you know, we're still willing to work with them as much as we can.

Project support. We do have staff recommendation of approval for the Comp Plan amendment. We have LUAB recommendation of approval for the Comp Plan amendment. We have staff recommendation of support for the zoning change to commercial.

We have over 50 letters of support from church, local business owners and local residents.

I'd actually like to submit this on file, if I could.

COMMISSIONER HYMAN: Move to accept.

CHAIRMAN BARBIERI: Motion by **Commissioner Hyman**.

COMMISSIONER ZUCARO: Second.

CHAIRMAN BARBIERI: Second by Commissioner Zucaro to accept.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. BROPHY: And in closing, you know, we've worked a long time on this, and, you know, I have the utmost confidence that this truly is, again, this use is appropriate for this parcel.

It is a unique situation. It's not appropriate for all commercial uses, but I think this -- again, this hybrid use of this extended stay hotel is the right thing for this location.

I'm going to let Greg issue just a closing statement for us. So I thank you for your time.

MR. KINO: Thank you. If you don't mind, I'd like to just defer until we hear from the members of the public, and I'll close at that time.

Thank you.

CHAIRMAN BARBIERI: All right. We have probably 40, maybe 40 people.

Do you need a break? We're going to take -- the court reporter needs a break. We're going to break until a quarter after.

Would everybody please be back in the room at quarter after 11:00.

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

CHAIRMAN BARBIERI: We're going to get started. I don't know where the rest of staff is at, but hopefully they'll get here.

We have several -- quite a few people who want to speak, so I'm going to limit you to two minutes. So please try and stay to two minutes each, and if you have something to say that's repetitious, would you just please say you agree with the prior speakers, rather than going over and over again. We'll understand your concerns, I'm sure.

Start with Mr. Levy who represents the City of Palm Beach Gardens.

MR. LEVY: Okay. It works.

CHAIRMAN BARBIERI: Good morning.

MR. LEVY: Good morning. Thank you for allowing us to have this hearing and to discuss this particular item on your agenda.

I represent the City of Palm Beach Gardens. My name is David Levy. I'm the current vice mayor of the City.

At a recent council meeting our council voted unanimously to oppose this hotel, and we have several reasons why.

Our staff has reviewed the proposal. We do not feel that this building is compatible with the current existing uses. We do not feel that their traffic study includes Roan Lane, and I have looked at their traffic study, though I'm not a traffic engineer. The Roan Lane was not mentioned

in their traffic study, so I have some severe concerns about that.

However, unlike maybe the applicant says, I am an expert in drainage. I am a professional geologist in Florida.

Some of their numbers when they looked up there, they didn't add up. I don't know how you can transfer 1.65 acres of impervious space from a four-acre property and only have a one percent reduction in the amount of pervious space.

That doesn't make any sense to me so I'd like to see some more explanation on that. I'd also like to see their numbers done a little bit better.

The City does object to this. It is in our future annexation zone so we are going to become responsible for whatever's put on this property eventually. We do feel that our say is important in that case, and I do have a member of our planning staff that's going to discuss our objections a little bit further.

With that --

COMMISSIONER HYMAN: David, where is -- where is Palm Beach Gardens in relationship to this? Where is your boundary, your nearest boundary?

MR. LEVY: Our nearest boundary is to the west on the other side of I-95. We also are to the southwest. I believe that to the south is an auto dealership that's not part of the City. That's also part of a County enclave.

And I do believe that we're to the east, not directly of the property, but east of the residential --

COMMISSIONER HYMAN: How are you going to jump over 95 and be contiguous?

MR. LEVY: It is -- it is contiguous to the City. That whole area is contiguous to the city, and I believe we're also to the north if you take this County enclave.

We actually surround it. We're the only municipality that is contiguous to this particular County property.

CHAIRMAN BARBIERI: Mr. Levy, let me ask you a question.

What do you think would be a better use on this property than an extended stay hotel?

MR. LEVY: Okay. We would like either have residential at this current zoning. We would like to mention that this is a four times increase in density from the current zoning, or light commercial, such as a professional office building, lawyers, maybe accountants.

Medical office, we agree with the applicant that that would be too much traffic on there, but something along the lines of light commercial or light office space would be appropriate, limited to two stories.

We also have a problem with the four-story hotel which is basically adjacent across the street to single story family residential.

COMMISSIONER KAPLAN: Mr. Levy, how would

workforce housing fit into your City's planning?

MR. LEVY: We need it. I think that this would be an appropriate site for affordable housing, workforce housing.

COMMISSIONER KAPLAN: Thank you.

CHAIRMAN BARBIERI: Any other questions for the vice mayor?

(No response)

CHAIRMAN BARBIERI: Thank you.

MR. LEVY: Thank you.

CHAIRMAN BARBIERI: You're welcome.

Ryan Walter, and then behind him would be David -- oh, excuse me, Gary Armstrong.

Would one of you come up to one podium and the other to the other, please.

Mr. Armstrong, are you here? He left. Elyse Isadore, is she here?

Go ahead. Would you state your name, please, for the record.

MR. WALTER: Yes. My name's Ryan Walter.

I live at the end of Roan Court, and I would like to extend my gratitude to the Board for allowing us to meet with you.

As stated before, there's going to be a lot of points made. I had a windy speech set up, and a lot of points were covered here.

I would just like to point out a couple of flaws in their argument, one of which I believe to be almost a complete fabrication where they're talking about this green land that they're going to develop and put pavement on.

Green land -- this green land is already used for drainage. You can't convert grassland into pavement and have less drainage.

They're talking about 289 calls I believe was the number they used for -- to the Police Department. There is one lady on our street who I can almost guarantee is responsible for at least 200 of those.

The yellow dots indicated the commercial buildings that aren't directly on 95. Most of those -- the majority of those are directly on 95.

There just isn't direct access to them from 95.

On behalf of the taxpayers I would appreciate it if the zoning for this would remain residential.

CHAIRMAN BARBIERI: Thank you.

State your name, please.

MR. ARMSTRONG: Yes. I'm Gary Armstrong.

I live at unincorporated [sic] place of Van Cott Circle.

And my question is is the traffic study that he has done, I'm not sure when it was that he was taking the traffic study because if you're there at 7:00 o'clock or 7:30, you have the people who live down Roan Lane coming out to go to work.

You have people within Van Cott coming out in that intersection right there, it's very small. You have the bus stop, and now you're going to have -- if there's 243 rooms up there, how many people are going to be coming there at the same time that everybody else is going to confusion

corner?

I mean we have some videotape of the bus and the traffic that is there, and the traffic zone that is there kind of exceeds 35 miles an hour. So it is a hassle with you having garbage trucks coming in there, other people coming in there, people that are going down Roan Lane, which is a dead-end that have to circle back around and come back out and try to work in that.

I don't know what his traffic zone -- when he took it, how long it is, where it's established at, but if you just go in that parcel, that corner, you will see that there is too many traffics there, with we having kids there, with the bus stop there, with people coming and going into work, people that are going to come in to Value Place, they're going to come out of Value Place.

I think there's going to be a lot of accidents and a lot of just horror right there on a confusion corner.

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

CHAIRMAN BARBIERI: All right. Thank you. Elyse Isadore, and then Patricia Coloma, would you please come up to the podium.

MS. ISADORE: My name is Elyse Isadore. I bought my house over on Van Cott Circle -- it's not Street, it's Circle -- and -- about 11½ years ago. I live there, and I'm just not too happy.

I have about 150 petitions signed from residents in the area that we are opposed to the zoning change. We find it incompatible with our residential neighborhood. We have many children and families who live here, and we believe we have the right to protect our children and the quality of life in our neighborhood.

We are opposed to a 24-hour, seven day a week commercial business in our residential neighborhood. We are strongly opposed to having a four-story weekly stay hotel in our residential neighborhood in front of people's homes.

Roan Lane is already above capacity in the traffic for a residential street. There's no other means to enter and exit the neighborhood. Roan Lane is a dead-end street.

The land was zoned residential because it's a residential neighborhood, and we feel that this land should remain zoned residential, and you would not want a four-story weekly stay hotel in your residential neighborhood, and we're asking that you please don't allow it in ours.

I'd like to bring up a couple other interesting points.

I was interviewed by the *Hometown Newspaper* for an article that was published on February 1st, 2008, and in here is the hotel, quoted, "A Charles Bruce, senior vice president for the Value Place Hotel that they're planning to charge 179 a week for their fully furnished efficiency units."

And as far as the residential screening, I am a Florida real estate broker, and as far as

residential goes, people have to qualify for a mortgage to buy a house. Okay.

You're not going to have transient people trying to buy houses, and should something be built there, it would be like the Doves Landing, which is a brand new townhouse community down at the north end of Roan Lane which has a homeowners association, and homeowners associations require an application, usually a credit check, a background check and an interview.

So we're not going to have transients, even if it becomes rentals. There will be some kind of screening process should it be housing, and if you're going to say it's inappropriate to have housing backed up to 95, they need to go through all of Palm Beach County and tell all those people in all those new and old housing developments that they've allowed to build backed up to 95, the Turnpike and all the rest of the highways and tell them that their housing is in an inappropriate location, 'cause they're all over the county.

COMMISSIONER HYMAN: If those homes were single family homes and the people couldn't afford to live in their homes and they decided to rent them out, what kind of screening is done there and what kind of protection do you have then?

MS. ISADORE: It will not be built as single family. It is zoned for a high -- multi-family, which is duplexes or townhomes.

COMMISSIONER HYMAN: What's the difference?

MS. ISADORE: It will probably have an HOA. Almost everything brand new that's developed in Palm Beach County has an HOA, and if you do the data on that, you will find almost everything that is built that is brand new in Palm Beach County has an HOA, and it would be a small HOA community, and that's why people go to Port St. Lucie, because they don't want an HOA, and just about everything in Palm Beach County that's built, that's brand new construction, has an HOA.

COMMISSIONER HYMAN: The HOA's don't -- aren't going to run checks on --

MS. ISADORE: Yes.

COMMISSIONER HYMAN: -- your renters.

MS. ISADORE: Yes, they do. I rent them all day, every day. Yes, they do.

CHAIRMAN BARBIERI: After you, ma'am -- hold on one second -- Steve Sutter.

Please don't clap. We understand your concerns, but Steve Sutter, would you please come up to the podium.

Yes, ma'am. Go ahead.

MS. COLOMA: Yes, my name is Patricia Coloma, and I live in Van Cott Circle right across from the proposed hotel.

I have two little boys, 10 and seven, and they were born and they are being raised in there.

I feel very safe in that neighborhood now, and I let my kids come out to the street and play with their neighbors, little kids.

After this Value Place Hotel is going to be there, I don't think we're going to have the same piece of mind and the same tranquility to let them go outside and play.

I'm here, also, because there's a lot of single women, working women, in there that I would like for this to go on record. They wrote letters to you so I would like to read this, please, and in which they indicate the fears of this hotel. They are single women.

"I wish we could afford to go and move somewhere else, but we can't, and there is what we can afford. Please don't ruin our neighborhood and don't ruin the future of our kids."

Don't approve this, please.

CHAIRMAN BARBIERI: Thank you.

After Steve Sutter, Norman Benz, would you please come up to the other microphone.

COMMISSIONER KAPLAN: Mr. Chairman, I think we have to make a motion to accept whatever she --

CHAIRMAN BARBIERI: Yes, you're right. I'm sorry.

COMMISSIONER KAPLAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: Commissioner Kaplan made the motion, second by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Good morning. State your name, please.

MR. SUTTER: I'm Steve Sutter. I'm the senior director of development for Value Place Real Estate Services, and I'm here to address any questions or concerns.

And I do have a couple of things to talk about. Charles Bruce is a brand communications person in Wichita, and our website and the corporate rates do state -- say that they do start at 179 a week, and that's in other parts of the country.

This one and in all of them in southeast Florida, because of the land cost and the construction cost, are considerably higher, and this one is -- the lowest rate is 359 a week. You know, that's in -- you know, we can get that in writing and can make that a condition if they would like.

We are also a taxpayer. We'll spend over \$250,000 a year in real estate taxes. This is about a \$10 million project with the land and the hotel. So, you know, it's not a small project as far as dollars.

You know, it's 121 units. I think somebody referred to it as 240-some units, and the overall impact to the economy in the area is about 1.8 million if you look at the 80 percent

occupancy and the money that goods and services that our guests will spend in the area.

We do screen for sexual offenders, which I think Jeff addressed earlier. Very few other hotels do that in the country.

We've built 16,000 hotel rooms since the '70s, and we know what we're doing, and we really build a quality product, and our mantra is clean, safe, simple, and we go by that and we're very safe.

We've met with the Palm Beach Sheriff's Office a number of times, and I think we have a member of the Sheriff's Department here to speak on our behalf, as well, or at least to discuss some of the issues that we've agreed to.

You know, we want our people safe. We want the residents safe, and we think this is a perfect fit for that location.

And that's really all I have. I'll be here in case there's other questions later on.

CHAIRMAN BARBIERI: Okay. Thank you.

COMMISSIONER ZUCARO: How long have you been planning this?

MR. SUTTER: Over -- about two and a half years we've been planning this project.

I think Jeff can actually speak to the exact dates, but when we initially went under contract, it was over two years ago.

COMMISSIONER ZUCARO: Thank you.

CHAIRMAN BARBIERI: All right. Norman Benz.

MR. BENZ: I am Norman Benz. I am lead pastor of Covenant Centre International, which is the church that is north of the proposed project, and I want to speak in favor of you approving this project.

I think it will have a positive impact on the region, a positive impact on our community, and it will have a positive impact on the church and its congregation.

The property as it stands now has been in disrepair and has been unkempt for many, many years and has been a harbinger for unwanted peoples and also a place where crime has been occurring on a regular basis.

It is adjacent to our parking lot, and we have night meetings and gatherings, and I am concerned for our congregants as they go to their cars at night that there is the possibility that there are things that could happen to them that we do not want happen to them, nor to anyone in our county or in the community.

And I believe that the security issues and the lighting that will be from dusk to dawn for that property will definitely increase the security and decrease the amount of activity and illegal activity in that area, and we leave our parking lights on all night so that that will also help to give a better entrance into the community and will decrease crime.

And I'm in favor of this because I believe the hotel will provide a positive impact to our

community, and it will be a -- it will have a beautification of our community that we need, and I am for the landscaping and the improvements that are being made.

And I, again, want to emphasize that I believe that it will have a positive impact, and I ask you to approve the proposal that's before you today.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Eric Benz on one podium and Linda Brook on the other, please.

MR. BENZ: My name's Erik Benz. I'm son to Pastor Benz and on staff at the church. My wife is the director of the preschool so I'd like to just speak on behalf of the preschool.

And the concern is -- from the preschool's perspective is the current crime situation and some of the dangers that are experienced with the current land not being developed.

And we've talked to Sheriff's Office and had them into the church to hold meetings, and they've explained to us that there are homeless groups that are currently residing in that land area.

And so the school's in favor of the project because of the -- of Value Place's, at least, you know, the promises to provide adequate security and lighting and things like that, and we feel like that from the school's perspective that'll be a positive influence, you know, in that area.

So that's all I have to say.

CHAIRMAN BARBIERI: Thank you.

Yes.

MS. BROOK: I'm Linda Brook, and I'm the teaching pastor at Covenant Centre International.

The situation that we are most concerned about in this area is the safety and well-being of the neighborhood. We have exactly the same concerns as the residents do.

We're concerned for the safety and necessity of people who come to our church, and our purpose in being in this neighborhood -- we're there by choice, and our purpose in being there is to serve the people who live in that neighborhood.

In terms of the property next door and its current condition, it's a dangerous place. I can so empathize with the lady who's speaking about the concern for her children, and I don't know whether any of the vagrants who wander around in that place come into the housing area or not, but they come into our church all the time. And so we're very well aware of the danger that is there.

I'm at the church six days a week. I'm there on two nights a week until 9:30 or 10:00 o'clock at night. Sometimes I'm walking out to my car by myself, and I have concerns for safety.

The other thing that I'd like to say is that prior to my affiliation with Covenant, I've been in the corporate world that has required a

lot of travel.

I have stayed at extended stay hotels over the last 15 years on a frequent basis. One of the reasons that I do is that the people who stay there, for the most part, are people like me who have been called in on assignment for four or five days.

We're not looking for a party atmosphere.

We're not looking for a bar that's opened all night. We're looking for a place to go in, do our work, have some kind of semblance of a small kitchen from time to time, but not always. We leave early, and we come back late.

And as far as how that is preferable over people who come in day by day, common sense would tell you that people who come in are staying for a few days on a corporate or work assignment have less interest in being disruptive than those who may be coming in for another purpose.

Thank you.

CHAIRMAN BARBIERI: Thank you.

Deputy Kathleen Mottl, would you please come up, and then Laurel Casey.

Good morning.

DEPUTY MOTTL: Deputy Kathleen Mottl, with the Sheriff's Department. I'm one of the community policing deputies that is assigned to the Northlake corridor and encompasses this property that's in question here today.

First and foremost I want to mention that the Sheriff's Office maintains a position of neutrality as far as this issue is concerned.

We support only an issue that benefits the community and improvements to the quality of life issues currently surrounding the area.

If any proposal benefits existing issues in and around the site, such lighting, streeting, sewage and drainage, crime prevention, of course, then we'd be in support of it.

Community policing deputies, including myself, have met with the community, the property owners, the church staff and Value Place representatives.

During the course of those meetings I can represent to this Commission that the community members have voiced their concerns as to the hotel's construction.

The property owners have complied with all requests as far as clean-ups on the property have been concern as far as the vagrants in the area, and the Value Place representatives have been receptive to sending our analysts for crime prevention suggestions moving forward to this proposal being granted.

We just hope that this issue is decided by all of you, our knowledgeable Commission, so that a peaceful resolution is found that accommodates all the people whom are involved and/or affected.

We, the Sheriff's Office, will continue to maintain our neutral position and maintain order and continue to keep the peace in the interim of your decision in the Northlake and Roan areas.

Thank you.

CHAIRMAN BARBIERI: Thank you. Yes, ma'am.

MS. CASEY: Hi, I'm Laurel Casey, and I live down Roan Lane, and I'm the mother of two small children in the neighborhood.

I work for the Palm Beach County School District, and this living is affordable for me. This is my home that I bought so I can have the American Dream, just like everybody else, and raise my kids where they can be safe.

I like to walk my dog in my neighborhood, stroll my baby in the stroller and have my son ride his bike in this neighborhood.

If this hotel goes up, my concern is that my quality of life will be destroyed. The people that it will bring in, I don't think it'll be business people.

As far as this man who said the garbage on the property and the vagrants on the property, up until a week or two ago that was all woods, that whole property, and they just cleared it. So that's why vagrants were there because they weren't keeping up with the property, whoever owns it now.

We're not opposed to building on this site, but we would like light resi- - or residential or light commercial, and as far as the trash, that's on that property that wasn't maintained. That's not our property. That's where this hotel is going.

The congregation doesn't live in the neighborhood. They go home at night, and as far as them saying there's no bar on the property, there's also no -- I didn't hear them say about any other amenities. There's no pools. So it's not going to be families staying at this hotel. It's going to be people who don't have credit to move into an apartment, to get electric bills in their name, people who are coming out of jail, and that's my concern.

So I'm asking you to not go forward with the zone change.

Thank you.

CHAIRMAN BARBIERI: Thank you. Corey Johnson.

Before Mr. Johnson speaks, I have two cards that you didn't check whether you wanted to speak or not. I think the last name is Waller, I can't read the first name, and David Kouns.

If either one of you -- you want to speak? Okay. One of you come up to the microphone, please.

Yes. Yes, sir, go ahead. Go ahead.

MR. JOHNSON: Yes. My name is Corey Johnson.

Basically the information and the issues that have been brought up in front of this Board is basically my main concerns, and I don't want to be redundant, but I want to thank you, and I really appreciate the supports of the community and, you know, the communication we've had with

the hotel and everything at this point.

I'm just hoping at this point that we do decide the right way, which is to not rezone this into a commercial plot.

Thank you very much. I didn't want to be redundant. Thank you.

CHAIRMAN BARBIERI: Thank you for that.

Yes, sir.

MR. KOUNS: My name is Dave Kouns. I live at -- on Wilshire Street, which is three streets away from the church. I wish I had as much time as Jeffrey, but I'll keep it short and sweet.

Palm Beach Gardens has been very good at carrying over the Sheriff's Department's overflow when we call 911 to the area, so that might be a higher report.

It is workforce housing, and this church would be -- the school would be -- the hotel would be detrimental to the area. As a matter of fact, the owner of the property that bought it for taxes four years ago just cleaned it up for the second time last week because we were having Channel 12 out there.

The church has been on premise for about two and a half years. They're the third church that I've seen there. As far as their parking, they've parked on all the green space, and that's what's causing Roan Lane to flood more so.

I know the lawyer here will rebut most of my stuff, but I am a community policing officer. We started a Crime Watch. We have meetings. We attend the meetings over at the Lake Park Fire Station.

We have gotten -- try to get a control on the neighborhood as far as the crime in the neighborhood, and we've made a present [sic].

We had a flashlight vigil last night, and the church called the police on us. I don't think that they like that we're opposed to them having any more parking, but they're using all of their space for parking now, anyway.

So in closing, we're adamantly opposed. I have 200 signatures to add to Elyse's 160 signatures. We also have another representative that is with us and is a community policing officer, that he oversees 80 units in the area, in this box area.

So we're requesting denial. Keep it low density, and, really, I would like to see the owner of the property being -- have some way to force him to maintain the property, keep it clean, keep it cut like the old lady that lived there before because that's what brings the vagrants.

COMMISSIONER KAPLAN: Did you say you had a 200-signature petition, sir?

MR. KOUNS: Yes, sir, I do.

COMMISSIONER KAPLAN: Do you want to submit that?

MR. KOUNS: I don't have it right now because I didn't know I was going to present it. I have given them to the County Commissioners because we have had meetings with the County

Commissioners.

One drive down the road -- one drive down the road would tell you that this will not go.

They also spoke about behind Edwin Watts Golf and to Sun Court. That's a private road. There's only one way in, one way out.

Thank you very much.

CHAIRMAN BARBIERI: Mr. Waller.

MR. WALLER: My name's William Waller. I live at -- on Kenneth Street, which is directly north of the church.

First, I'd like to -- could we have Elyse's petitions entered into the record? She asked me to bring them up here.

COMMISSIONER KAPLAN: I move we accept.

VICE CHAIRMAN ANDERSON: Second.

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

Discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Go ahead.

MR. WALLER: Thank you.

Pictures don't really do this justice. I think you would really have to drive down this road to see the neighborhood we're talking about.

Again, I live just north of the church. My property abuts the church property. I don't really think the church should ever have been allowed back then at that size and scope in a residential neighborhood, but that's -- I know I'm not here to talk about that.

Putting a four-story hotel at that location is -- I put a privacy fence up because of all the noise from the church and the lights from the cars, et cetera.

Putting a four-story hotel up in that location is going to directly overlook my property and into my house. It's definitely going to affect my quality of life, and I think the quality of life of everybody in this neighborhood.

It's working people. We -- I've lived there for 20 years. Never in my wildest dreams did I think a hotel would go on this property, and I can't understand that it would even be considered for a hotel. It is a residential neighborhood.

There's only one way in and one way out of this. I think it should stay residential. That's what I'm asking you.

I just don't see how it can be an appropriate use for any commercial.

When I was looking up on all your Websites about the Northlake Overlay Zone, I think it's called, that's supposed to go at the infill, one lot in. This is three lots in. This is as I understand it.

No, I'm not an attorney, and I really kind of object to the references made to us as a group. I think our opinion should count because we live there every day.

Church members get to go home at night. We have to live with whatever decision you make. Thank you.

COMMISSIONER HYMAN: He wasn't trying to be offensive. He was just stating the law as, you know, the case law that exists.

MR. BANKS: Let me --

COMMISSIONER HYMAN: So I'm sure he wasn't trying to offend you at all.

Oh, I'm sorry.

MR. BANKS: Let me add something because I think -- you know, the applicant's attorneys I think were misleading.

You know, when neighbors testify, fact-based testimony is competent evidence that can be used by the Board, and then the opinion evidence isn't competent evidence, but, you know, opinions you hear, because everybody states their opinions, but when you're basing your decision, when they describe the neighborhood, they describe traffic, they provide the fact based on their knowledge of the neighborhood, that's competent evidence.

So the courts and this Board should not, you know, discount the testimony of neighbors. That's what you base a lot of your decisions on.

CHAIRMAN BARBIERI: Thank you.

I have some cards that wish to be read into the record.

"I support the hotel, the weekly rental only. Rules of the hotel chain simulate residential living, and innkeeper laws versus eviction laws allow tighter control of the residential community. The proximity to I-95 and the on ramp is not conducive to a residential project." This is by John Little.

Larry Brook. "Offer plans for better drainage and better security for the neighborhood." He's in support.

John Baudhuin, sorry, I don't know how to pronounce the last name, supports. "Covenant Centre has engaged in supporting the neighborhood since coming into the area in 2005. We support the extended stay building as an asset to the area."

Jim Taffuri, support. It is -- you guys need to take handwriting lessons. "It is critical to look at the fact that this site literally sits on the entrance ramp of I-95 with cars and trucks --" maybe it's my eyes -- "accelerating onto the interstate. It is also bordered by a commercial retail center and mega-church. It has absolutely no viability as a residential site. A hotel would be an ideal use."

Bill Fries supports. You didn't mark -- Bill Fries, are you speaking? Okay. Supports.

Robert Varnadore didn't check the box whether he wants to speak or not.

MR. FRIES: May I speak?

CHAIRMAN BARBIERI: You may.

Robert Varnadore, you didn't check the box. Are you speaking? Are you here? Supports.

Steve Sutter spoke already. Steve Sutter - Rebecca Kanakis, you did not check the box whether you want to speak or not. Are you here? Did you want to speak? Okay.

We have Charles Clark, opposed, wish to be read into the record. "Zoning should remain residential as originally zoned."

Jeff Johnson, Johanson, you want to speak? Okay.

Charles Brooks, you want to speak? Okay. And Jeff Johnson.

All right. Yes, sir. You first.

MR. FRIES: Yeah, I'm Bill Fries. I'm an elder at the church and the father of the young lady that runs the school.

Let me first say that we appreciate very much the views, and we empathize with the members of the community. We're in league with them in many ways, but from the standpoint of the church we view this as a positive.

The security issue is real to us. We view that positive changes will come here.

The addition of the 77 parking places that are shared is a benefit to us, and also the ability to share a strip of land that we can't use now and convert that to cash. That's a plus for the church.

I buy into what Jeff's saying about the clientele of the extended stay. I think it's a higher quality, higher caliber, less frequent coming and going, having spent time in both of the hotels in business.

So on balance we believe this is a plus for the community. I think at the end of the day, five or 10 years from now if you approve this, which we recommend, this will be a positive for the entire neighborhood.

Thanks for the opportunity.

CHAIRMAN BARBIERI: You're welcome.

Yes, sir. State your name, please.

MR. JOHNSON: Yes, Jeff Johnson, planning manager, with the City of Palm Beach Gardens.

I would like to thank the Commission for allowing the City to comment on these petitions that are within our future proposed annexation area. The City property lies to the west and southeast of the site.

The City objects to the proposed land use and zoning change on the basis that it is incompatible with the adjacent residential use. The proposed land use and zoning designations are too intense.

A lesser intense land use and zoning designation would provide for a more adequate transition from the more intense commercial uses along Northlake Boulevard to the well-established residential that is located to the east and north of the site.

The proposed zoning district offers a lot

of uses -- a lot of commercial uses that are intense. Furthermore, the traffic volumes associated with the majority of these uses lends itself to a property that has direct access to a major arterial, as opposed to a local street, that being Roan Lane, and furthermore definitely impacts the existing residential.

The City concurs with your County staff's recommendation to deny the conditional use for the hotel, the variance for the hours of operation and a reduction in the open space.

Again, I'd like to thank the Commission for allowing the City to comment on these petitions.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

And the other gentleman who wants to speak, would you please come up.

State your name, please.

MR. BROOKS: Charles Brooks. I live at 3860 Van Cott Street, which is directly across the street from where the driveway to the hotel would be located, within 100 feet.

My concerns have mostly been addressed. I think manmade problems with the drainage can be resolved with tax money and civil engineers. Possibly the traffic problem could also be resolved, but I think long-term viable interests in our neighborhood would go down.

I think our property values would drop due to -- right now they're dropping because of the -- let's see -- okay -- are dropping due to the slow economic growth and lack of confidence in our housing market in general. This is a normal occurrence in our economy. It happens all the time.

But once they get down with Value Place there and with the police car sitting there, if that's proposed and installed, if I was an investor or a future property buyer in that area, I would have a hard time, you know, investing my money in there.

My house is not only my -- where I live, it's a long-term investment for me.

This lack of investor interest would affect my property, and it would trickle down throughout the neighborhood. The other residents, including myself, would be -- I would not -- some homeowners and landlords would not take care of their property the way they would if the values were increasing.

If they drop, maintenance is going to go down. It's going to be a trickle-down effect throughout the neighborhood, and I see that as a long-term problem, even when the economy comes back and housing, the market rises, our properties will not rise outside -- with the standard in that area because of that Value Place Hotel.

I just don't think it's a good idea, and I definitely think that we should not have it built there.

Thank you, residents. Thank you.

CHAIRMAN BARBIERI: You're welcome.

If there's nobody else who wants to speak, we'll close the public portion. Did I catch everybody that submitted a card? Okay.

Yes, sir.

MR. KINO: Here's the bad news again. Greg Kino again. Just -- I'll be as brief as I can, but I think it warrants just a little bit of a rebuttal here.

The only technical issue that I think that was really brought up by anybody of any expertise was the traffic. Two issues were raised.

One was that Roan Lane wasn't taken into account as we prepared the studies, and the other one was a question of when the counts were taken, that it might not have been at the appropriate time.

I'm just going to ask our traffic engineer for 30 seconds to address those real quick.

MR. ORTEGA: Mr. Chairman, Commissioners, my name is Juan Ortega. I'm a registered professional engineer in the State of Florida.

I did the traffic analysis for this project, as well as the shared parking analysis for the project.

We met several times with Palm Beach County. We did four revisions to the traffic study to make sure that we addressed all the comments. We did -- as far as the traffic volumes is concerned, we did trip generation for a regular hotel. This is a business hotel, which means we're basically over-designing traffic.

We did analyze -- we did look at Roan Lane at two different locations. One was Roan Lane in the alley, which is right here (indicating), and we look at Roan Lane at Northlake. That can be found in the traffic study that was approved by the Traffic Division on Section 5, Table 5 and 7.

Level of service on Roan Lane today is level of service B, and it's going to be level of service B at the time of the hotel is built.

Level of service in the county is level of service D. Roan Lane is not a trafficked road, but even though we look at the -- we analyze that road.

If you have any questions, any comments, the -- oh, the data collection was on Roan Lane November 5, 2007, and Northlake and Roan Lane was May 1st, 2006.

The data collection was performed by County staff, not by us. We just took their data to do our analysis.

If you have any other question about traffic, I can answer those questions.

CHAIRMAN BARBIERI: Mr. Kino, I'd like to comment on something.

MR. KINO: Sure.

CHAIRMAN BARBIERI: Several times you've made references to expertise, and you just recently -- again, you said something with respect to the only technical item that's been brought up with any expertise is the traffic, and I just take

issue with your comments.

This Commission gives as much credence to the concerns of those residents as any expert that's sitting in this room, and I just want you to understand that, that this is not just simply based on facts and figures. It's based on how it impacts those people.

MR. KINO: I understand, and I don't -- I'm not offended by that comment because I understand what you're saying.

CHAIRMAN BARBIERI: Okay.

MR. KINO: Their comments are important to us. That's why we met with them so many times and tried to resolve the issues with them.

I'm from a legal standpoint, and factual evidence, they can present it. They can say there's a bus stop down the street. They can say it's pretty or it's ugly because that's an opinion we all get.

We think that there's trash on the street.

That's factual evidence, but opinions onto the technical matters, and I -- and that's what I said in the beginning, I said as to traffic and drainage and crime prevention standards being met or good -- good crime prevention measures, that is for the experts, and that was all I said, and their opinions certainly are important, and we do appreciate those, and I think we've been cognizant of those as we went along.

I just want to recap real quick. There was plenty competent substantial evidence to support this application from Jeff Brophy, the land planner.

There was two variance requests, only two provisions of the code that we did not meet. One was the pervious area, and the other one's hours of operation. They were not self-created.

The pervious area requirement, but for a code provision in the zoning code that has nothing to do with drainage, it's just some language in there, we do meet all the County's drainage requirements, and that's what pervious area's about.

We meet the pretty standards of the zoning code because the grass parking is green, so we have 37 percent on the remaining parcel of the church. So that exceeds the 30 percent.

So it's just the language in the code that we, unfortunately, have to deal with, but it was staff-initiated that we acquire that parcel and bring that in, and that issue arose later on.

The hours of operation, there's been plenty of testimony about the type of operation this is. We don't even think we need to be here for a variance for that, but staff said that we need to apply for it.

Our hours of operation are limited for the office. It does not have typical hotel characteristics. This Board -- this Commission has recently approved a variance for the Morgan Hotel. That was a full service hotel with restaurants and everything else and was open 24

hours. We don't have that situation.

And we think that certainly you should be able to support this if that's your desire.

On the rezoning, staff supports the rezoning request to commercial. The conditional use was their concern.

There has been plenty of testimony about the compatibility of an extended stay hotel, which is probably the closest commercial use you could have to residential because people live there, and they live there for extended periods of time, sometimes a month, sometimes two, but all on a weekly basis.

The other commercial uses that staff felt that were appropriate included retail and a commercial laundry. That's included in the staff report.

And all due respect, I can't imagine a coin-operated laundry or a laundry that stays open 'til 11:00 o'clock or retail is more compatible than an extended stay hotel that operates more like an apartment unit but with three people on site all the time with all these crime prevention and safety measures in place.

I'm not going to belabor. I had other things to say about the testimony. I think it's pretty clear.

We thank Palm Beach Gardens for their input. I do need to know -- let you know, though, and I say this with some risk because I do work in the City.

We had made great efforts -- they never contacted us before taking that position on the council level about what the project was. As far as they knew, it was the Inns of America across the way. That is a problem for Gardens. It operates by the hour, by the night, and we are not that.

We have made several attempts to meet with them. We have never gotten any specific objections on traffic after repeated requests in writing.

We've had set up -- tried to set up meetings with the Police Department to talk about what we're trying to put in place and have joint meetings with the Sheriff's Office. They would not meet with us until they got authorization from the council.

When they finally did, they didn't show because they had apparently a conflict, but we never heard back from them. We've made great efforts to try to make this compatible and address their concerns.

The -- one other, just a technical issue that was brought up is this issue, this alleyway behind the commercial strip being a private right-of-way, that is within my area of expertise. I've reviewed the easements, and that is a publicly dedicated right-of-way, and public may use it, as well as the visitors to the Value Place Hotel.

So we're here to answer any questions. We appreciate your support, and we'll continue to

work with the residents after this meeting to see if we can get any closer.

Thank you very much.

CHAIRMAN BARBIERI: Okay. Commissioner Kaplan.

COMMISSIONER KAPLAN: Mr. Chairman, I've lived in the north county since I've been here in Florida, and so I use Northlake, and I use I-95 several times a week.

I cannot support this proposal, all three of them. I agree with staff's denial except the one where they recommend the change to the commercial, and I'm opposed to that one section.

Other than that, I think the denial is correct.

Because I was concerned, and living in the area, Monday afternoon I met with the petitioner's agents, and before I met with the agents, I drove down to Northlake and up Roan Lane. The entire Roan Lane is residential, private or some rentals.

All the cross streets all the way to the end are residential. This is a residential area, period.

I think, as I said in the prayer, we have to take care of our residents of the county and make decisions for the residents of the county.

When I left Roan Lane, I wanted to go east to Military Trail. When I left Roan Lane, I'm on the ramp onto I-95 going north.

It is going to be difficult -- Northlake, I've traversed over the years, the traffic is getting worse and worse. As we all know, Northlake has been amongst two or three different townships and cities and counties, and so it has grown helter and skelter.

True, Roan Lake -- Roan Lane on Northlake has the gas station that's been there for years. It has the lighting company, and also they've been there for a long period of time.

That does not mean that we should have a commercial establishment such as a hotel.

Further up Northlake I'm concerned that this is opening the Pandora's box to further development, which I think is dangerous. I am firmly convinced in my own mind, after listening to the residents and to all those who were in favor of it, that this hotel is not in harmony and compatible with the use that the homeowners now have there.

It does not conform to the character of the area, and it is disruptive to the character, as well.

For those reasons I will oppose the applications, support staff's position except on changing the designation from residential to commercial.

Thank you.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: Thank you for your comments. I'd like to take a moment to make a motion.

I'd like to move --

CHAIRMAN BARBIERI: Commissioner Zucaro, I'd like to get the comments from the other commissioners.

I'll come back to you to make the motion -- Commissioner Zucaro would like to make the motion so I'd like to hear the comments from the other commissioners.

COMMISSIONER ZUCARO: Please.

COMMISSIONER KAPLAN: Mr. Chairman, may I beg your indulgence? I left one thing out.

We've been getting petitions all over the place from both sides. I went through the petitions of the applicant, and I think we all have them.

As I told my brother commissioner here on my right, he has no problems because as commissioners we have hernia insurance for the size of the papers that we've been getting from staff.

Seriously, on the petitions in support, the petitions have tremendous amount of commercial approvals, and, very frankly, if I had a commercial establishment, I would be in favor of this 'cause it's going to bring in more business, but for the others, residents, I find in here people from Okeechobee, from Riviera Beach and all over the area except the area of the street.

So for that reason I just want to let you know that part of this is puffery and, again, to take it for whatever it's worth.

Thank you, Mr. Chairman.

CHAIRMAN BARBIERI: Commissioner Armitage, you have anything?

(No response)

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: At first I was kind of mixed on this project, the fact that it's so close to an intersection with a high over ramp, I see, you know, difficulty putting in, you know, some residential in this area so I could see the -- this is a transitional use.

Some of the good things about this project, the fact that, you know, it's not a regular hotel, that it would have security and the police and could enhance the area, but my overriding concern is, you know, with the residents and not wanting to put an incompatible and encroach -- incompatible development encroaching into the neighborhood I think probably overrides the fact that I think if this hotel was built, that it would probably work out to be a fairly good neighbor and would probably not create the problems that a majority of the neighbors are thinking, but I'm not supporting this at this time.

CHAIRMAN BARBIERI: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: My comments would mirror Commissioner Anderson's.

When you first look at the proposal and you look at the fact that part of what led this to be here was the applicant following directives

from County staff with regard to purchasing or acquiring a portion of the land.

However, there was a gentleman that spoke whose property borders the north end of the church. When you build a substantial structure of four stories high, when you also factor into the peculiar circumstances of the land as it exists butting I-95, there's the one street that dead-ends, and especially the increased -- the other houses in the area, I'm forced to deny support for this project.

I don't concur with the neighbors' concerns about the type people that this type facility would bring in, but what does concern me is the vastness of this structure, and I also am sympathetic to the fact that if there is a police presence there, it may give a false impression of what this neighborhood is actually about.

Smaller circumstance, yes. This particular one, because of its size, I cannot support.

COMMISSIONER ARMITAGE: I just wanted to add that I commend the petitioner for their efforts to reach out to law enforcement and their apparent beliefs that there should be some background checks, and I think that's a valuable corporate policy.

I would also echo the earlier statements that I think some of the concerns about crime are a bit overstated. I think the residents would be overwhelmingly law-abiding businessmen, as opposed to transients; however, I'm deeply concerned about the impact on the traffic in that area. The traffic is very bad in that area.

And the -- and although it is potentially a low impact use, the time when the folks will be leaving is exactly when that area is having the biggest traffic problems, and I think it would have a tremendous impact on the traffic, so I also cannot support the project.

COMMISSIONER BRUMFIELD: Just one last comment.

The other thing I wanted to address is hopefully this doesn't lead to a dichotomy between the neighbors and the church which is currently sitting there, even though there are different philosophies of thought.

Part of the comments that disturbed me were the fact that at the end of the day the people in the church go home, but they are a part of your community, and I think they're trying to be a viable part of your community.

So whatever happens from this, I hope that there is still the united effort between the church and also the members of the community to determine what's best for that community, and this doesn't become something that draws a line between the neighbors and the church.

CHAIRMAN BARBIERI: Okay. Before I go back to Commissioner Zucaro, I have a couple comments, too.

I told Mr. Brophy when I met with him that

I was going to have to be convinced that this was a good project, and I'm not.

I told him that I looked at this as an intrusion into a residential neighborhood. I mean if you look at it, it's making a U around this neighborhood, making it surrounded -- one part of it surrounded on three sides by commercial.

I don't believe it should be commercial. I think that there's other uses, and I don't even -- I wouldn't even like to see a low commercial. I think that it should be used for residential and as one of the ladies said, there's lots of residential along I-95 and the Turnpike, and certainly workforce housing would be an excellent addition to that area I believe.

And we certainly need areas for workforce housing, and that would be a perfect place for it because it would be residential.

I'm also very concerned about there's single moms in there with kids, and it's no surprise to the commissioners that, you know, that I've always pushed for these kind of issues.

I don't like the thought of a hotel bringing people into a neighborhood where there are kids out playing with their bicycles or walking on the sidewalks.

One lady said that there was a newspaper article where a hotel representative was quoted as saying that it's 179 a week. We had testimony from the petitioner that it was higher than that, but if it's 179 a week, certainly for \$800 a month it'd be cheap for somebody to stay there that had other than good intentions.

I just don't believe it should be in that neighborhood. I certainly will support staff's recommendations of denying the hotel usage on that property for all the reasons that I've stated and the other commissioners.

And I'll go back to Commissioner Zucaro who I believe wants to make a motion.

COMMISSIONER ZUCARO: Not anymore, but I do want to make a comment.

We as a body are a quasi-judicial fact-finding body, and our responsibility is to hear the facts and weigh them to make the record for an ultimate action by the County Commission which also will sit as a quasi fact-finding body, but has more interest in the politics of the concerns for the neighbors and the neighbors' voices.

And so when I sat here and -- well, first, when I read through the documents, I found things that I found troubling from a fact-finding point of view, and then today, listening here, the notion of competent substantial evidence is really quite well defined in the law, and, yes, opinion evidence from neighbors on facts is certainly worthy of listening to and should be listened to, but unsubstantiated opinion is not good evidence, substantial competent evidence.

My personal opinion in listening to all of the evidence today is on the issues of drainage, crime, nuisance and hours of operation, of the

residents' voices that came forward there were some voices that would or could be viewed as substantial and competent. Certainly the young lady who stood up and identified herself as a real estate broker.

But on the -- for the most part some of the comments that were made by the residents were even factually incorrect.

I found that the -- on the side of competent substantial evidence certainly the position that Palm Beach Gardens as a municipality and its planner, competent substantial evidence and could be weighed there.

But I come down on the other side of my colleagues here because the substantial competent evidence presented by the applicant is so overwhelming. To the issue of drainage, they have clearly established that it is not -- they are -- the property is contributing to the drainage issues on Roan Avenue -- on Roan Lane now, and when they're finished, it will be not contributing and will be moving the water to a different location.

To the issues of crime, certainly the testimony given by both -- by the -- even the neighbors who talked about the crime issues and the vagrancy issues and the Sheriff's Department's neutral position -- I don't know what a neutral position is -- but the Sheriff's Department's position support that there are activities that would be subsided by the presence of a cooperative organization that is community friendly, that is providing access for the police, that is allowing an opportunity for a higher police presence, and I can't imagine any community that wants to argue against having a higher police presence in their neighborhood as a protective issue, as opposed to a negative, as has been projected today.

To the issue of hours of operation, this organization says its hours are 9:00 to 6:00 every day, has three people on property 24 hours a day that adds even more to the security of the neighborhood.

The staff's position with regards to substantial competent evidence hasn't been supported by any evidence, as far as I can determine.

Staff's position stated on the record here today is their concerns are for the voices of the neighborhood, the voices of the people, that the people are concerned about drainage, crime, nuisance, but the record evidence seems to suggest that the issue of traffic, the County government in their traffic department concurs that the traffic issues are appropriate.

On the issues of drainage and crime, I mean the substantial competent evidence for approval of this project is so overwhelming that I appreciate the sentiment and the desire to protect the neighborhood, but our job is fact finder, not politician.

And so I was going to make a motion to

approve, but -- maybe I will.

I'll make the motion to approve, probably won't get a second from what I've heard so far, but I'll make a motion to approve and -- how do I read these things -- I apologize, folks.

The first -- the first item I want to make the motion to approve on is Item 20, motion to approve a request for Type II zoning variance to allow less than the required 30 percent previous [sic] area.

And I want to argue there that that motion seems completely inappropriate because of my earlier comments. It does not seem to violate any of the pervious area requirements. It's still compatible with the 1974 approval and still maintains the area necessary.

So I'm making the motion to approve simply because it requires a motion and I'd ask -- I'd ask for a second.

CHAIRMAN BARBIERI: All right.

Commissioner Zucaro made a motion for approval -- recommendation of approval.

Do I have a second on the motion?

(No response)

CHAIRMAN BARBIERI: Okay. The motion fails for lack of a second.

COMMISSIONER KAPLAN: In view of that, Mr. Chairman, I'd make a motion to deny a request for Type II zoning variance to allow less than the required 30 percent pervious area for ZV/DOA2007-845.

COMMISSIONER ARMITAGE: Second.

MR. KINO: Mr. Chairman.

CHAIRMAN BARBIERI: Hold on one second.

County Attorney, you want to make a comment?

MR. BANKS: I just want -- since this is a variance application, I just want the Board to state that it's based on the findings in the staff report.

CHAIRMAN BARBIERI: Okay. I have a motion by Commissioner Kaplan, seconded by Commissioner Armitage.

Discussion. Yes, sir.

MR. KINO: I hear you. We hear you. We thought we did a pretty good job, in all candidness, and I think somebody recognized it and appreciate some of the neighbors actually said we made some progress.

Certainly your purview to vote on this. We would respectfully request that we give an opportunity -- given another opportunity to see if we can make this work and request a 30-day postponement, one last shot at it, and we worked on this for two and a half years.

I've heard some comments from the Board, you know, and some of them just weren't factual, and I think we maybe did not do a good enough job explaining some things, and that we want the opportunity to do that.

COMMISSIONER KAPLAN: Mr. Chairman.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: Is it your intention to proceed with a hotel application along the line?

MR. KINO: Well, what I'd like to do is proceed with addressing the impacts of the use because that's --

COMMISSIONER KAPLAN: No.

MR. KINO: -- that's the thing we're talking about. It's not the --

COMMISSIONER KAPLAN: Please answer the question.

Will you -- is it your intention to proceed with an application for a hotel?

MR. KINO: For the extended stay hotel; correct.

COMMISSIONER KAPLAN: Thank you, sir.

Under those conditions, Mr. Chairman, I'll move that we -- I move that we deny the request for a postponement.

CHAIRMAN BARBIERI: We have a motion already on the floor. We have to take that one first.

The first motion was to deny a request for a Type II zoning variance?

COMMISSIONER KAPLAN: Yes.

CHAIRMAN BARBIERI: Okay. We have a second on that motion.

Is there any discussion on that motion?

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: What if you were willing to accept the postponement but were also -- if the postponement failed, then you would want to do a denial on the petition.

CHAIRMAN BARBIERI: All right. So --

VICE CHAIRMAN ANDERSON: Shouldn't we --

CHAIRMAN BARBIERI: Commissioner Kaplan, you want to withdraw your motion to -- let's have a motion on the applicant's request for consideration of a postponement.

COMMISSIONER KAPLAN: You want me withdraw my first request and then just my second motion to deny the application's request for a postponement?

VICE CHAIRMAN ANDERSON: Correct.

COMMISSIONER KAPLAN: I will so do so.

CHAIRMAN BARBIERI: All right. So we have a motion by Commissioner Kaplan to deny the petitioner's request for a 30-day postponement.

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: It's seconded by Commissioner Armitage.

COMMISSIONER ARMITAGE: Yes.

CHAIRMAN BARBIERI: Discussion on that motion.

COMMISSIONER ARMITAGE: I have one question. Is Commissioner Hyman here?

CHAIRMAN BARBIERI: I'm sorry. I should -- for the record I should have indicated Commissioner Hyman's daughter was performing in Coral Gables at 2:00 o'clock, and she said she wished she could have stayed, but she had to get down there, and that's more important than this, unfortunately, which it is.

So we need discussion on this motion. Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All right. All those in favor of the postponement.

VICE CHAIRMAN ANDERSON: Well, let me -- I have a comment.

COMMISSIONER KAPLAN: No.

CHAIRMAN BARBIERI: I'm sorry. You're right.

Commissioner Anderson, go ahead and make your comment first.

VICE CHAIRMAN ANDERSON: Okay. My only comment was that when I made my comment before that I said that there was -- there are positives and negatives to this petition, and the big question is alternate uses, you know.

This hotel could be denied. Something else could go in there that could be worse for the residents.

So the only reason I would support a postponement is that I would probably approve -- vote for approval of this petition if a majority of the residents in the area supported it.

So what I'm saying is I would be willing to give the petitioner another -- a chance to meet with the homeowners and change their mind if that's what they so wish to do.

From what I've heard today I'm not so sure they would be able to convince the homeowners that this would be a net positive for the community. If they did so, then I might reconsider my opinion and vote for this project.

So in that respect I would vote against the denial for a postponement.

COMMISSIONER KAPLAN: I would like to remind my fellow commissioner that one of my other comments was that I was opposed to the staff's position to grant the change in zoning to commercial.

Now, we haven't voted on that yet, but frankly I --

VICE CHAIRMAN ANDERSON: I would not vote in favor of commercial.

COMMISSIONER KAPLAN: That's part of the second -- what I've said before, that would be the second or third motion on this particular matter.

I'm against any commercial use 'cause I don't think that that lends itself to the area of all residential.

So if they come back, I can't support anything that they do commercially. It doesn't make sense to let them come back and go through this whole thing again.

So I'm going to, again, support my motion to deny the application for a postponement and let us make the decision, bite the bullet and make the decision.

VICE CHAIRMAN ANDERSON: Okay.

CHAIRMAN BARBIERI: All right.

VICE CHAIRMAN ANDERSON: No problem.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: Commissioner Kaplan's last comment is a legitimate and appropriate comment, and I think that it is something for our consideration and vote.

But the notion that this decision should be made on the opinions of the residents is not what we're here for.

We're here to manage the facts, and the facts as presented clearly, in my opinion, are substantial and competent to support what the applicant's attempting to do.

There would be almost no point to the -- to try and -- for them to try to get the residents to agree in totality, but if that's what it takes to give this applicant, who's got over two and a half years invested in this property, an opportunity to have at it one more time, then I support the notion of giving them another opportunity to try and resolve their differences with the neighbors.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Just to expand upon what I had said.

When you have an area that is mainly residential and you are bringing in a development that is encroaching on a development, I consider that to be incompatible. So my overriding consideration would be that it is an incompatible use.

But if there's situations with crime in an area or other overriding factors that homeowners in a majority would welcome this neighbor, who I think would be a good neighbor and could be a good neighbor, if the homeowners were willing to accept him as a neighbor, then that would be enough to change my mind and to allow this development to encroach in the neighborhood.

COMMISSIONER KAPLAN: Well, what you're saying, Bill, is that we're listening to people making statements. I've heard statements there's crime, crime, crime.

I also heard someone saying they have -- the residents have their own protection force. They've gone around, they had a meeting last night.

So I have not heard of anything statistically saying that there is murders and rapes and robberies going on. Nobody has produced one record, as my commissioner here wants to say, of proof. I haven't heard anything except the --

VICE CHAIRMAN ANDERSON: No, I didn't say there was crime. I'm just saying if there was some reason that the residents would be more willing to support this development.

COMMISSIONER KAPLAN: But there's no proof of the bogeyman of crime. It's like we don't want workforce housing 'cause it brings crime. That's nonsense. That's an illusory statement to psychologically push, and I haven't heard one piece of evidence that there's a thousand rapes, or thousand murders or thousand burglaries going on there. There is no such proof. I haven't

heard it.

So for my commissioner on my right saying he takes it -- and I must disagree with him.

This Commission is here to bring a sanity to the zoning problems that have -- planning problems. We're here to listen to the residents.

We're here to equitably make a decision. We are not judges as a matter of law.

So on an equitable basis I cannot see where we have to turn our backs on the residents who are obviously, from what we've heard, opposed to this, and as I said, the whole application is incompatible with the area.

I drove down there Monday, this week, just to refresh my memory, and all I saw was residences, residences, residences up and down Roan Lane, up and down the cross streets, and I don't see why we should not protect our residents in our community.

COMMISSIONER ZUCARO: A point.

CHAIRMAN BARBIERI: Okay. Excuse me. No -- no clapping, please.

Let's not beat a dead horse here, Commissioner Zucaro. Go ahead.

COMMISSIONER ZUCARO: Okay. Just -- I mean it is not an appropriate statement to say that we are concerned -- not concerned or concerned about the politics and the emotions of the day, but we are fact finders. We create the record.

Now, I tend to doubt that there'll be -- well, I don't know what the applicant might or might not do, but our job is to create a record for later review, first by the County Commission and then conceivably by a Circuit Court.

We are arbitrators of the law now. We are not arbitrators of the politics.

End of my -- you know, I won't beat it any more.

CHAIRMAN BARBIERI: All right. We have a motion on the floor for denial of the request for a postponement.

I just want to make it clear. I don't care if the residents come back here and say that they love the place now and they want it built.

I don't believe it's compatible with the area. I don't believe it should be commercial.

I don't believe there should be transients coming in the neighborhood. It's a 24-hour operation, irrespective of what the petitioner says because if an airplane is delayed and the whole airplane is coming to that hotel, at 3:00 o'clock in the morning you can bet that there's going to be 200 people that are going to be checked in at 3:00 o'clock in the morning.

So it's a 24-hour operation. It's commercial. It's in a residential neighborhood. It doesn't belong there, and for those reasons I will not support a petition to extend the time for him to come back if he's going to come back with that hotel.

So let's call the --

COMMISSIONER KAPLAN: Call the question, Mr. Chairman.

CHAIRMAN BARBIERI: Let's get the vote on the motion.

All those in favor of denying -- how do I want to word this -- in favor of denying the petitioner's request for postponement raise your hand.

COMMISSIONER KAPLAN: (Raises hand)

COMMISSIONER ARMITAGE: (Raises hand)

COMMISSIONER ZUCARO: (Raises hand)

CHAIRMAN BARBIERI: I'll -- and I vote with those four, so Commissioner -- I'm not sure -- 4-2.

MS. ALTERMAN: You were voting for the denial of the request, then it's a 4-2 vote.

COMMISSIONER ZUCARO: I changed my mind. Make it 3-3.

MR. BANKS: Well, then it fails, regardless. The request for postponement failed.

COMMISSIONER KAPLAN: I'd like to have another count, Mr. Chairman.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER KAPLAN: I'm confused on who's voting on what.

CHAIRMAN BARBIERI: Okay. Those commissioners that are in favor of giving the petitioner a 30-day extension or 30-day postponement, please raise your hands.

COMMISSIONER ARMITAGE: Hang on for one second.

CHAIRMAN BARBIERI: Yes.

COMMISSIONER ARMITAGE: I would just ask the commissioner if he could make his motion a little more straightforward.

How about we just vote for granting the petitioner an extension, much more straightforward.

Would you modify your motion saying --

COMMISSIONER KAPLAN: Would you like to make the motion? Make the motion. I'll withdraw my motion. You make your motion. Let's hear what you have to say.

COMMISSIONER ARMITAGE: I move for granting the petitioner a 30-day extension.

COMMISSIONER ZUCARO: Second.

CHAIRMAN BARBIERI: All right. So we have a motion now by Commissioner Armitage, second by Commissioner Zucaro to give the petitioner a 30-day postponement, extension.

All those in favor of giving the 30-day postponement to the petitioner please raise your hand.

COMMISSIONER BRUMFIELD: (Raises hand)

VICE CHAIRMAN ANDERSON: (Raises hand)

COMMISSIONER ZUCARO: (Raises hand)

CHAIRMAN BARBIERI: The record should reflect Commissioner Brumfield; Commissioner Anderson; and Commissioner Zucaro are in favor of giving the petitioner 30 days.

Those opposed.

COMMISSIONER KAPLAN: (Raises hand)

COMMISSIONER ARMITAGE: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Kaplan; Commissioner Barbieri; and Commissioner Armitage.

COMMISSIONER KAPLAN: Motion fails.

MS. ALTERMAN: Fails.

CHAIRMAN BARBIERI: Motion fails?

COMMISSIONER KAPLAN: Motion fails.

May we move on to the case at issue?

Now we're back to my original motion on ZV/DOA2007-845 to deny a request for Type II zoning variance to allow less than the required 30 percent pervious area.

CHAIRMAN BARBIERI: Do we have a second on Commissioner Kaplan's motion?

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Second by Commissioner Armitage.

Any discussion --

MR. BANKS: And here I'd like to say this is based on the staff report and the evidence that was presented at the public hearing.

CHAIRMAN BARBIERI: Commissioner Kaplan, do you agree to that? You agree to what the County Attorney said?

COMMISSIONER KAPLAN: Yes.

CHAIRMAN BARBIERI: That's part of the motion.

COMMISSIONER ZUCARO: For purposes of the record the staff report, we -- we would be -- if we -- since we're doing that, we're accepting the proposition that staff's conclusion that this has to meet the current conditions, as opposed to the -- the church has to meet the current conditions, as opposed to the 1974 conditions has to be recognized. That's what we're doing.

And in either regard, we are -- the 20 and 30 percent issues are met by the staff report.

So to deny is a -- it doesn't follow logically the issues.

COMMISSIONER KAPLAN: The staff is our expert on planning and zoning, and they said it does not meet the code. I am prepared to accept their position.

COMMISSIONER ZUCARO: But they're making a judgment call on which of the -- which of the -- on which of the standards are in effect because of the sale of the land.

CHAIRMAN BARBIERI: Let's hear from the Zoning Director.

Mr. Mac Gillis.

MR. Mac GILLIS: If the applicant disagreed -- I made the decision on interpreting the code. That's my authority under the Unified Land Development Code.

There is provisions in the code if the applicant does not agree with the official making the decision, it can be appealed to a hearing officer. That was not done.

COMMISSIONER ZUCARO: Hearing officer being who?

MR. Mac GILLIS: We have hearing officers in the County that that's -- they're designated

just to hear appeals from the officials who interpret the Unified Land Development Code, whether it's the Zoning Director, Executive Director or the County Engineer.

COMMISSIONER KAPLAN: I'll move the question then, Mr. Chairman, to deny the request.

CHAIRMAN BARBIERI: All right. All those in favor of the motion to deny the request for a Type II zoning variance please raise your hands.

COMMISSIONER ARMITAGE: (Raises hand)

COMMISSIONER BRUMFIELD: (Raises hand)

COMMISSIONER KAPLAN: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Armitage; Commissioner Brumfield; Commissioner Kaplan; Commissioner Barbieri.

COMMISSIONER KAPLAN: I move to recommend denial of development order amendment to delete land area.

CHAIRMAN BARBIERI: Hold on. The other two I assume you weren't abstaining, you were voting against; correct?

Commissioner Anderson and Commissioner Zucaro.

COMMISSIONER ZUCARO: I'm voting against.

VICE CHAIRMAN ANDERSON: I just -- under -- can I make a quick discussion?

CHAIRMAN BARBIERI: Yeah, but the motion failed, 4-2.

VICE CHAIRMAN ANDERSON: Correct.

CHAIRMAN BARBIERI: Passed 4-2, passed 4-2.

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: The only special circumstance I see, and I'm not sure how to -- how to say this exactly, but if you have a piece of land that you've come in for approval, like the church originally, and it has this little extension piece that you maybe are thinking in the future you're going to sell but it's all part of the parcel, and that piece of land you did not really need at the time to get an approval, then now you're coming back later and the church is saying okay, this land, we really didn't need this little section that's really not contiguous to the parcel and we're going to sell it off, that because of the change in the imperviousness, that could, in essence, show a reason why they could be able to sell off this land 'cause originally maybe that was the intent, and they -- if they had known about this future change, they would have not included that little section of land into their church, and so they should have the right to delete it and sell it.

And in the future if this comes back as, let's say, a housing development, I don't see why they should not add that section of land to this parcel for whatever future development instead of making that little section of land stay with the church.

I would be willing to remove that section, regardless of what happens with this parcel, so.

COMMISSIONER ZUCARO: Doesn't it bother

anybody that the reason that the church sold the land to the applicant was at the request of the left hand at the County, the Planning Department, and then they are held to a punishment standard by the right hand, the Zoning Department?

I mean there's -- you can't -- you can't -- I mean we as commissioners take -- we play the hand that's dealt us, but you can't -- you really can't excuse that this problem was caused by either the lack of communication between two departments in the County, or it was -- it was a -- it was a path that could lead to nothing but this outcome.

CHAIRMAN BARBIERI: All right. The Executive Director of the Planning, Building and Zoning Division would like to address that comment, Commissioner Zucaro.

MS. ALTERMAN: Yes, Commissioner Zucaro. Let me just address that.

And staff makes lots of recommendations because they look at projects and try to make them the best they possibly can before they come before you, whether it's Planning or Zoning Division, and that's their job.

It's up to the applicants to do their due diligence to see what kind of effect or implication the recommendation of the staff may have when they come in to do these things.

So -- and, you know, I understand what you're saying, but I think that they're not looking -- the Zoning -- the Planning Division, when it came in for the land use approval, said look, if you square this off, it probably would be a better project.

It's up then to the applicant to say well, if I do that, what are the implications of that.

So I think that to kind of blame the staff for that, there's a third party involved that needs to take some responsibility for what they do, also.

COMMISSIONER ZUCARO: I didn't blame the staff.

I asked if anybody felt that there was a wrong here that should be righted. Okay. The --

MS. ALTERMAN: Well, I think again, if the applicant had come in and said "I can't do that because if I do, after my due diligence, I'm creating another problem" --

COMMISSIONER ZUCARO: My belief is that --

MS. ALTERMAN: -- that's something they sit down and they work out before they come into the process.

COMMISSIONER ZUCARO: But my belief is that they did raise the question, and they were told that they had to move -- they had to apply under this scenario.

They stood here, told us in evidence today that they do not believe that this is applicable to them. They're being forced to do this.

MS. ALTERMAN: Then they had the ability to appeal the decision of the Zoning Director, which is what Mr. Mac Gillis told you.

COMMISSIONER ZUCARO: You know, it's been 800 plus days that this applicant's been trying to get something done.

You know, that's a lot of time to -- to try and do one piece of land with one project on it, a lot of time.

There's a whole bunch of tangled nooses inside of this thing that's caused -- in my opinion, caused a lot of money to be spent that shouldn't have been spent.

COMMISSIONER KAPLAN: Let me recommend -- let me suggest to my brother commissioner that the Planning Department's recommendation is in the staff report.

The Zoning Department's recommendation is in the staff report.

They had ample notice to do something which they have failed to do, and it's my also understanding and recollection that Planning suggested or requested, whichever way you want to look at it, that they take this little piece. They weren't obligated.

There was nothing that I read that says that Planning says you must acquire this piece of land. So the applicant made their own decision.

Under those conditions, Mr. Chairman, I move the question. Let's move on.

CHAIRMAN BARBIERI: I think we already did that. That motion was voted on, and we now are ready for the next motion.

COMMISSIONER KAPLAN: Okay. Well --

CHAIRMAN BARBIERI: Second motion on Petition 20, I think is the one we're on.

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: We're on --

MR. Mac GILLIS: Agenda Item 20.

COMMISSIONER KAPLAN: -- ZV2007-1411?

MR. Mac GILLIS: No.

CHAIRMAN BARBIERI: No, 845.

MR. Mac GILLIS: The motion's right on the bottom.

CHAIRMAN BARBIERI: There's a second motion there.

COMMISSIONER KAPLAN: Second motion. Let's vote on that second motion which is the denial -- I heard Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I interrupted with a comment --

COMMISSIONER KAPLAN: Yeah.

VICE CHAIRMAN ANDERSON: -- on the second motion.

COMMISSIONER KAPLAN: As far as -- I'll say this, Commissioner Anderson, I don't disagree with you, and it would not disturb me personally if this motion was denied 'cause I understand what you're saying, and it makes sense, so I'm not too concerned about it because it doesn't affect the totality of the other two motions which I'm more concerned with.

So let's vote on it and see where we're going.

CHAIRMAN BARBIERI: So your motion is to

recommend denial of a development order amendment to delete land area.

COMMISSIONER KAPLAN: That's what staff --

CHAIRMAN BARBIERI: That's your motion?

COMMISSIONER KAPLAN: I'm supporting staff in the motion.

MR. BANKS: We already voted on it.

VICE CHAIRMAN ANDERSON: Not the second motion. It was the first one.

COMMISSIONER ZUCARO: We didn't vote on the second motion. We voted on the first one.

VICE CHAIRMAN ANDERSON: The second motion we didn't -- you want to withdraw that motion and change it or keep the same motion?

COMMISSIONER KAPLAN: No, I want to have it denied. I want to support staff, and I may -- I may vote against it myself.

CHAIRMAN BARBIERI: All right. So we have a motion by Commissioner Kaplan.

It's the second motion on the staff report for agenda Item No. 20.

It was seconded by whom?

(No response)

CHAIRMAN BARBIERI: Nobody. So I don't have a second on the motion.

COMMISSIONER KAPLAN: Second motion denies then; is that correct, because nobody seconded, sir?

CHAIRMAN BARBIERI: I don't have -- I don't have a second on the motion.

COMMISSIONER KAPLAN: Fine. Let's move on to the next one, Mr. Chairman.

CHAIRMAN BARBIERI: Well --

MS. ALTERMAN: I think you need a motion on this to delete this land area --

CHAIRMAN BARBIERI: We need --

MS. ALTERMAN: -- either to delete the land area from the church petition or not delete the land area from the church petition.

VICE CHAIRMAN ANDERSON: I make a motion to delete the land area --

COMMISSIONER KAPLAN: I withdraw that motion, and I make a motion to recommend approval of a development order amendment to delete land area.

VICE CHAIRMAN ANDERSON: I'll second that motion.

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

Any discussion.

(No response)

All in favor.

COMMISSIONERS: Aye.

COMMISSIONER KAPLAN: I'm going to vote in favor, as I said. I have no problem with that.

CHAIRMAN BARBIERI: I'll vote in favor of it, also. I think it should be squared off.

MR. Mac GILLIS: I need to ask the County Attorney.

I don't -- I think you have to recommend denial on this because you're -- what you've done

is -- if the variance is denied, you're creating a non-conformity based on the Zoning Division's opinion on this.

MR. BANKS: They just have an inconsistent recommendation.

CHAIRMAN BARBIERI: Do we want inconsistent recommendations to the County Commission?

COMMISSIONER ZUCARO: That's what you got.

MR. BANKS: You can --

CHAIRMAN BARBIERI: Well, somebody should have explained that to us before we voted on the motion, that we shouldn't be inconsistent.

If it was an inconsistent motion, then we should have been told that before we voted on it, I think. COMMISSIONER KAPLAN: Shall we move on, Mr. Chairman?

MR. Mac GILLIS: I'm confused with the voting. It's bouncing back -- I apologize. I thought he was voting for the same motion as he did on the original.

MR. BANKS: By denying the variance, the deleting land area increases the non-conformity, and so I guess staff's saying that it violates the code.

So you just approved a motion that violates the code.

VICE CHAIRMAN ANDERSON: Okay.

CHAIRMAN BARBIERI: So do we want to reconsider the fact that we just approved a motion that violates the County code?

VICE CHAIRMAN ANDERSON: Or do we want to readdress the motion that denies the variance?

COMMISSIONER ZUCARO: The procedure would be someone in the prevailing side, since we're all on the prevailing side, would make a motion to reconsider.

A second would be required, and then a vote to reconsider would be --

MR. BANKS: Or you can just have inconsistent --

COMMISSIONER ZUCARO: Or we can leave it the way it is.

MR. BANKS: Right.

COMMISSIONER ZUCARO: My personal request is that we leave it the way it is.

I think that this is a real challenge, and I think that the staff should grapple with it, and I think that they should take it to the County Commission with the changes that are apparently being moved forward in the Zoning Department now deal with some of these concerns.

CHAIRMAN BARBIERI: I would just like the -- when you forward it to the BCC, would you at least tell them that Commissioner Barbieri felt that we shouldn't be making a motion to -- and if I would have known that, I would not have voted in favor of it, but I don't think we should be passing motions that violate County code.

Next item, Commissioner Kaplan.

COMMISSIONER KAPLAN: On ZV2007-1411 I move to deny a request for deviation in hours of

operation for a commercial use adjacent to a residential district.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan. Do we have a second on that motion?

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Seconded by Commissioner Brumfield.

Any discussion.

COMMISSIONER ZUCARO: Discussion. There is no violation here. I mean we are create -- we are creating a hypothetical that a plane might not show up with 200 people that are going to stay in 121 rooms, and they might show up at midnight. That's an absurdity.

CHAIRMAN BARBIERI: Commissioner Zucaro, whether my example is absurd or not, the fact is that somebody walks into that hotel at 1:00 o'clock in the morning that has a reservation, somebody's going to open the door and let them in, so that's hours of operation. They are operating the hotel.

If they told me that after 9:00 o'clock the doors are locked and you cannot get into that hotel if you haven't checked in by a certain time like an old dormitory on a university campus, then I would agree that that - there's no hours of operation.

But the fact that they will open the door to let people in in the middle of the night is hours of operation.

It's a business that they're allowing people to check in that they're going to collect a fee from. That's hours of operation.

COMMISSIONER KAPLAN: All right. You going to vote on the motion, Mr. Chairman? We have a second.

CHAIRMAN BARBIERI: Is there any further discussion on the motion?

MR. BANKS: Is that based on the staff report and the evidence --

COMMISSIONER KAPLAN: Yes.

MR. BANKS: -- you heard in the hearing?

CHAIRMAN BARBIERI: All right.

COMMISSIONER KAPLAN: Vote on the motion, Mr. Chairman, please.

CHAIRMAN BARBIERI: All those in favor of the motion please raise your hands.

COMMISSIONER KAPLAN: (Raises hand)

CHAIRMAN BARBIERI: I guess there's two of us.

COMMISSIONER KAPLAN: Motion is denied then.

CHAIRMAN BARBIERI: Motion fails.

COMMISSIONER KAPLAN: Okay.

CHAIRMAN BARBIERI: The other four of you voted in favor -- or opposed to the motion; correct?

COMMISSIONER ARMITAGE: Correct.

CHAIRMAN BARBIERI: Okay. Two to four.

COMMISSIONER KAPLAN: On ZV2007 --

MR. BANKS: You still haven't voted -- you

voted -- there was a motion to deny the variance, and now it's the --

COMMISSIONER ZUCARO: So then the -- the alternative is a motion to approve the variance.

CHAIRMAN BARBIERI: Are you making that motion?

COMMISSIONER ZUCARO: I am making that motion.

CHAIRMAN BARBIERI: We have a motion by Commissioner Zucaro to approve the variance. Do we have a second?

VICE CHAIRMAN ANDERSON: I'll second.

CHAIRMAN BARBIERI: Seconded by Commissioner Anderson.

CHAIRMAN BARBIERI: All those in favor of approving the variance please raise your hand.

COMMISSIONER ZUCARO: (Raises hand)

VICE CHAIRMAN ANDERSON: (Raises hand)

COMMISSIONER ARMITAGE: (Raises hand)

COMMISSIONER BRUMFIELD: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Armitage; Commissioner Brumfield; Commissioner Anderson; Commissioner Zucaro.

Opposed.

COMMISSIONER KAPLAN: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Kaplan; Commissioner Barbieri.

Motion carries, 4-2.

MR. Mac GILLIS: There were conditions on Page 308 for that --

COMMISSIONER ZUCARO: With the conditions -- I will alter, I apologize, with the conditions.

MR. Mac GILLIS: Okay. Thank you.

COMMISSIONER KAPLAN: Mr. Chairman, on ZV2007-846 [sic] I'm going to recommend denial of the official zoning map amendment from the Multi-Family Residential Zoning District to the General Commercial Zoning District.

CHAIRMAN BARBIERI: Do we have a second on that motion?

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Second by Commissioner Armitage.

Any discussion.

(No response)

CHAIRMAN BARBIERI: All those in favor of Commissioner Kaplan's motion please raise your hand.

COMMISSIONER KAPLAN: (Raises hand)

COMMISSIONER ARMITAGE: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Armitage; I'm in favor; Commissioner Kaplan.

Opposed.

COMMISSIONER ZUCARO: (Raises hand)

VICE CHAIRMAN ANDERSON: (Raises hand)

COMMISSIONER BRUMFIELD: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Zucaro; Commissioner Anderson; Commissioner Brumfield.

Motion fails.

COMMISSIONER ZUCARO: I make a motion -- well, there's no point in going the other way because it's already three-three.

COMMISSIONER KAPLAN: I recommend denial of a Class B conditional use to allow a hotel.

CHAIRMAN BARBIERI: Do we have a second on Commissioner Kaplan's motion.

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Second by Commissioner Armitage.

All those in favor of the denial for a Class B conditional use to allow a hotel please raise your hand.

COMMISSIONER KAPLAN: (Raises hand)

COMMISSIONER ARMITAGE: (Raises hand)

COMMISSIONER BRUMFIELD: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Armitage; Commissioner Brumfield, I vote in favor of that motion and Commissioner Kaplan.

Opposed.

COMMISSIONER ZUCARO: (Raises hand)

VICE CHAIRMAN ANDERSON: (Raises hand)

CHAIRMAN BARBIERI: Commissioner Zucaro; Commissioner Anderson.

Motion, 4-2.

Which one was that, Bob?

MR. BANKS: The rezoning, what was the vote?

COMMISSIONER ZUCARO: Failed for lack of-- it was 3-3.

CHAIRMAN BARBIERI: Three-three.

MR. BANKS: It was a 3-3 tie, so denied.

CHAIRMAN BARBIERI: All right.

COMMISSIONER ZUCARO: If I leave -- I'm not going to hurt your quorum if I leave --

MR. Mac GILLIS: Want to carry the --

CHAIRMAN BARBIERI: You want to take a break or do it now?

MR. Mac GILLIS: If you want to, we'll carry it over to the next meeting.

VICE CHAIRMAN ANDERSON: Yeah. Let's carry it over to the next meeting.

CHAIRMAN BARBIERI: Carry it over to the next meeting? Okay.

All right. The last item on the agenda was the County -- the workshop. We're going to carry that over to the next meeting. It'll be on next months' agenda.

All right. Is there anything else from the commissioners?

(No response)

CHAIRMAN BARBIERI: Anything from staff?

MR. Mac GILLIS: No.

CHAIRMAN BARBIERI: Okay. Meeting's adjourned.

(Whereupon, the meeting was adjourned at 12:45 p.m.)

* * * * *

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 97, 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 26th day of March, 2008.

Sophie M. Springer, Notary Public