

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, April 3, 2008
9:05 a.m. - 5:10 p.m.
Jane M. Thompson Memorial Chambers
301 North Olive Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

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

Autumn Sorrow, 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

William Cross, Senior Site Planner, Code Revision

Isaac Hoyos, Principal Planner, Planning

Bryce Van Horn, Senior Planner, Planning

Ken Rogers, Dir., Land Development Division

Allan Ennis, Asst. Dir. Traffic Division

Jim Choban, Land Development

Kenny Wilson, Health Department

Bob Kraus, ERM

Michael Owens, School Board Rep.

Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

CHAIRMAN BARBIERI: All right. We'll get started, please.

Staff, would you call roll, please.

MS. HERNANDEZ: Commissioner Bowman.

COMMISSIONER BOWMAN: Here.

MS. HERNANDEZ: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MS. HERNANDEZ: Commissioner Brumfield.

(No response)

MS. HERNANDEZ: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MS. HERNANDEZ: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MS. HERNANDEZ: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MS. HERNANDEZ: Commissioner Zucaro.

(No response)

MS. HERNANDEZ: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MS. HERNANDEZ: We have a quorum.

CHAIRMAN BARBIERI: All right.

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

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

CHAIRMAN BARBIERI: The Zoning Commission of Palm Beach County has convened at 9:05 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 Chamber, 6th Floor, at 9:30 a.m. on Thursday, April 24th, 2008, to take final action on the applications listed -- on the applications we will be discussing today.

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

In addition, anyone who wishes to speak at the hearing will be sworn in and may be subject to cross-examination. In this regard, if any group of citizens or other interested parties wish to cross-examine witnesses, they must appoint one representative from the entire group to exercise this right on behalf of the group. Any person representing a group or organization must provide

written authorization to speak on behalf of that 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.

COMMISSIONER KAPLAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Are they voting?

CHAIRMAN BARBIERI: Yeah, let's see who's voting.

COMMISSIONER HYMAN: Zucaro's out. Both alternates vote?

CHAIRMAN BARBIERI: Both alternates -- both alternates, Armitage and Bowman, will be voting this morning until Commissioner Zucaro gets here.

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

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

CHAIRMAN BARBIERI: All right.

Commissioners, do you have any disclosures, starting with Commissioner Bowman?

COMMISSIONER BOWMAN: I spoke with Martin Perry in reference to the Jupiter RV Park. I also spoke with Geoff Sluggett with the rock quarry.

Excuse me, I spoke with Kerry Kilday, sorry about that, in reference to the RV park, and Dagmar Brahs with the German Club.

COMMISSIONER ARMITAGE: I spoke to Don Dufresne briefly on Item 27.

COMMISSIONER BRUMFIELD: I spoke with the representative of the Item No. 29, Colony at Lake Worth PUD, as well as Kerry Kilday in reference to Jupiter RV Park.

VICE CHAIRMAN ANDERSON: Yes. I spoke to Kerry Kilday on the Jupiter RV Park.

Also, on Agenda Item 16 I spoke to an agent. On Items 20 and 24 I spoke to an agent, and on 29 I had a brief discussion with COWBRA, a member of COWBRA.

CHAIRMAN BARBIERI: All right. I spoke to petitioner's representative on Item 25.

COMMISSIONER HYMAN: I spoke to representatives on Items 11, 14, 20, 21, 24, 25, 27 and 29.

VICE CHAIRMAN ANDERSON: Bingo.

COMMISSIONER KAPLAN: I spoke to petitioner or their agents on Items 19, 22, 29, 25, 20, 16 and 24.

CHAIRMAN BARBIERI: Okay. All right. We'll get started with the agenda.

First I want to make an announcement that we anticipate that this Commission meeting today will be longer than we typically have so we will be breaking for lunch sometime between 12:00 and 1:00, depending on where we are on the agenda.

So those of you that are towards the end of the agenda you can probably plan on late afternoon, and we'll see how things go this morning.

We will also be limiting speakers from the public to three minutes to make sure we can get through the agenda items.

Staff, you want to begin.

MR. Mac GILLIS: Commissioner, there was a request by the applicant and staff and residents to move Item 28, the Levy Learning Center, which is Item 28 on your agenda, before Item 21 on your agenda.

COMMISSIONER HYMAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by **Commissioner Hyman**, seconded by Commissioner Anderson to move agenda Item No. 28 to follow Agenda No. 20.

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: We'll begin on Page 2 of your agenda, the postponed items.

Item No. 1, ZV2008-089, Westgate Station. We do need a motion to postpone this 30 days to May 1st, 2008.

VICE CHAIRMAN ANDERSON: So moved.

CHAIRMAN BARBIERI: Item No. 1.

Is there anybody here from the public to speak on Item No. 1, ZV2008-089?

(No response)

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

COMMISSIONER KAPLAN: Not hearing anybody in opposition I move to postpone Item No. 1 for 30 days to May 1st, 2008.

COMMISSIONER HYMAN: Second.

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

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, ZV2007-1617, Westgate One, postponed to May the 1st, 2008.

We don't need a motion on this. It's by right.

CHAIRMAN BARBIERI: All right. If there's anybody here to speak on agenda Item No. 2, it's being postponed for 30 days to May 1st, 2008.

CHAIRMAN BARBIERI: No. 3.

MR. Mac GILLIS: Okay. Item 3, Z/DOA/CA2007-1185, Winners Church, request to postpone 60 days to June 5th, 2008.

We need a motion.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak to speak on Item No. 3, Z/DOA/CA2007-1185?

(No response)

COMMISSIONER KAPLAN: Not hearing any, I'll move Item 3 to postpone 60 days to June 5th, 2008.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

The record should reflect that Commissioner Zucaro is here, and Commissioner Bowman will not be voting on any of the agenda items.

MR. Mac GILLIS: Next item is Item 22, found on your add and delete agenda, ZV2007-2016, Marquez-Jones PUD, postponed to 30 days, May 1st, 2008.

We need a motion on this item.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak -- I'm sorry, was that on four?

MS. HERNANDEZ: Item 22 on the add delete.

MR. Mac GILLIS: For 30 days to May 1st, 2008.

CHAIRMAN BARBIERI: Which agenda item?

MR. Mac GILLIS: I'm on Item 22 on your add and delete. It's the Marquez-Jones PUD.

We're on the postponed items.

CHAIRMAN BARBIERI: Okay. I'm sorry.

All right. Is there anybody here to speak on Item 22?

(No response)

COMMISSIONER KAPLAN: Not hearing anyone I move on Item 22 to postpone for -- how many days is that?

MR. Mac GILLIS: That's 30 days to May 1st.

COMMISSIONER KAPLAN: Thirty days, May 1st.

CHAIRMAN BARBIERI: All right. We have a motion by Commissioner Kaplan.

Do we have a second?

COMMISSIONER HYMAN: Second.
CHAIRMAN BARBIERI: Seconded by
 Commissioner Hyman.
 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 brings us to Page 3
 of your agenda.

We have one item for withdrawal, Item 4,
 CB2006-947, Lee Road Property.

No motion required on this.

CHAIRMAN BARBIERI: All right. If there's
 anybody here to speak on agenda Item No. 4, that
 one is being withdrawn by the petitioner.

CHAIRMAN BARBIERI: Okay. Next.

MR. Mac GILLIS: That brings us to Page 4
 of your agenda, Item No. 5. We're on the consent
 agenda.

We'd ask the agent to come to the podium,
 state their name and agree to any conditions.

First item is subdivision, Item SD-136,
 found on Page 28 through 34.

There's one condition on this item found
 on Page 29.

There's a motion. Staff's recommending
 approval on this subdivision variance.

CHAIRMAN BARBIERI: Is petitioner here?

(No response)

CHAIRMAN BARBIERI: Do we have a
 petitioner on Item No. 5?

MR. MESSLER: Yes.

CHAIRMAN BARBIERI: Okay.

MR. MESSLER: I'm Tim Messler,
 representing Mr. Jacobs.

CHAIRMAN BARBIERI: Okay.

MR. MESSLER: And the --

CHAIRMAN BARBIERI: Can you speaker closer into the microphone, please?

MR. MESSLER: Sure. Yeah, I'm Tim Messler, representing Mr. Jacobs in this petition.

CHAIRMAN BARBIERI: Okay.

MR. MESSLER: And the -- I didn't read the --

MS. HERNANDEZ: Do you know what the conditions are?

MR. MESSLER: Yeah, yeah. Yeah, we agree to that. No problem.

CHAIRMAN BARBIERI: Okay. Is there anybody here to speak on Item No. 5, SD-136?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving a Type II subdivision variance from the requirement that all streets used for access to residential subdivision lots shall be designed, constructed to minimum local street standards established by the subdivision regulations, subject to all conditions.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion as 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.

MR. MESSLER: Thank you.

MR. Mac GILLIS: Next item is item 6, ZV2007-2015, the Vista Center Lot 19, Pages 35 through 50.

Staff is recommending approval, subject to five conditions found on Page 43.

There's one motion on this item to approve a Type II variance to reduce the pervious area.

CHAIRMAN BARBIERI: Yes, sir.

MR. JACOBSON: Yes. Andrew Jacobson for the petitioner, McCraney Property Company.

CHAIRMAN BARBIERI: All right. Do you agree to the conditions that staff has recommended?

MR. JACOBSON: Yes, we do.

CHAIRMAN BARBIERI: All right. Is there

anybody here to speak to Item No. 6, ZV2006-2015?
(No response)

COMMISSIONER HYMAN: Move approval of
the --

CHAIRMAN BARBIERI: Excuse me. I do have
a card.

Are you Mr. Jacobson?

MR. JACOBSON: Yes.

CHAIRMAN BARBIERI: Okay. All right.

COMMISSIONER HYMAN: Move approval of the
resolution approving the Type II zoning variance
to allow the reduction of the pervious area,
subject to the conditions.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Seconded by -- 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.

MR. JACOBSON: Thank you.

MR. Mac GILLIS: Item 7, ZV2007-1798, Boca
Grove Center Planned Office Business Park, Pages
51 through 71.

Staff is recommending approval, subject to
seven conditions on Page 62 through 63.

There's one motion on this item.

CHAIRMAN BARBIERI: Yes, ma'am.

MS. LENDING: Hi. Lauren Lending, with --
on behalf of the applicant.

We agree to all the conditions.

CHAIRMAN BARBIERI: Okay. Is there
anybody here to speak on Item No. 7, ZV2007-1798?
(No response)

COMMISSIONER HYMAN: Move approval of the
resolution approving the Type II zoning variance
to allow the reduction in the required pervious
area, to allow easement encroachment into the
landscape buffer and to allow for a reduction in
the required right-of-way landscape buffer width,
subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. LENDING: Thank you.

MR. Mac GILLIS: Page 5, Item 8, ZV/DOA2007-1417, Jog Commerce Park, Pages 72 through 113.

Staff is recommending approval, subject to 35 conditions on Page 91 through 97.

There are two motions on these items, one for a variance and one for a development order amendment.

MR. MILLER: Good morning, Commissioners.

Bradley Miller, Miller Land Planning Consultants, representing the applicant.

We're in agreement with all the conditions.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item No. 8, ZV/DOA2007-1417?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving the Type II zoning variance to allow the reduction of required parking, reduction of buffer width for a Type III incompatibility buffer and removal of loading screen wall, subject to the conditions.

COMMISSIONER BRUMFIELD: Second.

COMMISSIONER KAPLAN: Second.

COMMISSIONER BRUMFIELD: Motion made by **Commissioner Hyman**, seconded by Commissioner Brumfield.

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 development order amendment to reduce the square footage, modify/delete conditions of approval, reconfigure the site plan and change uses, subject to the conditions.

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Motion again made by

Commissioner Hyman, seconded by Commissioner Brumfield.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. MILLER: Thank you.

MR. Mac GILLIS: Next item is nine, DOA2007-1800, the Everglades Farm Equipment, found on Pages 114 through 146.

Staff is recommending 58 conditions.

Just for your understanding, this item actually is located in the new Town of Loxahatchee. Generally you wouldn't be seeing this application; however, it is tied to another application, the Palms West Hospital, that's actually in the county. They're trying to delete this acreage for it.

So these conditions would be sent on as recommendations to the Town of Loxahatchee, whether they want to adopt these.

CHAIRMAN BARBIERI: Okay.

MR. Mac GILLIS: So there's one motion for a development order amendment to delete land area.

CHAIRMAN BARBIERI: All right.

MS. TAYLOR: Good morning. Susan Taylor, on behalf of Everglades Farm Equipment.

We're in agreement.

CHAIRMAN BARBIERI: Okay. Anybody here to speak on DOA2007-1800?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving the development order amendment to delete the land area, subject to any 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.

MS. TAYLOR: Thank you.

MR. Mac GILLIS: Page 6, Item 10, ZV2007-1786, Sunoco Lake Worth and Kirk.

Staff is recommending approval, subject to five conditions found on Pages 168 through 169.

There's one motion on this item.

MR. BARRY: Good morning. Chris Barry, with Jon Schmidt and Associates, representing the applicant, and we agree to all the conditions.

CHAIRMAN BARBIERI: All right. I have a card from Ness Herman.

MR. HERMAN: Ross Herman, that's me.

I represent FLA Search Company. We own a parcel just east of the Sunoco.

My major concern is it has on the --

COMMISSIONER HYMAN: I'd like to pull this then off the consent agenda.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: So we can hear your comments fully.

MR. HERMAN: Thanks.

CHAIRMAN BARBIERI: Stick around. We're going to take you first item on the agenda.

MR. HERMAN: All right. Thank you.

MR. Mac GILLIS: Bring us to Item No. 11, PDD/DOA2007-883, Mercedes Maserati Dealership, Pages 184 through 221.

Staff is recommending approval, subject to 80 conditions found on Pages 201 through 213.

There are two motions on this, and there's add and delete conditions.

MR. BRANDENBURG: Good morning. I'm Gary Brandenburg. I represent the applicant.

There's a couple of typos and minor condition modifications that staff has already agreed to make between now and the County Commission, and so with that we are agreeable to the conditions.

MR. Mac GILLIS: Maybe if we could just, for the record, so we're clear, which conditions those are.

MR. BRANDENBURG: Sign Condition No. 4 is going to be deleted.

COMMISSIONER HYMAN: So what goes in its place, Gary?

MR. BRANDENBURG: Nothing. There's no requirement there at all, just deletion of Sign Condition No. 4.

Architectural Condition No. 9 is going to be clarified that you don't have to have all of them, A through E, just one of them.

Condition 10 is clarified so that it doesn't apply to the adjacent property.

MR. Mac GILLIS: Those are all on the add/delete.

MS. HERNANDEZ: That's on the add/delete.

MR. BRANDENBURG: Couple of the conditions are going to be noted as completed, and there's just typos left out.

Condition, sign, i.e. is going to read, "The existing sign is 172 square feet."

COMMISSIONER HYMAN: Staff, you got no problem with all this, right?

MR. BRANDENBURG: And that's all.

COMMISSIONER HYMAN: Conditions?

MR. Mac GILLIS: Wendy's indicating that staff had gone over these.

Some of them are add -- on the add and delete, and some are not, so yes.

CHAIRMAN BARBIERI: Okay.

MS. HERNANDEZ: Yes.

MR. Mac GILLIS: We'll work with the applicant, yes.

CHAIRMAN BARBIERI: Okay.

Is there anybody here to speak on Item 11, PDD/DOA2007-883?

(No response)

CHAIRMAN BARBIERI: Okay. Seeing none, we need a motion.

COMMISSIONER KAPLAN: So moved.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, second by Commissioner -- somebody?

COMMISSIONER ARMITAGE: I'll second.

CHAIRMAN BARBIERI: Armitage.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. BRANDENBURG: Thank you so much.

CHAIRMAN BARBIERI: We need a second motion on that.

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: You have a second motion, Mr. Commissioner.

Recommend approval of development order amendment to add land area, building square footage, to allow vehicle sales and rental and to restart the commencement clock.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Page 7, Item 12, ZV/Z2007-1380, Atlantis Reserve, Pages 222 through 253.

Staff is recommending approval, subject to 21 conditions found on Page 239 through 243.

There are two motions, one for a variance and one for an official zoning map amendment.

MR. BROPHY: Good morning. Jeff Brophy, with Land Design South.

We are in agreement with all the conditions of approval.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item No. 12, ZV/Z2007-1380?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving a Type II zoning variance to allow the building to exceed the height limitation in the Community Commercial Zoning District --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to the conditions.

CHAIRMAN BARBIERI: All right. The 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 official zoning map amendment from General Commercial Zoning District to Community Commercial Zoning District, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion again by Commissioner -- made by Commissioner Hyman, seconded by Commissioner Anderson -- excuse me, 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. BROPHY: Thank you.

MR. Mac GILLIS: Item 13, DOA2007-1803, National Gymnastics at Shadowwood Square, Pages 254 through 278.

Staff is recommending approval, subject to 36 conditions found on Pages 268 through 274.

There's one motion on this for a development order amendment to reconfigure the site plan and add square footage.

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

We're in agreement with the conditions of approval.

CHAIRMAN BARBIERI: Okay. Is there anybody here to speak on 13, DOA2007-1803?

(No response)

COMMISSIONER HYMAN: Move approval of the development order amendment to reconfigure the site plan and add square footage, subject to the conditions.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER KAPLAN: 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.

MR. Mac GILLIS: Page 8, Item 14, ZV2008-282, Okeechobee Place Variance.

Staff is recommending approval.

Found on Page -- conditions are found on Page 291 through 292.

There's one motion on this item, and there are add and delete conditions on the add and delete sheet.

COMMISSIONER HYMAN: Anybody here?

CHAIRMAN BARBIERI: Petitioner.

MR. MOSOLF: Good morning. Scott Mosolf, with Urban Design Studio.

Staff did ask me to read one additional change to the condition. Actually, it's not a condition. It's just the application number is DOA2008-283.

That's all. Everything else is -- we agree to everything else.

CHAIRMAN BARBIERI: So we're changing the

item number?

MR. MOSOLF: Just the application number.

It had -- they had the control number on the previous list, and we're adding the application number.

CHAIRMAN BARBIERI: Okay. You okay with that?

MR. Mac GILLIS: This one.

CHAIRMAN BARBIERI: Staff's okay with that?

MR. Mac GILLIS: Yes.

CHAIRMAN BARBIERI: Is there anybody here to speak on Item 14, ZV2008-282?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving a Type II zoning variance to allow 100 percent palms in the north right-of-way buffer, east compatibility buffer, buffer adjacent to the parking area and to allow signage on a facade not facing a right-of-way, subject --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- to the conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. MOSOLF: Thank you.

MR. Mac GILLIS: Item 15, ZV2008-308, Fogg South Sign Variance, found on Pages 314 through 348.

Staff is recommending approval of this item, subject to six conditions found on Page 326.

There's one motion on this item.

There are also add and delete conditions.

CHAIRMAN BARBIERI: Mr. Kilday.

MR. KILDAY: Thank you. Kieran Kilday, representing the petitioner.

And the conditions are all acceptable, including the add/delete.

CHAIRMAN BARBIERI: All right. Is there anybody here on Item No. 15, ZV2008-308?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving a Type II zoning variance to

allow offsite directional signage with frontage on arterial/collector road, to allow off-site directional signage on a parcel not abutting the parcel identified, to allow off-site directional signage on a parcel without a recorded document ensuring ingress and egress, to allow off-site directional signage greater than 50 feet of the point of ingress, to allow off-site directional signage in excess of one sign per parcel for each access or frontage --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to the conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KILDAY: Thank you.

MR. Mac GILLIS: Page 9, Item 16, Z2007-1809, Old Okeechobee Industrial, Pages 349 through 370.

Staff is recommending approval, subject to four conditions found on Page 360 through 361.

There's one motion on this item for an official zoning map amendment.

CHAIRMAN BARBIERI: All right. Mr. Carpenter.

MR. CARPENTER: Yes. David Carpenter, representing the applicant, and we agree with the conditions.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 16, Z2007-1809?

(No response)

COMMISSIONER HYMAN: Move approval of the official zoning map amendment from the General Commercial Zoning District to the Light Industrial Zoning District, subject --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- to the conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.
COMMISSIONERS: Aye.
CHAIRMAN BARBIERI: Opposed.
 (No response)
CHAIRMAN BARBIERI: Motion carries, 7-0.
MR. CARPENTER: Thank you.

MR. Mac GILLIS: Item 17, Z/CA2006-18 --
 1180, Boynton Beach National Church, Pages 371
 through 397.

Staff is recommending approval, subject to
 17 conditions found on Page 385 through 388.

There are two motions, one for official
 zoning map amendment and a second one for a
 conditional use A to allow a funeral home.

CHAIRMAN BARBIERI: Good morning.

MR. MILLER: Good morning. Bradley
 Miller, for the record, representing the
 applicant.

We're in agreement with the conditions.

CHAIRMAN BARBIERI: All right. Is there
 anybody here on Item 17, Z/CA2006-1180?

(No response)

COMMISSIONER HYMAN: Move approval of
 official zoning map amendment from the Agriculture
 Residential Zoning District to the Community
 Commercial Zoning District --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to the
 conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the
 Class A conditional use to allow a funeral home,
 subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.
 (No response)
CHAIRMAN BARBIERI: Motion carries, 7-0.
MR. MILLER: Thank you.
CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Page 10, Item 18, ZV2008-090, Canyon Town Center TMD, Pages 398 through 422.

Staff is recommending approval, subject to five conditions found on Page 408 through 409.

There's one motion on this for a Type II variance.

MR. KILDAY: Kieran Kilday, representing the petitioner, and the conditions are all acceptable.

CHAIRMAN BARBIERI: Mr. Koehler, did you want to speak on this item? Or is this the wrong -- we have --

MR. CHOBAN: He's on Volvo rents.

VICE CHAIRMAN ANDERSON: We're on 18?

COMMISSIONER HYMAN: That says 19.

CHAIRMAN BARBIERI: I'm sorry. Got to get my glasses strengthened. Excuse me.

Is there anybody here to speak on Item 18?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving a Type II zoning variance to waive the four-foot high visual screen in a right-of-way buffer and to waive the planting requirements for trees, shrubs and hedges for perimeter buffer, subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KILDAY: Thank you.

COMMISSIONER HYMAN: Back to No. 10.

MR. Mac GILLIS: That concludes the consent agenda, that will bring us to the regular agenda, and the first item that was pulled was Item 10, ZV2007-1786.

CHAIRMAN BARBIERI: Petitioner for Item 10 please come back.

MR. Mac GILLIS: Would the Board like a presentation on this or to go to the individual who had an issue?

CHAIRMAN BARBIERI: Yeah, let's see what the issue is from Mr. Herman.

MR. HERMAN: Yes, sir.

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

MR. HERMAN: Sure. Ross A. Herman, and I represent FLA Search Company. We own property adjacent to the Sunoco.

My main concern is in this document I have it says relocation of fence on north and east property lines.

I have -- east property is where my, you know, borders the gas station.

I don't know which they're going to move it because there's a water meter on each side of the fence, plus about two years ago I spent about \$5,000 in landscaping which is right by that fence.

CHAIRMAN BARBIERI: Petitioner, can you --

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

The variance that we're requesting for the relocation of the fence is along the northern side of the property, and it was a negotiation that we worked out with staff regarding the landscaping and the amount of landscaping that we could provide in the buffer.

CHAIRMAN BARBIERI: But I think he's -- you're asking about the east property line?

MR. HERMAN: Correct. That's right, the east.

MR. BARRY: Yeah, this is along the east property line here (indicating).

I believe your property -- is it the commercial property here (indicating)?

MR. HERMAN: Yes, sir.

MR. BARRY: Okay. So the relocation of the fence is actually north of your property line.

MR. HERMAN: Okay.

MR. BARRY: It's next to the residential property.

MR. HERMAN: Okay. So it doesn't actually concern --

MR. BARRY: No.

MR. HERMAN: -- this building here?

MR. BARRY: No. No, there's actually no fence along --

MR. HERMAN: Well, you're --

MR. BARRY: -- because it's a five-foot compatibility buffer between --

MR. HERMAN: Oh.

MR. BARRY: -- your property and --

MR. HERMAN: Okay. I was just concerned,

'cause, like I said, it said along east border, which is mine, and --

MR. BARRY: Yeah.

MR. HERMAN: -- like I said, being two water meters there I didn't see how they could, you know, 'cause I guess that's a utility easement --

MR. BARRY: Right.

MR. HERMAN: -- so they couldn't encroach on that, so basically it doesn't include my property.

MR. BARRY: Correct.

MR. HERMAN: Okay. Thank you.

MR. BARRY: You're welcome.

MR. HERMAN: Thank you.

CHAIRMAN BARBIERI: Okay. Is there anybody else that wants to speak on Item No. 10, ZV2007-1786?

(No response)

COMMISSIONER HYMAN: Move approval of the resolution approving a Type II zoning variance to allow the reduction of buffer width, 100 percent buffer encroachment, elimination of queuing spaces, reduction of parking spaces and terminal islands, reduction of the pervious area and reduction of the front setbacks, subject to the conditions.

COMMISSIONER KAPLAN: Second.

COMMISSIONER BRUMFIELD: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. BARRY: Thank you.

MR. Mac GILLIS: Okay. That brings us to Page 11 of the agenda, Item 19, ZV2008-304, Volvo Rents, Pages 424 through 436.

Staff is recommending approval, subject to five conditions.

There's one motion on this item. Ora Owensby will give you a brief presentation, and add and delete conditions.

MS. OWENSBY: Good morning. This is the Volvo Rents application.

Right now we are passing out to you the applicant's justification for the variance, and you will notice that they did apply for the 25 feet of frontage, and staff has recently determined that the variance should be to go to a zero foot frontage variance.

This property is actually located south of Southern Boulevard and on -- about 125 feet east of Grace Drive, which is east of Congress Avenue, and the parcel is basically landlocked.

It has an existing 25-foot access easement along the south property line, and they have recently agreed to put in another additional access, 25 feet, to the north of that easement. So they effectively have -- they effectively have a 50-foot access into the property.

There is a subsequent application that will be coming before you in the near future for rezoning to light industrial with a Class B conditional use for heavy equipment rental.

The initial site -- proposed site plan is in your packet for information only. That site plan, of course, will be subject to change during the DRO review process.

At this point in time it's only the variance that we're reviewing because any parcel that is landlocked would require a variance on frontage and would require legal access, which is being provided by this access easement.

And a future site plan approval will be conditioned to have a variance from the subdivision code, also, which would allow the access easement to be used.

The surrounding property is Southern Boulevard to the north, and just south of Southern Boulevard is a strip of land in the Town of Glenridge. I believe there are residents here that would like to speak from the Town of Glenridge.

And then there's 170-foot canal to the south of them between them and this property.

To the south and the east of this property is the School Board transportation, their bus maintenance and storage facility.

And then to the east of this property is zoned PO, and it's owned by the Department of Airports, and it's currently vacant property.

Staff recommends approval of this application, primarily based on criteria four, since literal interpretation of the code would -- which requires the 100 feet of frontage would prevent any future rezonings that would be required to be consistent with the plan and would prevent any subsequent development of this property which would be consistent with the surrounding uses.

If the variance were denied, the property would remain in its current multi-family zoning district, which is not consistent with the commercial low industrial future land use designation of the plan.

And as we mentioned, there is a condition

on the add/delete.

"Prior to certification of application Z/CB2008-305, the property owner shall obtain a subdivision variance to allow access through an access easement."

Staff recommends approval, subject to six conditions, including the added condition on the add/delete.

COMMISSIONER HYMAN: Well, let me ask you something. How -- is this a little backwards then, also?

What's the status of the access easement?

MS. OWENSBY: They are recorded easements.

COMMISSIONER HYMAN: Is it recorded?

MS. OWENSBY: Yes.

MS. HERNANDEZ: There's one existing that's 23 feet, and then there's another -- a second one widening it to 50 feet that's proposed.

COMMISSIONER HYMAN: And is this development contingent upon the widening of that easement?

MS. OWENSBY: Yes, it is. Yeah, they --

COMMISSIONER HYMAN: So how does -- how does this move ahead before that gets done? Isn't it putting the cart before the horse?

MR. Mac GILLIS: I think it just came to our attention yesterday? It came to our attention yesterday that this actually -- when they came in -- when they're creating that easement, it should have met the current standards of the subdivision ordinance for the width of the easement, and Engineering can correct me on this.

It should have been 80 feet wide 'cause they're creating a new access into this property.

So Zoning staff looked at it, contacted Engineering and said wouldn't they require a subdivision on not coming in with the full 80-foot on the easement to meet the frontage requirement for zoning, and they agreed that it should have been probably caught at DRO when we certified this, that it would need both concurrent subdivision variance and a zoning variance.

So by granting this it still, because of the condition, they can't move forward, and I believe Mr. Koehler will agree to the condition that they're going to be coming back before you to get the subdivision variance.

CHAIRMAN BARBIERI: Mr. Koehler.

MR. KOEHLER: Good morning, Board members.

My name is Dennis Koehler, the attorney for the applicant, Casco Rental, doing business as Volvo Rents.

Mr. Rick Owens, the vice president and general manager for Volvo Rents is here in the audience in the back of the room.

Also, Land Design South is really the one that prepared the petition. John Burgess and Brian Terry are here to answer any questions.

Let me answer Commissioner Hyman's question.

The easement access for many years had been 23 feet 11 inches. That was expanded to 50

feet on November 20th of last year by the County Commission when they approved an easement exchange agreement between the airports department and my client.

This was all explained in a detailed property history, which I'd be delighted to hand out to you right now. That property history, which dates back to, my involvement, actually back to 1986, and I've been involved in this project for five years. It's been an interesting history, to say the least.

I want to give this to you because I took pains to explain this history. Unfortunately, the history of the access problems was not included in the variance application. It was included in the conditional use Class B application. That's why you don't have it.

If I could give it to you right now. You have eight copies there.

COMMISSIONER ARMITAGE: Move to accept.

CHAIRMAN BARBIERI: We have a motion by Commissioner Armitage to accept it into the record.

Do we have a second?

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Second by Commissioner Brumfield.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KOEHLER: Okay. Having said that, let me point the Board's attention to the graphic on my right, your left.

This shows you the 50-foot wide expanded access easement with a roadway through the middle of it.

As I said, this is in place. It's approved, and the access is proposed to here (indicating).

Actually, back in 1989 Allen Curtis, many of you remember Allen, Jim Choban's and Ken Rogers' cohort on the Land Development Division Staff, opined to the County back like 20 years ago that the narrow easement, 23 feet 11 inches, would be sufficient for the development of industrial and commercial property. That's explained in the handout I gave you.

Again, the history is interesting. I'm not going to burden you with repeating the whole thing.

The bottom line is the access is unusual, requiring the variance before you today.

Staff has recommended approval. They've attached a condition that Ora Owensby just explained, that prior to certification of this application we shall obtain a subdivision variance to allow access through an access easement.

Since the easement already exists, I would

respectfully suggest that additional language be included in that condition, if required by the County Engineer.

I don't think that a variance is going to be necessary, but I'm not certain about that. It's going to be a decision made by the County Engineer, and I would just respectfully suggest that this language I've suggested be added.

COMMISSIONER HYMAN: So if what you're saying is true, then once we approve this, they have to come back, but what Dennis is saying that once they -- we approve this, he's not going to be coming back 'cause he doesn't think he needs to.

MR. Mac GILLIS: Well, I'd defer to Ken or who -- somebody in the Engineering Department will determine whether or not he complies with the condition.

I -- Zoning wouldn't object to it, but I'd defer it to Ken.

MR. ROGERS: Mr. Chair, I would recommend that Mr. Koehler's language be revised to say "if required by Article 11 of the Unified Land Development Code."

And if it's a code requirement, and -- I'm sorry.

If the access meets code requirement, it will be allowed to go. If the access does not meet code requirement, Mr. Koehler and his client will have to get another variance.

We'll leave it that simply.

MR. KOEHLER: If I could comment on that?

Right now we've got 50 feet of width.

That was achieved by an easement exchange with Palm Beach County.

This area shown here in yellow which accesses East Grace Drive is -- the property is owned by the County.

If there's any -- this is the first I've heard that now there has to be an 80-foot wide access.

If that's the case, we'd have to go all the way back through the negotiation process with the Airports Department. FAA review is required.

It took us a year to get this done the first time, and in exchange for expanding that easement we agreed to give the County an easement all the way over here so they could -- the County's property to the west could achieve legal positive outfall into the C-51 canal.

I told you this is an interesting history on this project. I would hope that we wouldn't need to go back and get another variance because then we'd have to acquire an additional easement to meet the 80 feet.

CHAIRMAN BARBIERI: Mr. Rogers.

MR. ROGERS: Mr. Chair, I just offered that substitute language to just take the impression away that the County Engineer is going to be acting out on his own on this.

If Mr. Koehler will agree that the County Engineer's decision will be based upon what is required in the code, I have no problem with Mr.

Koehler's language.

You know, we're discussing something minutiae here. You know, we can move on with this.

MR. KOEHLER: I'll accept Ken's language, alternate language.

CHAIRMAN BARBIERI: Okay.

MR. KOEHLER: Under those circumstances.

CHAIRMAN BARBIERI: Okay.

Is there anybody here to speak on Item 19?

MR. KOEHLER: Mr. Chairman, could I help on this?

Peter and Dada Harholdt (ph) are the neighbors that live across the canal to the northeast.

CHAIRMAN BARBIERI: Yes.

MR. KOEHLER: We've been meeting with them over the last week to address their concerns having to do with landscape buffering.

I believe I'm correct in stating they have no objection to this variance on frontage. Their concern has to do with the actual development of the property, and that it be properly screened from their view.

Again, they're here. They did not sign a card. They just asked me to restate their concerns, and if that's adequate for them, and they're nodding their heads yes, then they're the only people that were interested from the public.

CHAIRMAN BARBIERI: All right.

Despite what Mr. Koehler says, is there anybody else here on Item No. 19 who would like to speak on this?

(No response)

CHAIRMAN BARBIERI: All right. We're back to the commissioners.

COMMISSIONER ZUCARO: Do we need a motion?

CHAIRMAN BARBIERI: We need a motion.

Turn your mic on.

COMMISSIONER ZUCARO: I'll make a motion that the variance be granted.

COMMISSIONER HYMAN: Got to read it.

MR. ROGERS: Can't hear you.

CHAIRMAN BARBIERI: You have to read it, read it, Al.

COMMISSIONER ZUCARO: Motion to adopt a resolution approving a Type II zoning variance to allow reduction of the required lot frontage.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: All right. Motion made by Commissioner Zucaro, seconded by Commissioner Anderson.

Any discussion.

COMMISSIONER HYMAN: Subject to the conditions.

CHAIRMAN BARBIERI: Subject to the conditions.

Was that part of your motion, Commissioner Zucaro?

COMMISSIONER ZUCARO: Yes.

CHAIRMAN BARBIERI: Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KOEHLER: Thank you, Commissioners.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: This brings us to Item 20, CA2007-205, Lake Harbor Quarry, Pages 437 through 469.

Staff is recommending approval, subject to 42 conditions found on Pages 455 through 463.

There is one motion on this.

I believe Barbara Alterman would like to give an introduction to this, one of the first mining applications coming before you.

MS. ALTERMAN: Good morning, Commissioners.

I'm making this presentation today because this has been a longstanding controversial issue with the County, and so I just want to kind of give you the background -- actually, I'm going to try and do the whole presentation. Doug's here to help me when I need help.

This is a conditional use application for a Type III B excavation. It's on 7,600 acres of land in the AP area, which is also known as the Everglades Agricultural Area, the EAA.

The proposal is to excavate approximately six -- almost 7,000 acres of sand and limestone creating two large reservoirs.

The excavation is proposed in two phases and to proceed at a consistent rate of no more than 100 acres per year over the next 71 years until the estimated completion date of 2081.

And the reason it stays under 100 acres per year, just for your information, is so that it doesn't trigger a DRI threshold and have to go through a regional review.

CHAIRMAN BARBIERI: Barbara, are you going to make sure in 2081 that they've done everything they're supposed to?

MS. ALTERMAN: I'm definitely going to be here to watch it, yes. I hope so. I hope not, actually.

The proposed mining activity would provide aggregate materials for the building industry along the east coast and the central portion of Florida.

The rock will be shipped by rail connection to multiple points of destinations along the central and east coast.

The land's current land use is for sugar cane farming and will shift to water storage, and certain areas of the site will remain as active agriculture for the production of sugar cane.

The site plan indicates the excavation to progress in a linear fashion, and U.S. Sugar will continue to farm the land until it's actually mined.

Access to the site will be along the 260-foot frontage right-of-way for County Road CR-827, which is included as part of the South Florida Water Management District canal, L-21.

A little bit of background on this, and I think that's important, and that's starting on Page 437.

As a result of concerns over the environmental impacts of mining and particularly the effects it might have on the CERP projects, the Board of County Commissioners directed that a study be performed. This was back in February of '07, that a study be performed to determine what the impacts of mining in the EAA might be.

The Water Resources manager, Ken Todd, did the study and presented the results of the study in September of '07 to the BCC.

The study was to review the impacts, issues and the existing permitting processes and identify additional data needs and other needs for better permitting coordination.

In December of '07, a workshop was held for stakeholder suggestions and what should be done to evaluate the mining of the impact on the EAA.

The BCC suggested convening a summit in order to include local, state and federal regulatory agencies to discuss and review the impact of mining excavation in the EAA.

Again, I want to go over this just briefly so you have an idea of the history and how long this has gone on and what the Board has done.

At a January, 2008, workshop the BCC directed staff to pursue an agreement with DEP to provide a preliminary review to be done before the Board of County Commissioners hears the petitions in order to determine whether there would be any significant major impacts the DEP would determine before the Board approved it.

The DEP agreed to start to coordinate with the County earlier in the process in order to review these approvals before they actually come to the Board for approval, and actually on January -- on March 19th, just a few weeks ago, the County did hold the mining summit.

A lot of discussion was held, particularly about CERP. Unfortunately, the Corps of Engineers and the Water Management District can only provide information on the existing CERP projects.

What I think some of the Board members were looking for was information on future CERP

projects that could not be provided.

So the agreement is to continue working with the Corps of Engineers and South Florida Water Management District, but in the meantime the important thing is that DEP has agreed that they will do a pre-app conference.

We will be actually incorporating that pre-app requirement into our code so then in the future any mine that comes to you will have gone through that process prior to even coming to you, prior to being certified by the DRO.

So those are the essential issues that have been holding up these mines for quite awhile.

In this case the applicant has already applied for their environmental resource permit from DEP, and DEP has already conducted a preliminary review of the application and has coordinated that with the County.

DEP staff finds no readily apparent concerns based on the applicant's submitted information; however, they have requested additional information and more detailed information from the applicant.

Therefore, there is going to be a condition -- we're proposing a condition which requires the applicant to provide the specific materials to DEP that have been asked for, and that final letter from DEP, which will result from this additional information, must be provided to the Department of -- the Environmental Resources Management, the County's ERM department, before final DRO review and approval.

So, in other words, they've submitted as much information had been asked for initially. They asked for additional information from DEP. We're asking that they get a DEP letter before it gets certified for final DRO review. So we will be putting in a condition in that.

Just a little bit more about this. Just a little bit more about the -- some of the other uses on site.

Over the life of the operation they're going to have separate office and processing facility locations. These will include pond areas, accessory uses consisting of an office building, a maintenance shop, employee parking and above-ground petroleum storage tank facility.

Operational equipment will include a series of overland conveyors and hoppers, rock crushers, et cetera, et cetera.

The current request for the Type III B excavation has been reviewed for its compatibility with the existing agricultural uses.

The ULDC recommends that excavation projects in the EAA be evaluated on a case-by-case basis and comply in accordance with the compatibility criteria in the code.

This particular operation is more than 10 miles from the closest residential area, and, therefore, staff has determined there wouldn't be any negative impact on any residential uses in the area.

The applicant has indicated that their materials will not be hauled off site by truck, but will be transported by railway instead, and, therefore, I believe there's a condition of approval requiring that.

So with all of that, staff is now recommending approval of this mine, subject to the conditions of approval.

And if there's any questions, I'll be happy to answer them.

CHAIRMAN BARBIERI: Do any of the commissioners have a question for Barbara before we move to the petitioner?

(No response)

CHAIRMAN BARBIERI: All right. Mr. Ciklin.

MR. CIKLIN: Yes, sir. My name's Alan Ciklin, representing the applicant.

Ms. Alterman is obviously my co-counsel here, and I'm not going to go over everything she said, but that was really the entirety of my presentation.

Let me just make a few comments, and I'll skip to Page 5 of my presentation. Just a couple of comments, and then I'll move on.

We, first of all, we have some experts here today. Cheryl DeCruz (ph) is our permitting expert, and she is the one that has filed the DEP application.

Just so it's clear, the County's process now will be a preliminary pre-application review with DEP. We are so far beyond that, we've been in this process for months and months and months.

We've gone through three reviews with DEP. We're at the verge of actually receiving our permits.

So they have actually reviewed our application, as opposed to just having a pre-hearing conference.

This application was originally certified in June of '07, and the first public hearing was scheduled for August of '07, and as Barbara has indicated, we've been basically marking time, waiting for the County to go through the EAA study, the supplemental EAA study, the mining summit and then to adopt or to give a thumbs up on the fatal flaw review.

Also with me today is Steve Lamb (ph). Steve is our water quality expert, geology expert, willing to talk to you to tell you more of the scientific information about this, about the water quality.

Let me say this, although Barbara and I will be the only ones around when this mine is finished in 2080, you can trust us because this will be monitored on an annual basis with reports on blasting, water quality.

There's wells that will be dug to test water quality. There's bonds that will be posted for the life of the project to ensure reclamation in the millions of dollars.

So this will be well taken care of, even beyond our time in Palm Beach County.

The water from this mine will be -- meet drinking water quality standards, and perhaps the most important thing, or one of the most important things, this is the mine right here (indicating).

As Barbara indicated, it's already served by rail so no traffic from this, and all of this in green is sugar cane production.

So what's going to happen is once this mine is completed, it'll become a reservoir. The reservoir will continue to irrigate the sugar cane agricultural production in this area, which, the good news about that is when this happens, Lake Okeechobee is no longer required to be drawn down to irrigate that sugar cane.

One last comment.

Barbara mentioned CERP, and the CERP, Comprehensive Everglades Restoration Plan. This is part of CERP right here (indicating). This is being done, I think, by South Florida Water Management District in conjunction with Army Corps of Engineers, and in fact what it has done is incorporate some old mines into the CERP project.

So even if CERP were to encompass this mine, the mine itself can be included in any CERP project without a whole lot of modification.

Just a couple of -- I keep saying and one more thing, but one more thing, because I think it's important.

As you know, the Glades area has a high unemployment rate. The initial start-up cost for this mine will be north of \$55 million, and that has a trickle-down effect.

When you start up, the people need laundromats, they need food, they need dry cleaning, they need parts, they need oil, they need gasoline. So the trickle-down effect is even better than the \$55 million.

The other thing is that at the onset it will create 60 permanent jobs, and the salary plus the benefits with these jobs is about \$60,000 a year.

That includes healthcare protection, medical-dental, scholarships, job training, and the good news is that not -- these jobs don't just come and go, but they will be there for generations for this particular area of Palm Beach County.

And so there are some really significant residual benefits.

As part of our conditions of approval, we have also asked -- been asked to voluntarily commit to a five cent a ton contribution to Palm Beach County for future environmental problems. A nickel a ton doesn't sound like a lot, but over the life of the project it's millions and millions and millions and millions of dollars. So lots of residual effects.

As you can see, when I say it's in the middle of nowhere, it is truly in the middle of nowhere, no residences anywhere in the neighborhood, no communities anywhere, but close enough to South Bay and Belle Glade to provide a

work force.

So, again, Steve Lamb's here to talk about water quality, if you want to hear him. Cheryl DeCruz, who can talk about the DEP and what they review if you want to hear her, but if you don't, we can, after Barbara's excellent presentation, wrap it up.

CHAIRMAN BARBIERI: Do you have anything to add, Ms. Alterman?

MS. ALTERMAN: No, I don't. Thank you.

CHAIRMAN BARBIERI: You're very welcome.

Is there anybody here from the public to speak on Item No. 20?

(No response)

CHAIRMAN BARBIERI: All right. Does any of the commissioners would like to hear from any of the other experts that are here on this petition?

COMMISSIONER HYMAN: I think this is a positive, positive in all aspects, and, you know, I trust that staff has examined this so completely, thoroughly, that I have confidence.

If they've recommended approval, then I'm going to make the motion to approve the Class A conditional use to allow the Type III B excavation --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to the conditions.

COMMISSIONER ZUCARO: Comment.

CHAIRMAN BARBIERI: Yes, sir, Mr. Zucaro.

COMMISSIONER ZUCARO: I'd just like to ask a question as to whether or not the experts' testimony is incorporated into the record already.

I mean these physical documents are in the record?

MR. CIKLIN: Yes. Yes, sir, Commissioner Zucaro. We've done report after report, mining impact study --

COMMISSIONER ZUCARO: Are part of this record?

MR. CIKLIN: Everything is included in the application and the justification already.

COMMISSIONER ZUCARO: Okay.

COMMISSIONER KAPLAN: Move the question, Mr. Chairman.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. CIKLIN: Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: That'll bring us to Page 15 on your agenda, Item 28, that we reordered, Z/CA2007-991, Levy Learning Center, found on Page 772 through 795.

Staff is recommending approval of two motions with 21 conditions found on Page 787 through 791.

Ora Owensby will give a brief presentation on this item.

MS. OWENSBY: Okay. This is a proposal to rezone 0.98 acres of property from the Residential Estate Zoning District to the Residential Transitional Zoning District to allow a private school for 75 children.

The proposed site plan has a 7,783 square foot building, 17 parking spaces, and access is onto Northlake Boulevard.

This property has a lengthy history with the neighborhood. It was originally filed under a separate application April, 2005. After many discussions and postponements it was eventually withdrawn July, 2007.

The current application is a much reduced and revised version of the earlier application from several years ago. It's now a, as I mentioned, a 7,783 square foot building, which is quite a bit of a reduction from the 12,000 originally proposed.

The residents have some concerns about in the original application in 2005, for the intensity of the project. Of course, that intensity has been reduced almost in half.

They were concerned because the original project had access onto Bates Road, which is a privately maintained road. That access has been closed. The proposed access is one point on Northlake Boulevard.

In addition, Engineering has recommended conditions improving Northlake Boulevard, adding a longer turn lane in the median, a longer turn lane, right turn lane, into the site, as well as improved circulation within the site to maintain as much queuing and circulation on site as possible.

The parking has been maintained at 17 spaces, even though the intensity of the site has been decreased; therefore, that should alleviate many of the concerns about not having enough parking on the site.

In addition, Engineering is also requiring a -- I'm sorry, Zoning is requiring an annual report that bus transportation or van transportation be provided to reduce the amount of traffic on this small site.

Building height will be restricted by conditions to a 35-foot maximum height with no openings in the south facade of the building, and even the south stairwell will have a trellis covering the opening and will be vegetated with vines and plantings.

The surrounding properties are the High Point subdivision to the north, which is a mixed

residential, multi-family, single family development.

To the south and west are single family homes in the Square Lake subdivision, and to the east is Holland Day School, which is another private school, which currently has approval for 144 students on two acres.

Staff believes that the concerns have been addressed by the redesigned site layout and reorientation of the building providing a landscape buffer with a six-foot wall at the residents' request along the south and the west property lines and conditions limiting the hours of the school.

Staff is -- we do have two conditions on the add/delete. One is to correct the sign condition to allow a maximum of one sign and to -- on the hours conditions, that's under the use limitations, to delete the limitation on staff use of the property.

So the hours of limitation would apply to school operation only. It would not prohibit the teachers from using the property at other times.

We had no letters of objection. We have been in constant contact, of course, with the community, and staff recommends approval, subject to 21 conditions as amended by the add/delete.

CHAIRMAN BARBIERI: Okay.

Yes, sir.

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

We are in agreement with the conditions of approval, as well as the ones located on the add/delete sheet.

I would just like to clarify the record that the hours of operation are for the school. After the school operation hours there might be parent/teacher conferences, maybe some tutoring.

Also, on Use Limitations 4.a, there's a monitoring request in there. I just wanted that added, 20 percent of the enrolled students, not 20 percent of the overall enrollment.

As we gear up through the years, we might not meet those numbers.

We have met with the neighbors constantly.

I think we're in agreement with everything here.

They would like an additional four-foot fence along Northlake Boulevard, and the owners don't have a problem with that and agree to that.

So I think you'll hear something positive, and we can move on.

CHAIRMAN BARBIERI: All right. I have two cards, one from Joe Martin and one from John Cogburn.

Mr. Martin, would you please come to the podium on my right, and, Mr. Cogburn, would you please go to the podium on my left.

MR. MARTIN: You said your right, correct?

I'm Joe Martin. Thank you, Mr. Chairman.

CHAIRMAN BARBIERI: You're welcome.

MR. MARTIN: Thank you, members of the Commission.

We have met with the petitioners, and we've developed a pretty good relationship with them.

A couple of comments in the package before you today that just may be errors in typing.

On Page 19, or 790, handwritten, their use limitations, Item 4, you have an A and B there. After A we had requested of staff and the petitioner that that be "and" not "or," so we would like to see the "or" deleted, and both of those conditions actually met.

I'm not sure that that's difficult. Mr. Schmidt, do you have a comment on that one?

MR. SCHMIDT: I'm sorry.

CHAIRMAN BARBIERI: Mr. Schmidt, what he'd like done is Item 4 on use limitations, rather than "either/or," he like both of those conditions to be required, so it's an "and" instead of an "or."

MR. SCHMIDT: Yes.

CHAIRMAN BARBIERI: You're okay with that? Staff, you're okay with that?

MR. Mac GILLIS: Yes.

CHAIRMAN BARBIERI: Okay.

MS. KWOK: And while we're at that condition, I don't think we have a problem with that enrolled, the minimum enrollment --

CHAIRMAN BARBIERI: Okay.

MS. KWOK: -- rather than the overall capacity.

CHAIRMAN BARBIERI: You okay with that?

MR. SCHMIDT: Uh-huh, yes.

CHAIRMAN BARBIERI: Okay. Mr. Martin, can you continue.

MR. MARTIN: And, Mr. Chairman, there was one thing that we do not see in the package today that we had requested.

In the landscaping it specifically requests canopy trees on the south and west boundaries, both inside and outside of the wall, and the canopy trees at one point seemed to be inferring pine trees.

We would prefer that they were real canopy trees like oak trees, and I don't see any mention of that in today's package.

MR. SCHMIDT: I -- we don't have a problem with that. That'll be accommodated.

MS. KWOK: Actually --

MR. SCHMIDT: That can be accommodated.

MS. KWOK: Can I clarify No. 7? That is -- if you read the beginning of the sentence, it says, "In addition to the code requirement," meaning it's already required. The canopy trees are already required by our zoning code.

So I think that's why we're silent on that.

CHAIRMAN BARBIERI: Okay.

MR. MARTIN: And I'd like to thank everyone for their cooperation working with the community.

Thank you, Commissioners.

CHAIRMAN BARBIERI: You're welcome. Thank

you for coming.

Mr. Cogburn.

MR. COGBURN: Yes. Good morning. My name is John Cogburn. I'm the owner, designer, builder and operator of the Holland Northlake Day School.

We are the adjacent property to the east of this present property.

I'm here to support and request a postponement until we have a staff look at a problem that has just recently brought to my attention.

The Holland School has not been consulted on this traffic problem that I'm going to bring up to you, even though I have written two letters to the County Engineering and so forth.

It originally started back when they originally applied for this application. We submitted documentation then, and I will present more to you as it goes on.

Number one -- hello? The entrance they propose is on Northlake Boulevard heading east. They've proposed a lane on the side of the lane, a right-turn lane.

This is the entrance to the Holland Northlake Day School.

There's a major turn, as you know, at this intersection. It's a 180-degree turn on a six-lane highway, 45 mile an hour speed limit.

Now, the original proposal for this development was to enter on Bates Road. There is one house in this area and one house here (indicating). The Square Lake has objected to entering on Bates.

Now they are subjecting, and I'll just run the figures by you, 150 potential conflicts with the Holland school and the Levy school on entrance to our school and theirs, plus any other service or staff.

Now, I've talked to, recently, some of your staff members concerning this, and I am sure that Traffic Development can see the reason for a conflict on Northlake Boulevard.

CHAIRMAN BARBIERI: Hold on.

MR. COGBURN: While I appreciate the Square Lake's concern --

CHAIRMAN BARBIERI: Hold on a minute, Mr. Cogburn.

MR. COGBURN: Yes, sir.

CHAIRMAN BARBIERI: I think those of us sitting up here can see the problem, also.

Ken, can you address that issue? Obviously -- how many children do you have at your school?

MR. COGBURN: A hundred and forty-four.

CHAIRMAN BARBIERI: Most of those kids are brought in by their parents in cars?

MR. COGBURN: Absolutely.

CHAIRMAN BARBIERI: So there's going to be a stacking outside the driveway of this site here. How are we going to accommodate getting people in and out of there?

MR. COGBURN: I built stacking into my

facility.

MR. CHOBAN: Is he requesting access be placed back on Bates, is that his solution?

CHAIRMAN BARBIERI: Correct.

MR. CHOBAN: Okay.

CHAIRMAN BARBIERI: Yes. I think that -- I understand the residents' concerns, but, certainly if you look at any of the elementary schools, the stacking in the morning is very long, and there's no way that they're going to -- people that are trying to get to this new site are going to be able to get through that stacking to get into their -- into the site.

MR. CHOBAN: Allan Ennis is here from the Traffic Division.

That was the original entrance, was on Bates Road; however, the neighborhood really had a problem with that, and so access was placed back on Northlake with the right turn lane, so that was the trade-off.

VICE CHAIRMAN ANDERSON: Is your property about twice the size --

MR. COGBURN: Yes. It's this property, and this is the entrance to my property (indicating).

You notice that their entrance lane is a dogleg. This is the third of a first lane of traffic on Northlake Boulevard. That's the right-hand lane.

Now, there's a problem. My students making a turn come in here, and these people coming out within 20 feet of the start of my property to enter.

Now, there would be no conflict, and I repeat, no conflict, of the Holland school and the Levy school if the entrance is right here (indicating), and I almost see an entrance at this area.

If you -- they may have changed their traffic pattern, but we object strongly to this. I consider it a safety problem, and I've had experience in safety organizations.

So with that, I'll leave it to the Commission. I appreciate it.

VICE CHAIRMAN ANDERSON: Are there two entrances on your property or just one?

MR. COGBURN: We have -- we have one entrance and two exits.

There's -- there's an exit at this area and an exit on the road to the south -- to the east at that point.

VICE CHAIRMAN ANDERSON: Well, my only concern is that we're penalizing this petitioner because you're using the frontage of their property for stacking to get into your property and then forcing them to use an entrance off of a side road which penalizes the neighborhood.

Isn't there any way you can rearrange your entrances so that you could -- your parking -- or your stacking would be in front of your property?

MR. COGBURN: Well, I don't think there's any way unless we come through Square Lake from

the south with 144 traffic into our property, which would be -- we'd have to enter off of Military Trail somewhere south two miles to proceed north to enter our property.

VICE CHAIRMAN ANDERSON: No, but I just meant you have three -- three potential entrances.

MR. COGBURN: We have two exits and one entrance.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I just -- I think it's admirable to try to resolve the conflict like that, but I -- you're an existing use, and I can't see making an existing user change his traffic patterns for a new project coming in that's not even built yet.

Listen, we're not -- we're not traffic engineers.

Ken, you know, what's the situation here?

MR. COGBURN: I think a normal traffic engineer --

COMMISSIONER HYMAN: Can we hear from -- hear from staff?

MR. COGBURN: -- Jim, I haven't spoken to him, but I think --

CHAIRMAN BARBIERI: Mr. Cogburn.

MR. COGBURN: -- he'd support the conflict that we would get.

COMMISSIONER HYMAN: Wait, wait.

CHAIRMAN BARBIERI: We're -- we want to hear from our Engineering Department. We want to hear from our Engineering Department. Hold on.

MR. COGBURN: All right. Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. ROGERS: I would like further clarification as to exactly what the perceived problem is.

I -- we cannot tell whether or not the problem is, is that the existing traffic going into the Holland school stacks up on Northlake Boulevard and then would be blocking this entrance/exit that's being proposed into the Levy school or whether or not it's the combination of vehicles on Northlake slowing down to turn in to the Holland school, conflicting with vehicles trying to turn right out of this driveway, and I was just wondering which problem I should address.

CHAIRMAN BARBIERI: Mr. Cogburn, do you have stacking off your property in the morning when the parents are bringing their kids in?

MR. COGBURN: I have had no stacking on the property in eight years on Northlake Boulevard.

We have approximately 10 stacking lanes inside the property.

CHAIRMAN BARBIERI: All right. So there are no cars lined up on Northlake in the morning. They're all inside your property.

MR. COGBURN: There never has been, to my knowledge.

CHAIRMAN BARBIERI: Okay. So, Ken, it's the other issue with them.

COMMISSIONER HYMAN: So then the question

is --

MR. ROGERS: This driveway spacing meets our requirements for access management, and I will represent that this is no different than any other high use side-by-side uses that have driveways at approximately this distance apart.

This is a relatively normal occasion in Palm Beach County. You drive up any major road, U.S. 1, Northlake Boulevard, Military Trail, Congress Avenue, you will see driveway spacings in this general vicinity to each other.

Now, are there potential for conflicts? Yes, there are. Is the degree of potential of conflict any greater than what we have in other types of locations? It's in the same order of magnitude.

Would we classify this driveway proposal as being dangerous? The answer is no. If that had -- if we felt that this was a dangerous situation, we would not have gone back from our recommendation that the driveway be moved -- excuse me.

We would not have gone back on our original recommendation that the driveway be on Bates.

CHAIRMAN BARBIERI: Commissioner Hyman.

MR. ENNIS: Can I speak?

COMMISSIONER HYMAN: Is this -- I'm sorry. Go ahead.

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

Just to add to what Ken has said, I think perhaps to minimize conflicts I would be concerned that the operating hours of the two schools be somewhat different so that you don't have the traffic all coming at the same time to both sites and potentially conflicting.

CHAIRMAN BARBIERI: Well, that would be my concern. I mean this is not like every other situation where there's two commercial establishments next to each other.

These are two schools, and chances are 150 cars are going to be turning into one at the same time 75 cars are going to be turning into the other one.

So there -- it's not a typical situation where we have two driveways that are within the guidelines, but this is a peculiar situation.

COMMISSIONER HYMAN: Let me ask you this. The Holland school said -- you said that you have eight or 10, whatever, stacking lanes.

Does this site plan have sufficient stacking, Ken, so that we don't -- we won't have cars backed up on Northlake going into this site if everybody comes at the same time?

MR. ROGERS: That was one -- that was one of the concerns.

The other thing is that we did recognize that there was a high use driveway immediately to the east, and we wanted to get one set of turning vehicles away -- apart or separated from the other set of turning vehicles.

COMMISSIONER HYMAN: So I'm not sure I followed what you just said.

So there is stacking?

MR. SCHMIDT: If I may --

CHAIRMAN BARBIERI: Pick up the microphone, please.

MR. SCHMIDT: If I may, the way the site's been designed we've tried to get as much stacking on our side, as well. That's why the drive-through came in on this way instead of this way (indicating) so we provided all the stacking around here and two lanes all the way through this.

So at high peak times you don't have one single drop-off. We have actually potential for two.

Additionally, we've provided a whole separate lane here. We're redoing the curbing and access on Northlake Boulevard to provide a separate turn lane for us.

Currently where that dashed line is is where --

COMMISSIONER HYMAN: Oh.

MR. SCHMIDT: -- if there was stacking on the neighbors, where there would be stacking up, so we've got a whole separate lane just for our project.

COMMISSIONER HYMAN: I think that's -- and I trust what Engineering says.

You know, is there going to be a conflict?

Maybe, probably, and the difference is that you've got young kids and -- who go out and greet their parents at their cars sometimes if they're stacked and people not knowing where to maybe stack it, the Holland school might take your lane into the school, maybe, who knows. If they drive like me, definitely. So -- but I trust -- you know that.

So -- but I trust staff, and if you think that it's -- it's safe, then I think that we -- I'm not -- I'm not going to second guess that.

MR. COGBURN: I request that it be delayed until the staff has taken another look at this.

I repeat, moving through the Bates side for the entrance and exit does not have any conflicts whatsoever.

COMMISSIONER HYMAN: Except for the neighbors who don't want it there.

MR. COGBURN: There is one neighbor to the west and one to the south.

I also think from the Square Lake's potential for their objecting, it's a very -- very weak objections. I'll say that.

I know the County has bent over backwards to support the school, and I support the school. I'm very involved, and I know exactly what they're doing and what we're doing, but I do not see that we can have a safety problem generated for the fact -- and I'm going to say one resident in Square Lake that could be affected.

Thank you.

CHAIRMAN BARBIERI: All right, Mr.

Cogburn. Thank you.

We have another card from Mr. Rabadah.

MR. RABADAN: Good morning, Commissioners.

My name is Albert Rabadan. I live at 17689 Rocky Pines Road. It's actually in Jupiter Farms.

I'm here to speak on two other matters, but I wanted to speak on this matter 'cause my children attend the Levy Center, Dr. Levy's center, and it's all the way in Miami in Ives Dairy Road, and I have to travel all the way from Jupiter to Miami to have my children attend this.

That's the type of facility and the type of dedication Dr. Levy has. She's been able to diagnose my children on the special need that they have, and I have to travel all the way to Miami to have my children's needs met.

And like I said, I respect the residents, and I applaud Dr. Levy being able to work with the residents, and that they approve this center, and I think it's a plus to have this center in Palm Beach County.

Thank you.

CHAIRMAN BARBIERI: All right. Is there anybody else here to speak on this item?

MR. MARTIN: Mr. Chairman, just quickly. Joe Martin.

CHAIRMAN BARBIERI: Yes, sir.

MR. MARTIN: So that everyone understands, the original entrance on North Bates Road is on one of the two major access and exit points for all of Square Lake subdivision.

So it's not just one resident that lives across the street that's affected by this. It's everyone in Square Lake.

And we negotiated with the County and Engineering and with the property owners, petitioners, to work it out, and we surrendered our west exit out of Square Lake at that point, which means that we have to go the two miles to Military Trail and Lillian in order to go west on Northlake Boulevard.

They will be changing the median to restrict westward turning out of North Bates. We didn't like losing that access point because it's one of our -- it's our only turning west out of Northlake -- out of Square Lake onto Northlake.

So -- but we've agreed with this traffic pattern, and the County has worked to try to mitigate the problems and the safety.

Our support is contingent on it not being on -- the entrance not being on North Bates.

So I appreciate your supporting the petition as it's submitted.

Thank you.

CHAIRMAN BARBIERI: Okay. Petitioner.

MR. SCHMIDT: I have nothing further for you today.

CHAIRMAN BARBIERI: All right. I have concerns, but if Engineering is sure that that's not going to be a problem there, I guess I can live with it.

I just -- if the gentleman from the other

school is saying he doesn't have any stacking on Northlake, that was my major concern. I figured if there was stacking out there, there was going to be difficulty getting into this site, but he said there's not.

So if there's nobody else from the public wishes to speak, I'm ready for a motion from the commission.

COMMISSIONER HYMAN: I'm going to move approval of official zoning map amendment from Residential Estate Zoning District to the Residential Transitional Zoning District.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER KAPLAN: 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.

COMMISSIONER HYMAN: Move approval of the Class A conditional use to allow the school, elementary or secondary, private, subject to all the conditions as modified.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER KAPLAN: 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.

MS. HERNANDEZ: Commissioner Barbieri.

CHAIRMAN BARBIERI: Yes, ma'am.

MS. HERNANDEZ: Break?

CHAIRMAN BARBIERI: I just got that message.

The court reporter would like to take a break. We're going to take a break for 10 minutes. Please be back at 20 'til 11:00.

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

MR. Mac GILLIS: We're on Item 21, DOA2007-1590, Square Lake North, Pages 469 to 492.

Staff is recommending approval of this request, subject to 35 conditions on Page 482 through 488.

Autumn Sorrow will give you a brief presentation.

MS. SORROW: Good morning, Commissioners.

The applicant is requesting the development order amendment to modify a condition of approval for a use limitation.

Square Lake North was originally approved in 2002 for two office buildings on 2.92 acres with a constriction [sic] that limited the use of medical or dental use.

The applicant states that since the original approval several residential projects have developed within this area, and medical and dental offices are needed to support the newly developed communities.

The 2.92-acre site is located at the northwest corner of Square Lake Drive and Military Trail.

During the original approval medical and dental uses required a conditional use approval; however, through subsequent code amendments medical and dental uses are now allowed within the MUPD zoning district.

The applicant is proposing to amend the use limitation for medical and dental uses so that the DRO approves such uses, whereas, the current condition reads that the restrictive covenant limits the medical and dental uses.

Please turn to Page 470 of your packet for the exact language.

During the original approval concurrency was approved for office, retail and medical-dental uses which generated 1,060 trips a day.

The applicant provided a revised traffic study to illustrate the number of daily trips that would be generated if the entire site became medical or dental uses.

The revised study shows a decrease in trips if the entire site went to medical or dental use. On 470 is where the exact trip calculations are located.

The applicant is not proposing any other modifications to this site or buildings with this DOA.

Staff recommends approval of this, subject to 35 conditions of approval.

Residents of Square Lake North are in opposition to the project. The public's main concern is the prohibition of certain types of medical uses, limitation of the entire site becoming medical or dental uses and the increase in traffic.

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

CHAIRMAN BARBIERI: Are you new?

MS. SORROW: No.

MS. HERNANDEZ: Fairly new.

CHAIRMAN BARBIERI: I'm not suggesting you didn't do a great job, but I just -- I don't remember seeing you before.

MR. Mac GILLIS: Autumn Sorrow, I believe she's done two meetings before.

I apologize for not introducing her. She's been with us five, six months now, Senior Planner.

CHAIRMAN BARBIERI: Senility, you know. Hey, comes with the age.

Is the petitioner here?

MS. GLAS: We are. Dodi Glas, representing the petitioner, with Gentile, Holloway and O'Mahoney.

I'll try to go through this quickly. I know that Autumn hit the high points for us.

Talking about the location of the site on Military Trail, this is just south of Northlake, and it is located adjacent to the Square Lake community.

This is a built structure. The original approval for this was in 2002.

I'm sure you're already somewhat familiar with the Military Trail corridor. These are some properties just south of us, and north of our property going up to Northlake.

This is a view of the site as it exists today.

This is a little closer, the architecture and the development of the site.

The construction of this property occurred -- CO, I believe, was granted the latter part of 2007, and we have been here working with staff trying to move forward with this petition.

We were before you and have postponed as we have had some additional resident conversations.

Again, it's a commercial low piece with MUPD zoning associated with it. It's just under three acres, and the built building, which is one story, is 23,350 square feet.

Right now what shows is the professional office and retail square footage. A large amount of the site is in open space, about 38 percent.

As was referenced by Autumn the existing condition in the resolution, and if you'll look at Item B, the covenant shall limit the following conditional uses.

A identified permitted uses that were discussed at the meeting. B identified some limited uses. At the time, the code, these were conditional use items.

As Autumn also noted, the code has changed since then. These are actually permitted, medical office, and specific was the discussion related to medical office.

The request is to have medical office tenants on the site. We were -- in consulting with staff, the way to do this was to come in to do the development order amendment so that we could address the medical office use because of

the code changes.

We met with the properties. As I noted, Square Lake is adjacent to this community, and they were very involved in the original approval.

From the time that we first got direction from staff about how to handle this, we were directed to talk to them about this, and it was our belief that we had no major issues, and when we originally postponed before the Zoning Commission in February, we were told that the residents had some concern about traffic.

As staff noted, we had provided in our application for illustrative purposes what would happen if the entire building became medical office because that was ultimately what one of the questions was of the residents.

We would generate less traffic on the site in a daily trip count because the retail would obviously have a higher trip gen.

In conversations with the residents, then they also expressed some other concerns about the types of medical uses.

It appeared from the minutes when this was originally proposed that medical uses were discussed, but it was already limited to medical and dental office use.

There's a specific definition in the ULDC that talks about medical and dental offices. It's an establishment where patients who are not lodged overnight are admitted for examination or treatment by persons practicing any form of healing or health-building services, whether such persons be medical doctors, chiropractors, and it goes on and on. I won't -- for brevity I won't read it.

But I do want to note that the ULDC does make distinction already with definitions for laboratories, nursing, convalescents. There are some other distinctions in the code.

Our request is specific to the medical and dental office use.

We've had some conversations. As Autumn has noted, their concerns were about the amount of medical office and about some of the uses.

Mr. Marty Perry is also with me today to talk about some additional restrictions we'd be amenable to to try to accommodate some of the concerns that they have expressed.

MR. PERRY: Good morning. Just briefly, Marty Perry, for the record.

I've had a meeting -- I really just got on board in the last couple of days, but I had a meeting by telephone yesterday with one of the residents, and I met again this morning with three or four of the residents, and we engaged in some discussion.

And I have advised them that we are prepared to restrict medical offices to -- not to exceed 10,000 square feet of the total 23,350 square feet of the center and, secondly, that we would agree that there would be no imaging centers, there would be no medical labs, there

would be no dental labs.

In discussions this morning I have agreed that I would continue to meet with them and discuss these issues, and if they would provide me with specific uses that they have concerns about, that I would consider and discuss with my client further restricting, and there's been some discussion this morning of some items that include things such as wound centers, and I need more definition as to that.

The big concern that I've heard is twofold. One, that there's a concern that certain types of medical offices generate more traffic than the IT books indicate as actual.

You know, I don't know that any of us are prepared to argue those issues. I think general retail probably is much more excessive than any type of medical, but, nonetheless, I mean I'm more than happy to consider specific types of uses and present them to my client for further restrictions, but right now we're prepared to agree to these restrictions here as a further condition to be added, and we request your approval.

And I will continue to meet with the residents up to the time of the County Commission meeting for further discussion, and if we can agree on further restrictions, then so be it.

CHAIRMAN BARBIERI: Commissioner Hyman has a question for you.

COMMISSIONER HYMAN: Marty, what is the objection to having medical there? Is it just traffic?

MR. PERRY: It's traffic, and the issue of there are certain types of medical clinics, for example, that might attract people that might be too many people, might be people that --

COMMISSIONER HYMAN: Like people that live in Square Lake?

MR. PERRY: No, not necessarily, be drawing people from outside the community. I think that's a concern.

And, secondly, the issue of hygiene. You know, are we talking about infectious diseases, things of that nature, you know.

There's people within the community that have some medical background that can speak to this, but, you know, we dealt with this when I was involved with Scripps.

I mean the big issue with Scripps was medical hygiene and how they dispose of that, you know, and there are significant regulations dealing with the issue of medical hygiene.

But, you know, we're in a posture here with -- the whole purpose of this today is really no disrespect to these people, I mean I understand their concerns, and we're willing to continue to try to work with them, but the reality is, is that if I get a cardiologist who wants to lease here -- and I apologize, I thought I had that turned off.

If I get a cardiologist who wants to lease here, I have to come in and request a conditional

use approval. That means I have to come before you, and I have to go before the Board of County Commissioners.

That's the way this is currently set up, and it really makes absolutely no sense, you know, so I'm trying to refine this a little bit.

You know, there shouldn't -- there are certain types of dentists and medical people that really shouldn't be problematic, and to have to burden the County and the bureaucratic process every time we have a tenant makes no sense at all.

So limit it to not to exceed 10,000 square feet. Tell me what types of uses you have a problem with. We'll certainly consider that. We'll be above board with it, but, generally speaking, we'll agree, no labs, medical or dental, you know, and we'll agree no imaging centers.

The concern about imaging centers is the radiation. Well, notwithstanding the fact that the imaging centers are required to put lead around their -- the rooms that the equipment is in, you know, we'll agree. We won't put any in there.

COMMISSIONER KAPLAN: Mr. Chairman.

CHAIRMAN BARBIERI: Commissioner Hyman -- Kaplan.

COMMISSIONER KAPLAN: I've been on this Commission about 20 years already, and we got many requests for medical/dental offices.

I've never heard of opposition to the extent that you have stated, Marty.

I could understand the extent for Scripps, which is a research lab. That's a different ball game, but for an ordinary dental office, medical office, I just can't understand the objection, and I'm certainly going to support your application.

MR. PERRY: Thank you, sir.

I have nothing further. Thank you.

CHAIRMAN BARBIERI: All right. I have several cards, more than several.

I'm going to call you. Would one of you -- as I call you, would one come to one podium, one go to the next so we can continue moving along.

We're going to limit you to three minutes.

Paul Gelb, would you please go to the podium on my right, Joe Martin on the left, and Walter Mulford would be next.

State your name and -- your name for the record?

MR. GELB: My name is Paul Gelb. I am the closest resident to the facility. I have 214 feet of frontage of the -- in back of the building.

A quick background on me, I have worked for 27 years with the Sisters of Charity as a hospital administrator. I have been involved in four building expansions. I have been involved in building imaging center, and I have at one time been forced to buy an entire street with 13 houses on it just so the hospital could expand and do what it has to do.

There are certain limitations, and the

gentleman's right, who would object to medical offices, only mean people.

Well, that's certain medical offices which create up to 10 times the amount of traffic than others would.

Give you for example, Lab One is an existing corporation here which does laboratory work. They have 1,450 square feet and 897 patients a day.

There's a cardiologist who has 1,700 square feet. He has 36 patients.

Add up the math, and whoever came up with the traffic pattern was wrong.

What my problem was that originally this request was extremely confusing because they were asking for 23,000 square feet of medical building.

Twenty-three thousand square foot of medical use is a monster.

That could be anything. That could be a clinic. It could be a wound clinic. I have nothing against wound clinics, but they belong to hospitals.

There's only two existing wound clinics currently. One is at St. Mary's and the other one in Jupiter. It does not belong in a residential neighborhood.

An imaging center. The people who own this property have also owned, and still do, on Burns Road a major center. There was a very, very large cardiology office there, and the residents had major problems because their equipment was running 24 hours a day, and because of the air conditioning, and the noise was unbearable.

The cardiology office moved to Jupiter because it's a strictly doctor-oriented area.

Now we hear 10,000 square feet. We never heard that before. Now we hear that there is a chance to negotiate as to what should be and shouldn't be. This surprises me.

The 23,000 square foot is absolutely 100 percent in contradiction with the agreed-upon deeded covenant which limits the use of this facility for medical purpose, but the word is limited medical purposes.

They ask us for 23,000 out of 23,000. Even in my broken English that's not limited. That's total.

So what I am asking as an interested resident is that we first be given a chance to digest this new information; secondly, that we could come up with some type of an objectionable practices which might or might not agree with them.

We have various residents who are afraid of certain particular medical practices, such as an imaging center. I personally have my own opinion, I built one, but that's my opinion. I wouldn't want to have it opposite side of me, but, nevertheless, I wouldn't be as much afraid of it as a clinic.

I'm asking this Board to consider the new proposal, which we never heard of, consider and

postpone the hearing past the County Commission hearing so that we can negotiate with these people, yes. Eliminating medical use, no, we don't want to do that. Limiting it, yes, and that's all.

Thank you for hearing me out.

CHAIRMAN BARBIERI: You're welcome.

Mr. Martin.

MR. MARTIN: Joe Martin, for the record, and, again, thank you, members of the Commission.

It concerns me to appear twice on the same day's agenda, but it is my neighborhood, and I think it is necessary since both items are on the agenda that we speak out.

Square Lake is comprised of many residents that have been there more than 25 years, and the neighborhood is an old neighborhood. We actually have second generation homeowners with their children so we're already to the third generation of people passing their property down.

It's a neighborhood that intends to stay there. Our mobility and exit is very small, and the overall numbers compared to Palm Beach County in general, not just specifically, our people stay, and so we're going to be there.

And when we're negotiating with the developers, we have that in mind that we're looking at protecting the residents into the future, and when we did the initial discussions on this project, it hasn't been mentioned, but I think the residents have been very reasonable.

We agreed to surrender one road that exited on Military Trail and entered on Military Trail between the two projects. So that road was closed off by the County.

The road adjacent to this property, which was an in and out road, we agreed to it being converted to an exit only, one way out to Military Trail. So we lost ingress and egress on two roads as a result of this project, and I think the neighborhood was pretty reasonable in working with the developer.

DiVosta was good to work with in the original -- this is the first real disagreement that we've had with them. We've been able to negotiate everything out in reasonable times in the past.

And what it really boils down to is when we were looking into the future, recognizing that developers sell their land and there'll be new owners coming in there, and we have the two closest residents to this property have very sensitive health conditions today.

So when you talk about infectious diseases, we could, if we put someone in there that jeopardizes their health, actually give them a death blow. There are two people that are closest to this project have very serious problems with their immune systems.

So that's one of our concerns and they've been long-time residents of Palm Beach County. They've been there paying their taxes, and they

participated in these original discussions.

But we came up with a covenant on the limited use of the facility with the idea that it would require whoever the owner was at the time to come back to the public hearing process and discuss the specifics of a use, and those uses that were identified as limited use in the covenant, medical use is one of them. And because medical practices have different personalities for every practice, some medical practices have the potential of generating tremendous traffic, others, minimal traffic.

So we wanted to have an opportunity to look specifically at what the owner of the project was proposing to do that fell under that covenant of limited use for medical facilities that we're talking about today.

And our problem here is DiVosta and his petitioners have not wanted or could not be specific with us of what doctor, what practice, how many square feet they want to relegate to that particular potential occupant.

They want a broad-brush general approval for the use of medical office space, and we feel that that's in conflict with all of the negotiations that we had with everyone concerned at the beginning of this project.

And so we would like to see the conditions continue as they are and not modified to 10,000 square feet, but we are willing to continue meeting with the petitioner's staff.

Now, they did bring a new consultant on board with Marty. He started calling us yesterday, and he's been very cooperative in trying to move to some kind of agreement, but the last representative of the DiVosta group met with us and County Commissioner Marcus' staff in her north county office.

When we left that meeting, there was an understanding, I think on the part of the commissioner's staff and us, that the petitioner would go back to their office and identify specifically what were the practices and what was the square footage that they wanted to allocate to them so that we could make an intelligent decision, rather than guessing on the impact in the community, and that's where we're at today.

I would like, I'd request, respectfully, that the Board postpone this issue for 30 days and allow us to continue working with DiVosta because I think we can work it out so that everyone is happy, and I'd like to have it with your support going to the Board, rather than having you approve their request of 10,000 square feet.

So that's our request, and I have 121 petition signatures to that effect.

CHAIRMAN BARBIERI: All right. Would you like to hand that to the County Attorney there.

We need a motion to receive his petition.

COMMISSIONER HYMAN: Move to accept.

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.

Next up, speaker is Walter Mulford.

MR. MULFORD: Good morning.

Mr. Martin has basically reiterated a lot of what I was going to say.

I, too, am requesting a postponement in that we got an e-mail last Friday through Autumn Sorrow that -- from the applicant, and it basically said, quote, they feel they have done everything within reason to address residents' concerns without any success; therefore, they wish to proceed without modifying the application.

They did nothing at that point to address our concerns.

Then on the afternoon of Wednesday, April 2nd, yesterday, an attorney for the applicant not present before this, contacted Mr. Joe Martin with a new proposal as he stated.

There's no possible way in three weeks -- they want us to agree now and then put -- be put up against a deadline for the BCC meeting on the 24th, and I don't see, the way we have to work and go back to the residents for approvals, we have the time to do that.

We might be able to meet once with them and get back to the residents, but I don't think if we have to do it twice, there's enough time.

So we respectfully request a 30-day postponement, at least, to give us at least another week to work this out, 'cause I, like Joe, I believe we can work this out.

And my wife and I as residents and owners of two additional properties in Square Lake, one within a 500-foot radius adjacent to this project, strongly disapprove of the application as it is currently being submitted.

And thank you for your time.

CHAIRMAN BARBIERI: You're welcome.

I have three cards of people that don't want to speak, want their comment read into the record.

Donna Morris at 8855 North Bates Road. "I oppose the request to modify the conditions of use that previously were negotiated with developer in the community."

Nancy Wilson, 4972 South K Street. "I wish for the Square Lake North property to be held to the original conditions of approval."

Susie Wilson Anderson, doesn't give her address. "As a resident of Square Lake One I was involved in this project from the start. As residents we tried to negotiate a compromise with the developer that would work for the community."

This resulted in a condition limiting medical and dental usage in this project. The developer now wishes to eliminate this covenant. The community is opposed to this change."

Is there anybody else here that wishes to speak on this item?

(No response)

CHAIRMAN BARBIERI: All right. Back to the Commission.

Staff, do you have anything to add?

MR. Mac GILLIS: No.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I just -- I don't ever recall sitting and deciding which kinds of medical uses are okay, which kinds aren't. I just don't recall it. Have we ever done that?

MR. Mac GILLIS: I don't -- I don't think that specificity. We've gotten down into certain uses, but not that. It'd be difficult for Zoning staff to enforce that through the business tax receipt, as well, so -- but --

COMMISSIONER HYMAN: And, you know, the -- I'm as concerned as the next person. I wash my hands about a million times a day.

I'm concerned about contagious diseases, but I can't for the life of me think how somebody coming to a commercial office building on the outside of Square Lake is going to adversely impact the health of someone in a house within Square Lake. I just can't imagine it.

And we haven't heard anything about traffic, but I don't think that's an issue, really, because it's Military Trail. It's got tons of traffic, anyway.

I don't have a problem. If the petitioner is willing to impose these conditions, they'll probably be back to us, anyway, in several years to get them eliminated, but if they're willing to impose these conditions, then that's fine with me, but I'm hesitant on our own to start imposing conditions on which kind of medical use is acceptable and which kind isn't.

I think it's just -- it's just too detailed. It's too -- I just wouldn't do it.

And I don't see any problem with having a dental lab there, an image center there.

So that's my feeling. I'm going to support the project with the condition or even without the condition.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: I agree with Commissioner Hyman.

Since the petitioner, according to the screen there, is willing to provide additional language in the restrictive covenants that prohibit medical labs, dental labs, imaging centers and to restrict the amount of medical/dental offices use to 10,000 square feet -- and that still stands, Mister --

MR. PERRY: Yes, it does.

COMMISSIONER KAPLAN: Under those conditions I will move to recommend approval of

the development order amendment to modify a condition of approval, together with the conditions as set forth on the screen as I just read out.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: All right.

Discussion. Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I just make the discussion that between now and the BCC you're going to get together with the residents and look over some of those lists --

MR. PERRY: Yes, sir. I have every intention of doing that.

VICE CHAIRMAN ANDERSON: -- as you discussed?

I would only maybe modify the condition that if you -- medical, I think, has lower traffic, and if it's a medical that the residents don't object to, I don't see the need for the 10,000.

If you came to an agreement with the residents over the list of things you want to do, I don't see why the whole building couldn't go medical, as long as there's nothing in there that they're not objecting to, then I don't see -- 'cause you'd probably prefer to have the whole building as medical.

MR. PERRY: Actually, we weren't seeking that at the outset. The reason that the discussion developed relative to the entire building being medical was a request to review it as all medical in terms of traffic, and we made that analysis, and the reality was that the traffic, as all medical, is less than the traffic if it were all retail/commercial.

MS. KWOK: Right.

MR. PERRY: So I, you know, although we would prefer not to have the limitation of 10,000, I thought the 10,000, and the client agrees, was a reasonable limitation in light of the concerns that are expressed.

At one point there was discussion about attempting to limit it to 2300 square feet, and I thought that that was absurd.

MS. KWOK: Okay. I --

COMMISSIONER KAPLAN: I agree with Commissioner Anderson; however, since the petitioner has agreed with the residents, I'm willing to go along with the 10,000, although I don't see any need for it.

But I think that the residents are entitled to feel a little more comfortable in the limitation, and since the petitioner has agreed to it, then my original motion stands to limit it to 10,000.

VICE CHAIRMAN ANDERSON: Well, the -- I would just modify your motion to state that if the petitioner and the residents come to an agreement that states that it can all be medical, that then the 10,000 would be moot.

COMMISSIONER KAPLAN: It's up to the petitioner. I have no objection.

MR. PERRY: We're happy either way.

COMMISSIONER HYMAN: Doesn't matter. Just leave it the way it is.

CHAIRMAN BARBIERI: Maryann.

MS. KWOK: Okay. I just want to clarify something that I believe Marty Perry already said that.

This is on Page 470 of the staff report.

The previous approval in 2002, the traffic concurrency was based on office and retail, so it is much higher than the current 100 percent medical office.

The trip generation per day at that time was 1,060 trips, and the current 100 percent medical/dental office, it's only 802 trips. So it's approximately a reduction of 200 trips per day.

And the second thing is those use limitation conditions back in 2002, we worked very hard with the Square Lake residents and the applicant, and we came up with this list of use limitation, but there are no square footage associated with each of these use.

So we never anticipate that will be 100 percent medical office or one specific use. So if applicant currently agrees to the restriction, then we can support it.

COMMISSIONER HYMAN: Okay. That's fine.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER ZUCARO: I have -- I have a --

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: I have a little bit of a concern.

It seems to me that in 2002, or the previous conditions that were set forth, were negotiated and put in place, and they've been operating under them.

And so the residents are here, and they're saying you made a deal, now, why are we going back to change the deal.

Mr. Perry brings a very interesting point forward, and he says that if -- under the way it's being interpreted now, we have a real serious challenge in our leasing. Every time a medical operation comes forward we have to come back through this process.

There are two conflicting issues there for me. Number one, the residents already have been through a process that they put faith in, and now we're telling them that we're going to put them through that process and create different conditions that could conceivably be requested change in the future.

So I go to the issue, a simple comment of a deal is a deal. That's out there as a policy consideration.

But I'm really challenged by how we as staff or this board can put ourselves in a position to have impact on the private business of a private location in leasing. I mean, these kinds of conditions are way -- I don't see

how they should even be part of an approval process, putting a layer of business transaction that affects an owner of a property by having government have to tell him who he can lease to or what is an approved use of the property.

So I really am challenged. I'm going to vote to support this application. I would vote to support it without the 10,000 square feet, but I think that there is a real challenge intellectually in to how we even come to have this discussion here today.

COMMISSIONER KAPLAN: Move the question.

COMMISSIONER HYMAN: Yeah, move the question.

CHAIRMAN BARBIERI: All right. Did the -- we'll take a vote on the motion.

All in favor of the motion.

COMMISSIONER ZUCARO: Is this the motion with these conditions?

CHAIRMAN BARBIERI: Yes, the motion with those conditions on the screen.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Okay. Motion carries, 7-0.

MR. PERRY: Thank you.

MR. Mac GILLIS: That brings us to Page 12, Item 23, Z/CA/TDR2006-1914, the Residences at Haverhill.

Staff had requested a postponement again on this item from the applicant. It's been postponed for 10 months already.

They're requesting this application to remain in the process.

There's a CRALLS application being processed by the Planning Division which is going to the Planning Commission next month and transmitted to the Board. If it is adopted, it wouldn't become effective probably until either September or October.

They're asking to keep this application into the system so they keep their vested trips.

I believe -- and the applicant can confirm this on the record. I believe they have no intention of going forward with this use for residential. They want to convert it to a daycare center.

So they're asking, which is very unusual

for us to be keeping an application on our agenda in the system just to vest somebody for trips, so staff put it on the agenda.

We're requesting that we deal with this one way or the other today and not continue 'cause it's already been postponed 10 months, and an additional six months is what you'd have to be granting it today for us not to be bringing it back before you until there's some decision made on the CRALLS.

So either we hear it today or the Board could support the applicant's request for a postponement.

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

And staff has been very consistent with their point on postponements, and we were under the impression that there was going to be a public hearing on the CRALLS in which a decision was made before this public hearing, and that was the agreement that we were under.

So we just wanted to go through a bit of the time line. Mr. Mac Gillis has already gone through some of it.

The first Zoning Commission hearing that we came to was in August, and at that meeting the neighbors got up and vehemently opposed the residential application.

So we postponed and went and met with them, and as you'll see later, the applicant owns and operates daycares, so that's his priority right now, and that's what he would like to do.

So when we were up in -- with the neighbors, they actually, you know, signed a petition and are in support of the daycare, but at this point we don't want to withdraw the multi-family residential application because there hasn't been a decision on the CRALLS and how that's moving forward.

So as you can see here, it's support for the daycare, and there are representatives of the neighbors, as well as a representative from the Town here.

If you'd like to hear from them, I believe that they are in support of the postponement, and they actually sent in letters supporting the 30-day postponement, and we're just asking for 30 additional days, and that will allow us to have a public hearing on the CRALLS application, and we've already agreed that if the Planning Commission, and we understand that they're recommending authority, and that they're not making an actual decision on the CRALLS, but if we -- if they recommend approval of the CRALLS, then we will withdraw this application.

And we're also prepared if you want to hear the residential application, we're prepared for that, as well.

COMMISSIONER HYMAN: So they're only asking 30 days, not six months?

MR. Mac GILLIS: Well, there's going to be no decision made on this in 30 days.

COMMISSIONER HYMAN: He says no decision.

MR. SCHMIDT: No final decision, but the Planning Commission will have their hearing on it, and we understand that that's not a final decision.

MR. Mac GILLIS: The applicant's willing, like Lee Road did last month, agrees to that they will withdraw this thing -- 'cause we have to keep notifying the applicants on this thing and the residents.

We just re-advertised it for this meeting.

Because it had been in the system for so long, the last time the Board directed me to re-advertise it.

So we'd have to postpone it again, and then the residents lose touch of when these applications are coming up, and we did have a lot of opposition to this request that's before you, so -- and staff could support one more 30-day postponement on it, but after that I -- it's staff's position is we cannot be inconsistent on how we treat these applications.

MR. SCHMIDT: The neighbors are very involved in -- I mean our adjacent neighbor to the south, I speak with him on a weekly basis, and then the Town is also aware of this petition.

So they've been very involved with the process on the residential application.

CHAIRMAN BARBIERI: All right. Our Executive Director would like to speak.

MS. ALTERMAN: Yes, Mr. Chairman.

Actually, the Board of County Commissioners is going to have their transmittal hearing at which they'll hear this CRALLS application on April 28th.

So -- but that is just transmittal, and Jon is absolutely correct that there could be -- even if they do transmit, there could be objections from the Department of Community Affairs, but at least you will have had a recommendation from the Board of County Commissioners to either transmit it to the Department of Community Affairs or not on the 28th of April.

MR. SCHMIDT: And we understand.

CHAIRMAN BARBIERI: Okay. We have several cards here. One doesn't wish to speak.

Thelma Lee Brandenburg. "I would like a postponement until the CRALLS study for Planet Kids is complete since it was postponed by traffic zoning board."

The other three people wish to speak are Janice Rutan and Howard Brandenburg and William Shoumate.

Would you come up to the podium, please.

MR. BANKS: Do we have a motion to postpone yet?

COMMISSIONER HYMAN: I'm going to move to postpone.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Okay. We have a motion to postpone by Commissioner Hyman, seconded

by Commissioner Anderson.

MR. BANKS: Okay. And then the people can just speak to the postponement.

CHAIRMAN BARBIERI: All right.

If you'd like to come up to the issue of us postponing, would Janice Rutan please come up.

COMMISSIONER KAPLAN: Mr. Chairman, I'd like to make an amendment to that motion to postpone for 30 days with no further postponements.

Let the petitioner know that we will not postpone it again after this length of time.

CHAIRMAN BARBIERI: Who made the motion?

COMMISSIONER HYMAN: I made the motion.

CHAIRMAN BARBIERI: Will you agree to that?

COMMISSIONER HYMAN: I'd rather just leave it the way it is 'cause who knows what happens.

CHAIRMAN BARBIERI: Okay. Yes, ma'am.

MS. RUTAN: I'm Janice Rutan, the town clerk for the Town of Haverhill, and I'm here on behalf of Mayor Kroll (ph), and we are expressing our support for the postponement for the 30 days.

CHAIRMAN BARBIERI: Okay. Thank you.

Howard Brandenburg.

MR. BRANDENBURG: Howard Brandenburg, and I'd like to recommend that we do give them the postponement they request.

We have been here several times opposing the apartments, and we'd like to see the Planet Kids, and I think the commissioners, County Commissioners, are more or less in favor of it from what the grapevine we hear through the -- through it, and most of the residents are one-half to one -- one-half acre to one acre or larger houses, and we do not want to see 39 units built in the immediate neighborhood.

CHAIRMAN BARBIERI: Okay. Thank you.

William Shoumate.

MR. BRANDENBURG: And my wife did want to speak, by the way.

CHAIRMAN BARBIERI: Oh, have her come on up.

COMMISSIONER HYMAN: It's on the postponement.

CHAIRMAN BARBIERI: William.

MR. SHOUMATE: Good morning. I'm William Shoumate, I live at 1231 Haverhill Road North. I live directly south of the property proposed to have this residential apartments.

CHAIRMAN BARBIERI: Mr. Shoumate, all we're asking you to do is tell us whether you're in favor or objecting to the postponement.

MR. SHOUMATE: I'm definitely strongly in favor of the postponement. We've come this far. We got a little further to go. Hopefully, we'll get the daycare.

CHAIRMAN BARBIERI: Okay. Thank you.

Ms. Brandenburg, did you wish to say something other than you're in favor of the postponement?

MS. BRANDENBURG: I just wanted -- as long

as we go for the postponement, I just want to emphasize I am for the postponement so we can have the Planet Kids instead of the residents.

CHAIRMAN BARBIERI: Okay.

MS. BRANDENBURG: If you force it into discussing the whole thing, then I'd like to say more.

CHAIRMAN BARBIERI: Okay. Great. Thank you.

Is there anybody else?

(No response)

CHAIRMAN BARBIERI: All right. The question's been called.

All in favor of the 30-day postponement.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. ALTERMAN: Mr. Chairman, just for the record, that's May 1st.

CHAIRMAN BARBIERI: May 1st.

MS. HERNANDEZ: Commissioner Barbieri, I just want to put on the record that it is an application for residential, so for a daycare use they have to make a separate application, and it'll be reviewed at that time.

So this postponement does not guarantee a daycare use until they make an application.

COMMISSIONER HYMAN: I think they know that.

MR. Mac GILLIS: Okay. That brings us to Item 24, CA2007-1199, Bergeron Sand Rock Aggregate Expansion, 553 to 587 in your backup material.

Staff is recommending approval of this Type III excavation, subject to 45 conditions on Page 572 through 579.

There's one motion for a Class A conditional use.

Doug Robinson will give you a presentation.

MR. ROBINSON: Good morning. Proposed is a Class A conditional use to allow an expansion of a Type III B excavation to excavate approximately 553 acres within the Agricultural Production zoning district at no more than 100 acres per year over the next nine years on 85 percent of the land.

The estimated completion date is 2016.

Star Ranch Enterprises, which is located south and adjacent to this proposal, is their

original proposal back in 1978, and it sits on approximately 392 acres, and it was approved as an excavation and muck removal.

The existing excavation has been in operation for nearly two decades and has demonstrated and performed the excavation activity without any evidence of adverse impact, and the total acreage of the site is approximately 945 acres.

While this request qualifies as an expansion of an existing mine and a new -- and the new land area is contiguous to and directly north of an existing mine area and that this mine existed prior to 1989, which makes it exempt from the Comp Plan, FLUE Policy 2.3-f, the applicant has provided documentation utilizing the existing mine to demonstrate compliance with the criteria of the Comp Plan outlines.

And I want to re-emphasize that this particular mine is smaller intensity, less than 1,000 acres, has a shorter duration and is an expansion of an existing mine.

The applicant has also provided sufficient data to determine a consistency with several policies regarding water quality and water resource protection.

The staff has provided conditions that require ongoing monitoring of archeological resources, submission of an annual report that requires updates as it relates to the uses, permitting and compliance and continued consistency with the Comprehensive Plan and the ULDC requirements.

Therefore, with these conditions the request is consistent with the AP land use designation and the Comprehensive Plan, and staff has recommended approval of this project.

COMMISSIONER KAPLAN: Doug, I notice there's no opposition. Why wasn't this on consent?

MR. ROBINSON: I didn't put it on consent because it was a mine, and it was an issue that everybody was aware of, and if somebody had any kind of opposition, and just the magnitude of the mining operation itself, that's why I didn't put it on consent.

COMMISSIONER KAPLAN: Thank you.

CHAIRMAN BARBIERI: All right. Is there anybody here from the public to speak on this?

(No response)

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

I do need to read into the record two amendments to conditions of approval.

CHAIRMAN BARBIERI: Okay.

MR. SCHMIDT: Monitoring 2 to read now, "As stockpiles of rock or other material shall not exceed a maximum height of 100 feet or the height permitted by the ULDC as may be amended from time to time for Type II, III B excavation, whichever is lower, from the undisturbed average grade."

Also, Use Limitation No. 2, "Prior to site

plan approval the site shall be -- the site plan shall be modified to indicate a 600-foot setback from State Road 27 frontage and be designated as the final phase of excavation. The final phase shall remain in agricultural production."

We're a little bit different than the previous mine that you saw. We're an expansion of an existing.

I do have a full presentation and our experts are here if you have any questions and look forward to your recommendation of approval today.

CHAIRMAN BARBIERI: All right. There are -- do any of the commissioners wish to hear from the experts on this one?

(No response)

CHAIRMAN BARBIERI: We have nobody from the public that's --

COMMISSIONER HYMAN: I'm going to move approval of a Class A conditional use to allow an expansion of the Type III B excavation, subject to all the conditions as modified.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion?

(No response)

MS. HERNANDEZ: We need to look at those conditions between now and BCC.

MR. Mac GILLIS: I haven't had time to see those, and I'm asking the project manager, and he indicates he negotiated with the applicant to work those out between now and the BCC.

MR. ROBINSON: Yes, it was indicated that they -- while we were negotiating, work those conditions by the time we get to BCC for those conditions.

MR. SCHMIDT: Yes, sir. I'm fine with that.

CHAIRMAN BARBIERI: Okay. All right.

COMMISSIONER ZUCARO: Mr. Chairman, may I?

CHAIRMAN BARBIERI: Yes, sir. Commissioner Zucaro.

COMMISSIONER ZUCARO: I find this to be an interesting item, and perhaps this is a general statement and not just specific to this.

I went to the -- I went to the mining summit for my own reasons and listened to the arguments that were presented there and then read the newspaper reports, and I'm not sure that the County Commission has articulated what their feelings are with regards to the policy of the expansion of aggregate mining opportunities.

We have two items on the agenda here today, at least two, perhaps more coming, with regards to aggregate, and it seems that we're moving the ball down the road in preparation for the County, even though they have not articulated clearly their support for aggregate.

I think our role is to judge the merits of the application based upon the evidence that's

presented, and in that regard I'm going to support the application.

But I just wonder, and I speak out -- I speak to my wonderment as to whether or not we are superimposing some kind of -- or we're sort of leading the charge with what is a policy question that remains open at this moment in time.

COMMISSIONER HYMAN: It's before us. The petition's before us.

COMMISSIONER ZUCARO: And I'm supporting the petition, but I make the statement that it would be nice if the -- that when the County Commission finds -- finally takes their position on aggregate mining and its expansion in the County -- and I don't think that they've done that yet, but, again, it's an intellectual statement I make, not specific to the application.

CHAIRMAN BARBIERI: All right.

Are there any other comments?

(No response)

CHAIRMAN BARBIERI: All in favor of the motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 25, ZV/PDD/R2007-1592, the Jupiter RV Resort RVPD, Pages 588 through 635.

Staff is recommending approval of two motions.

COMMISSIONER ZUCARO: Mr. Chair.

MR. Mac GILLIS: Conditions found on Page 21 -- or 21 conditions found on Page 610 through 615.

Ora Owensby will give us a brief presentation.

CHAIRMAN BARBIERI: Hold on a minute.

Commissioner Zucaro, you have a comment?

COMMISSIONER ZUCARO: Yes, I do.

I apologize for being late this morning, but during my tardiness you took disclosures. I'd like to make a disclosure on this item, Item No. 25.

I did receive a phone call from a representative of the applicant who briefly brought it to my attention, very brief discussion, but even with regards to that discussion I will make my decision based upon the evidence that's presented here today.

CHAIRMAN BARBIERI: Thank you. Any other petitions?

COMMISSIONER ZUCARO: Yeah, I also spoke with a representative from Item No. 29, and I will say the same thing at that time if it's necessary.

CHAIRMAN BARBIERI: Okay. Thank you.

Jon, you want to continue?

MR. Mac GILLIS: Ora Owensby will present this item.

MS. OWENSBY: Okay. We have distributed site plans to you. The site plan that's actually in the report is an information site plan that supports the variances requested, and, of course, those variances will be subject to your final decision today.

And it also illustrates an optional layout of the site.

The plans that we are distributing should also have been in the report, of course, and that site plan is the certified plan that will go to the BCC for the rezoning and the requested use.

It also includes an alternative landscape plan for information only which would help to support the request for variances.

The Jupiter RV Resort is approximately one mile west of the Jupiter Farms Road. It's on the north side of Indiantown Road, and it is surrounded by the Cypress Creek natural area.

The request is to rezone 17.21 acres of property from the Agricultural Residential District to the Recreational Vehicle Planned Development District, and that would allow an RV park.

There are four variances being requested.

The rear setback of an existing residence is requested to reduce the setback, to reduce the rear setback of three of the RVs, to reduce the required recreation area and to relocate the perimeter landscaping, and we'll explain the reason for those variances in the report.

The requested use is at this time for a water plant. The water treatment plant has been removed from the request. The wastewater treatment plant has been removed from the request.

Proposed is a project with two phases for 156 RV's. It has a lake of 1.7 acres, a recreation area of 1.4 acres. The recreation area has an 8,000 square foot building.

There is also a 2,584 square foot caretaker's quarters and 40 parking spaces, in addition, of course, to the RV spaces that are on site, and access is from Indiantown Road.

The issue of the water treatment -- wastewater treatment plant was of a major concern to the residents, as well as to our environmental staff.

The concern in that area is that the Cypress Creek natural area is subject to periodic flooding and changes in the water level, and if you put a wastewater treatment plant in that situation, there's a danger of the effluent contaminating the natural area.

And as late as March 20th the applicant and property owner and the Encon have reached an agreement to provide sewer service, limited sewer service, just to this site.

March 24th is when it was executed, and at that time Environmental Resources removed their objection.

Staff was originally not in favor of this project because of that one issue, and that issue has been removed. They will be providing a well and water treatment for potable water.

Another issue is the old Indiantown Road was designated -- portions of old Indiantown were designated as an historic resource by the Board of County Commissioners. The portion of that road which traverses the northeast corner of this site was not designated since it was on private property, and we have requested a condition that that land area would be conveyed to the County as part of the natural area and recreation facilities.

The -- let's see, the other -- another issue -- this one has a lot of issues.

Another issue is the fire break condition by Environmental Resources. Environmental Resources has negotiated with the applicant, and they have agreed to provide a 45-foot wide strip of land on the north, east and west sides of the property as a fire break.

This will have no vegetation, and, of course, removal of the vegetation would not comply with the ULDC requirements for a perimeter buffer, and that led into some of the variances that we'll discuss in a minute.

Staff is also -- in addition to that is the density of the site. The proposed density of about nine -- they're not really units, but RV sites per acre is within the code allowance.

Staff believes that this is a -- this recreational use which is adjacent to a natural area is an appropriate use and is not a compatibility issue.

Landscaping along the Indiantown Road right-of-way, since this is the Rural Residential 10 land use area, staff recommends a varying width right-of-way buffer that expands to 45 feet wide in some places. Code minimum is 20 feet.

This is to provide a meandering natural looking buffer to maintain the rural character and provide a visual buffer. It will also contain native trees, shrubs, a six-foot hedge and a split rail fence.

Now, there are four variances, and these are concurrent variances that would allow the project to proceed to the Board.

First one is the incompatibility buffer. As I mentioned, the 45-foot wide fire break would require them to eliminate landscaping.

The applicant has provided a request for -- to reduce or -- I'm sorry, to eliminate the landscaping and the buffer; however, they have also provided an alternative landscape plan that

would relocate that landscaping interior to the site so there is no loss of required vegetation. It's simply a relocation.

Staff is in support of that variance because there will be -- it is simply a relocation of materials.

Another variance is the RV setback. This affects three of the RVs at the north end of the site, and this is due to the County's requirement for conveyance of the Indiantown Road right-of-way.

The overall site layout shows 156 recreational vehicles, and in order not to lose three of those vehicles they would need the rear setback variance.

The other variance is for the existing residence on site. That residence was given a rear setback variance twice in the past, and when this application came forward, they discovered that there was a survey error so they had to correct the amount of variance. And so staff supports that variance because it is reinstating an existing variance and just correcting the numbers.

Another variance is the 10 percent recreation requirement. The code would require 1.7 acres of recreation within this development. They are providing 1.4 acres, and that is simply because of the County's requirement to dedicate -- I'm sorry, to convey the old Indiantown roadbed area to the County, and that area was in the recreation area, and that is why they're requesting the variance, and staff supports it because the old Indiantown Road is a pathway. It's a recreational use. It's really no net effect on recreation in the area.

Let's see. I knew there was more.

I think I've -- oh, and then there was also, I'm sorry, a previous variance that will remain in effect. That variance was granted to allow the required wall to be replaced by a chainlink fence on the property line, and, again, this is -- would help with the fire break issue.

We have received from the public 14 e-mails, letters, et cetera.

Issues are environmental concerns, water supply, the water treatment plant, traffic, property values and a number of other issues.

On the add/delete you have three amended conditions. One is to -- we originally had two resolutions. We're going to add -- put the variance condition into the -- consolidate it into standard report.

The ERM requirement for the discharge permit, they have agreed to accept that at plat and not DRO. And we've also clarified the setback measurements.

Staff recommends approval of this project with the conditions as amended by the add/delete.

Thank you.

CHAIRMAN BARBIERI: Kerry.

MR. KILDAY: Thank you. Kieran Kilday,

representing the petitioner, and staff did a pretty complete presentation so I'm going to try to be somewhat brief, but I do have to hit on a few things, and I would ask that I could come back to respond to public comments.

Just very briefly, to give you a bigger context of what's happening out here, here's Florida Turnpike, Interstate 95 and Indiantown Road, the entrance to the Turnpike right here.

The privately held land east of the Turnpike is being developed as a major recreational facility by Toll Brothers. You can see at the time this aerial was done the golf course was being put in, most of it being on the south side of the road.

From that portion going west all of this land, with the one exception of an older rural subdivision up here on the north side of the road, is now in public ownership.

So the frontage of Indiantown Road on the north side from here to here (indicating), which is over three miles in length, is entirely in public ownership, and the County has been acquiring this property for the last three to five years, and this was -- I remember when it was called the Father Leo property, one was called the Berg/DiVosta property, and the County threw their environmental acquisition program in grants, were able to pick up these properties.

Then it left a few outparcels, these little parcels here, and the County at that point actually went through eminent domain proceedings and picked up those parcels there.

And then most recently the County, which already has Riverbend Park here (indicating), picked up this mile of frontage on the south side of the road, which is now going to be combined with the County ownerships.

So the only piece that got left is my client's piece, and that's a 17-acre piece. It's sitting here surrounded on the north side of the road. It's the only piece on the north side of the road with frontage.

And the decision was made, and we can debate forever whether it was the right or the wrong, but the County said the property which was a commercial nursery and a private residence, and my clients -- I should let them wave to you, Paul and Jan, they live on this property, and they've owned this property for 25 years, and he has a commercial nursery on the front end of the property.

And the property, because it was a nursery, was cleared many years ago and is -- has no environmental significance.

And for that reason the County made a determination that it didn't meet their criteria for acquisition, and they didn't acquire it.

So Paul and Jan have been looking for what's an appropriate use, and I think the use we have found for it today is the appropriate use, and that's why both ERM, who is the steward of all

the land around us, and the County staff are recommending approval of this project.

But I need to hit a couple of items.

We met extensively with Environmental Resources Management Department, and they came up with a list early on, which ended up being consolidated into the seven conditions that are in front of you, of where their concerns were, and their concerns ran from drainage, stormwater drainage, to the issue that occasionally, and it's probably -- I think it's approximately every seven years there's controlled burning of these environmental areas, and sewerage, being some major issues that we had to work through, and we've been working through them for many months.

And we got down to all the issues were accommodated except for the sewerage issue. Because the sewer currently is stopping right here (indicating) at the Toll Brothers project there was no sewer out here.

We made application requesting the use of what's called a sewage package plant which would be an on-site treatment facility, and their concern, as staff said was that there was always -- no matter how state of the art you are, there's always that possibility that some of the pollutants that could come out of sewage would end up in the system, and this creek area drains into the Loxahatchee River, and that's a Wild and Scenic River, and as such the sewage was a deal breaker as far as ERM was concerned.

Because of that we went to Encon. Encon is the sewage supplier that has the lines out to here (indicating). We had a meeting, and it actually included three parties at the meeting.

One being us, the second being -- this is the Jupiter Farms Shopping Center. This is a Publix and a McDonald's and a gas station, and it's got a treatment plant on its site. Palm Beach County, Riverbend Park, which is just starting their major improvements and would prefer sewer, especially because they're so close to the river, and there was one unrepresented property, but I want to point it out.

This is a little convenience store property right on the west side of the river that's on a septic tank.

So Encon had their engineer work on a plan, and the plan was to provide a limited service sewer line out to these properties, and that design is being done.

It turned out the County had already done the design to get it out as far as the park, and so they obviously were in favor of getting the line extended and being part of the group.

The shopping center has had countless problems with the maintenance of this package plant through the years, and, unfortunately, Encon signed an agreement that they would be the maintainer.

So this would allow that plant to come off line and have sewer. Otherwise, that's in the

same watershed area, and then coming by here would be able to pick up this site here.

So the line is going to be in the neighborhood of a four-inch to six-inch line, depending on needs, to service only the non-residential projects.

And when we came up with this plan, that's when we really got ERM's support because not only are we taking care of our issue, but we're taking care of existing issues that are all within that same watershed area and putting them in an environmentally sound management plant, so --

COMMISSIONER HYMAN: Kerry, who's paying for the sewer line?

MR. KILDAY: The sewer line's going to be paid for by the private entities. So we have signed -- we have a signed agreement to put in the line here (indicating).

We have -- we're negotiating with the other parties that they pay their fair share, but we've made the commitment that we'll get the line out there.

It's not being done by taxpayers or by the sewage authority, and we're paying the hook-up fees, and we have paid our hook-up fees for this already for this project.

So that really solved the last problem.

So to just talk very quickly on site planning, a couple of items.

One is -- this was the plan of record where -- there's the package plant right down here (indicating) at the front door of the project. That is now gone.

We have prepared a new plan, which is this plan, and what it's allowed us do is to revamp the south end so that we were able to add more green space in the middle and spread out our units further.

Our units are nine units per acre. The code allows up to 12 units per acre, so we're well within the range permitted by the code.

The other issue on the site plan is this is the roadbed, and going back to the aerial so you can see it, the historic roadbed of Indiantown Road veers off here (indicating), and it's very visible, and you can walk on it, and it came through the northeast corner of my client's property.

So we were the only missing link of the historic trail roadbed, and part of this, this is it going up here, and part of our dedication is we have a major recreation in the center, but we also have a smaller rec area, passive recreation, adjacent to it, and we will be actually dedicating, though, this area to the north to the County. So they'll have it.

We will be permitted, in fact it's a condition that we would provide a gate and access so that people staying at the park have the ability to enter into that trail. So that's a win situation for us.

The other issue is the south buffer. One

of the concerns, and we had several meetings with concerned residents, was that what are we going to see from Indiantown Road.

Indiantown Road currently is a major four-lane facility, and this is looking westbound, so we're actually on this side of the road here (indicating). There you can see some of the County lands.

This is looking eastbound, but what you can see is you got two lanes, a major median, another two lanes, and then you got a canal on the south side.

So the question was where -- what will we see. And so what we did was we worked on the plan, and staff has a condition for a further enhancement that we would provide a plan that would provide a buffer across the whole front end of the property so that this is -- if I fly over it, what I see -- but when you drive by it, you will see that (indicating).

And what we agreed to in the plan was to use native landscaping. Our office had done the landscape buffers for some of the Solid Waste Authority facilities and doing that to blend it, and some of the plant materials that are in the conditions of staff would be to blend natural landscaping so it meets it.

So, hopefully, we're out of sight and out of mind. I don't know that everyone agrees with me on that, but I'd like to think so, and that would be that.

I'm going to pass out to you now a book which you'll have, and just so you know what's in it as it's being passed out is there's an article that was in the *Post* two weeks ago about the County which is applying for a grant for the use of that trail, and the interesting thing -- it's not a great Xerox -- but if you look hard at it, you'll see the little light spot on the north road, that's us.

And now we have verified with the County we are the only piece the County didn't have of that roadbed within Palm Beach County, and we've contacted them to say that it's coming shortly because we felt the grantors may ask a question.

The second thing is, is the petition with 220 signatures supporting -- yeah.

COMMISSIONER ZUCARO: Like to make a motion to receive this into the record.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries.

That second was made by Commissioner Brumfield.

MR. KILDAY: Second thing is there's a petition.

As I said, Paul has a commercial nursery.

He put out the plans, and they've been out for quite a few months, and if people were supportive, he would tell them what he was proposing on the property, and if they wanted to, they could sign the petition, and these are the petition. We did try to highlight where we saw people signed it who we thought were relatively close in this general area to this property, and then there's a couple of e-mails that were sent supportive, too.

The third item is this aerial that's in front of you in case you have any questions.

Fourth item was the old certified plan with the package plant, and the fifth is the new plan where we've been able to remove the plant and spread out the units. So you have that.

With regard to conditions, we have worked through every condition but one that is still being worked on, and that is Condition E.3 of Engineering.

Typically in planned developments they ask you to take drainage from the future widening, because Indiantown Road is destined to be a six-lane road someday, into your drainage system.

We have provided information to the Engineering Department that, number one, it's really out of line, given the County owns all the land around us, but, more importantly, this road actually is part of and drains to the south into a different drainage district.

We are waiting for that information, and I've talked to Ken. Ken's waiting to hear from the other departments on it, but hopefully that requirement will be removed by the time of the County Commission meeting.

That is it. I have with me our engineers, Mark Rusearcy (ph). I have Susan Daniels, our attorney, and we're certainly available to answer any questions, either now or after you take public comment.

CHAIRMAN BARBIERI: All right. We have quite a few people that want to speak so when I call you, would you please come to alternating podiums.

Paul Gurdak, please come to one podium. Jeff Westerfield, please come to the next podium, and then Virginia Scott will be behind Mr. Westerfield.

I'm going to limit you to three minutes so please keep an eye on the clock on the wall.

MR. GURDAK: Good morning.

CHAIRMAN BARBIERI: Good morning.

MR. GURDAK: My name's Paul Gurdak. I live out in Jupiter Farms.

This has come up to the residents out there, and the biggest drawback is the state and the county has bought all that pristine land 'cause Jupiter Farms now is located basically in the center of a wildlife district, and to build this in that area with the drainage and appropriation of concern with the environment and all the setbacks they're acting -- asking for, the one here allowing a variance so they could squeeze

in three more spaces for RVs.

Now, come on, that RV park is not going to be full 100 percent of the time.

The other issue that wasn't brought up is the traffic on Indiantown Road 'cause to accommodate some of these newer RVs, they look like tractor-trailers going down the road, they're going to have to make a U-turn in order to get into this park, either on the west side or on the east side because right now where the park is situated there is no cross traffic there.

And basically that's my position.

You people need to get in your car, take a ride out Indiantown Road. Even though the gentleman said it's going to be slated for widening to six lanes, it goes down to two lanes at the end of Jupiter Farms, and on both sides of the street all that property in the last year since 1999 has been brought -- bought up by the state and the County for wildlife preserve all the way out to the Town of Indiantown.

So just don't rely on a map. Get in the car and take a ride out there before you make a decision.

Thank you very much.

CHAIRMAN BARBIERI: After --

MR. WESTERFIELD: Hello. Oh, excuse me.

CHAIRMAN BARBIERI: After Mr. Westerfield will be Virginia Scott and then Bill Thomas.

MR. WESTERFIELD: I'm Jeff Westerfield. I live on Rocky Pines Road directly across Indiantown from the proposed site, and being as close as we are, my family, our quality of life is having an issue here.

You know, when we looked at the property years back, we took a -- we did our homework. We took a good look around at the surrounding properties, and they are zoned as a wholesale nursery, and so basically our opinion of that was well, they could sell what they grow on the site.

And now we're seeing the likes of the RV park and schools and changes of that nature which are really not what we bargained for when we -- when we heard about the zoning in the areas, and we did take a good look around, and we did investigate, and to hear things like this being a possibility is quite discouraging.

I think the larger picture here is not just for our quality of life, but for Jupiter Farms as a whole. Everyone down my street on Rocky Pines, they're larger lots. As far as I know, they're not zoned commercially. I think they're -- as far as what I read they're AR, residential zoned, agricultural, wholesale nursery.

Everyone down my street is zoned as an AR residential practically.

So my concern -- my concern is if we allow this to happen, could everyone on my street, you know, in all fairness, wouldn't they be able to have a -- have an RV park, as well?

And it's just a real concern of -- for me

and my family as far as -- of it being able to have that transferred.

If you look at the site plan, it is -- I don't know how they could fit another RV on the site. They packed it as solidly as they can so as far as the variances and the amendments, the setbacks, I would like you to consider the residents surrounding the property, rather than the revenue of the proposed developer.

I've observed the RV parks in the -- well, there's one on 130th. I've been by there to observe. There's lots of traffic coming in and out of that RV park, not necessarily just vehicular. There's bicycles, there's golf carts, there's scooters.

We live on a nice private, peaceful road on Rocky Pines Road, and I'm concerned, you know, there's nothing to keep those people in that area, in the park. They're going to be coming out of the park.

And we have horses. We have different things going on there that -- we've had kids on the property before that accidentally have opened the gate and left horses out.

And just very concerned about the type of traffic that would not only be coming as far as the traffic on Indiantown Road, which is very high speed traffic, very populated road -- there's already a fatality across in front of the proposed site where there was a fatality years ago.

So my concern is for -- I've got young -- young drivers in the family, and my concern is for my family and what will happen to the Farms. We love the area. We love what has happened, but with this kind of thing if you were to change the zoning on this, I think in all fairness you'd have to change the zoning on other properties, and that really does concern me and my family very much.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

Before Ms. Scott starts speaking, I just want to let everybody know that this is the last petition we're going to take before lunch, so if you're waiting for a later petition, you can go ahead if you want and go grab something to eat. We're going to break for lunch after we're done with this petition.

After Virginia Scott, Bill Thomas and then Patricia Sickles.

I'm sorry. Virginia.

MS. SCOTT: Good afternoon. My name is Virginia Scott. I represent myself, my friends and Jupiter Farms Residents, Incorporated.

I wish to thank all concerned for adding the additional buffer to -- between the road and the RV park that's previously been done.

When I first came to Indiantown Road, which is about five years ago, that's when I moved there, about 15 years before, it was pastoral [sic], sheeps, horses, cows, birds, cats, and if you listened hard enough, you heard the water being cleaned by nature.

Now when I go down, we -- down Indiantown, I run into semi-trucks going at 75 miles an hour, SUVs going at 85, cars up there, too, and sadly, because we've had too many accidents out there for too many people being out there, we've had the Trauma Hawk more times than anybody wants to know.

Jupiter Farms Country Club will be adding an estimated -- this is times coming and going, not people, it's about half -- about 750 people per day, and that's at the edge of Jupiter Farms.

When you go in to see the next large operation, will be Janco RV park, and it is going to have 156 or is requiring -- asking for 156 units. You have staff support, guests and guests. That's an estimated 750 people per day.

We don't believe from the views that we've had of the park that the enormous behemoth units that they plan to bring into the park can fit next to each other without getting a nickel in between the two of them.

They're so tightly packed in there there's bound to be some accidents and scrapes, et cetera.

Also, those RVs are going to be leaving an average of one a day throughout the year.

In the question of Planet Kids, which somebody else will be addressing, they'll bring up -- that will be about 800 people a day dropping off kids, bringing them back, teachers leaving and coming back, et cetera.

Then, of course, this is all in addition to our local traffic for 4600 homes.

Additional U-turn lanes at Janco and 130th Street will only make a minor lessening of the traffic that's already there.

Traffic lights at those two intersections are really making the Farms suffer.

We came and bought because Jupiter Farms was one of the few areas that we could, where we could ride our horses, let our kids roam free and our animals and waken to an occasional rooster.

If Planet Kids and RV park are allowed to override our reasonably peaceful world out there, we will be demolishing a sanctuary for a lot of people, a lot of birds and other animals.

Those of us that live in the Farms, the County boards and commissioners and leaders in this County are really -- have a solemn duty to protect Jupiter Farms and the surrounding areas from the encroachment of heavy -- I'm sorry -- heavy commercial entities that will demolish -- I'm sorry, my printer ran out -- I can't read my handwriting.

Anyway, if you have never been there in the Farms, please come visit, and I hope you keep our little world close to your heart when you rule. Thank you.

COMMISSIONER HYMAN: Virginia, you said you represent Jupiter Farms. How do you do that?

MS. SCOTT: No, there's -- there's an incorporated Jupiter Farms Residents, Incorporated, and I'm --

COMMISSIONER HYMAN: Are you president?

MS. SCOTT: -- one of those.

COMMISSIONER HYMAN: Are you president?

MS. SCOTT: No. Our president is here, though.

COMMISSIONER HYMAN: Okay. So you can't represent that you represent them.

MS. SCOTT: Okay. Just me then.

COMMISSIONER HYMAN: Thanks.

MS. SCOTT: Thank you.

CHAIRMAN BARBIERI: Okay. Bill Thomas will be next, and then Patricia Sickles and then Thomas Sickles.

MR. THOMAS: Good morning. My name is Bill Thomas, and I'm sort of caught between a rock and a hard stone because I own the other campground in the Farms.

First of all, the road -- if they don't have a light at that road there where they're coming out of Janco, someone's going to get killed.

I've pulled trailers since 1973, motor homes, fifth wheels, travel trailers. I have a three-quarter ton F350 right now. You cannot make a U-turn with two lanes with an F350.

Pulling a fifth wheel or not, a travel trailer, no way, and I don't care what anybody would say who works with the Traffic Department, they can come and pull our trailers, and they'll see how easy it -- or how hard it is to try and make a turn.

You're going to have to put a stoplight at that -- where Janco's entrance is and put a road across the street or people will never make a U-turn. They will be -- absolutely people injured.

The average motor home weighs about 24,000 pounds, between 16 and 24,000 pounds. Trying to pull out of a lot is very difficult. Trying to pull out of a -- a travel trailer with a fifth wheel weighs about 24,000 pounds, a 16,000-pound fifth wheel.

I don't know if you guys are familiar with these things or not, but it's very difficult.

I own the park on 130th. We are busy December through March, and we're probably at 100 percent. After that we're down to 30 or 40 percent, and it's going to be very difficult for anybody to succeed.

I hope they do, if they're approved, do well, but we really for a whole year long will not make -- one of us will go down for sure because the volume of traffic -- when people come down 95 in the summertime, they go across I-4. They do not come to south Florida. The only people we get in the campground in the summertime are contractors.

The other question I have, which maybe Mr. Banks can answer this, are they going to condo the sites there, or are they going to be allowed to sell the sites? I don't -- I don't do that.

MR. BANKS: The zoning doesn't address whether or not they can do a condominium, and in fact there's a specific prohibition in Florida law from us regulating, you know, whether or not --

MR. THOMAS: Well, I -- I have no idea.

MR. BANKS: -- something is -- becomes a condominium in the zoning process.

MR. THOMAS: Okay. So the County has no control over what they would do then. That's fine with me.

MR. BANKS: We don't regulate that end in the zoning process.

MR. THOMAS: Okay. That's fine.

I have nothing else other to say, but, you know, it -- if, when you're looking at that traffic, folks, you've got a big problem with turning a big fifth wheel or a motor home without putting a stoplight right there.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

I just noticed that Patricia Sickles and Thomas Sickles said they didn't want to speak, so if you still do not want to speak, that's fine. If you do, that's fine, too.

I'll read your comment into the record.

Ms. Sickles says, "The RV park is too close to environmentally sensitive preserve land. Traffic is already too dense on Indiantown Road."

Thomas R. Sickles, "I oppose the Jupiter RV Park as it is too close to environmentally sensitive lands, possible contamination from sewage resulting from heavy rains, too much traffic on Indiantown Road, too much pollution from RV vehicles."

That brings us to Albert Rabadan, and then the next one will be Dan Vanderlaan.

Albert, would you come up to one podium, Dan to the other, please.

MR. RABADAN: Yes. Good afternoon. My name is Albert Rabadan, Jupiter Farms Residents vice president. I reside at 17689 Rocky Pines Road.

And I came with all my pads and all my numbers, but you know what, I'm going to leave them right where they're at, right on the podium for right now 'cause basically I'm just going to use, you know, what I -- my common sense rule.

And, you know, right now is everybody speaks and everybody's going to come up with numbers. Yes, I'm concerned about the environment, having all these units sitting there, you know, what's their evacuation procedure if a storm comes. Who's going to be responsible for moving them, you know. I mean, you know, if we get a flooding like we do in Jupiter Farms quite frequently, you know, that can contaminate our drinking water, our preserve land.

You know, these are just things that have not been issued. We have been in contact with Kilday and Associates, and my neighbor, Paul Thomas and his wife, and we've been going back and forth, but the issues that we have still have not been addressed.

I think the number of units are way too much. I think the location's bad. You know, I think the County made a mistake way back then not

purchasing this land and getting it off the map and just, you know, just like they're doing now. They're just purchasing all the land and -- and -- 'cause they see the importance of the land next to the Loxahatchee River, and all this and that. It's too late for that now.

I know they have rights, and they have the right to be here, but, you know, we have rights, too, as the residents around them that we're going to have to be there.

You know, a storm comes, most of these units are going to be parked there. They're going to hop on their SUV. They're going to take off, or they're going to be in Connecticut or New York, wherever they're at, New Jersey, and, you know, and they're not going to be with the consequences if it gets flooded, all the fluids, all the lubricants that go into the watershed into our drinking water.

These are concerns that have to be addressed, whether the traffic issue is sufficient enough and they need a light there.

These are many things that need to be addressed, and I'm not sure it can be addressed between now and then let's say when it goes up in front of the County Commissioners. I thought it would be best that it be addressed prior to getting approval.

Again, I know he has rights, and it's all good, but, you know, he doesn't have more rights than the 15,000 residents that are there, and we want to live as a community.

We want to live as neighbors, and I'm just looking for a -- for both of us to come up ahead in this and, you know, it's a -- it's a total neighborhood concern.

Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

After Dan Vanderlaan would Kathleen Fahey come up to the other podium, please.

MR. VANDERLAAN: Good afternoon. I'm Dan Vanderlaan. I am a Jupiter Farms resident, as well.

I couldn't help but be struck when we saw the site plan how closely stacked these units are, and I think that kind of leads to one of my main concerns, is that is fire protection.

These aren't just homes. They are homes with barbecue grills. Many of them will have their own engines and fuel supplies on board, and there will at one point in time be fire in one of them, and they are so, so close together. They're stacked against each other almost to the point of -- I know I -- I, myself, I wouldn't want to be there.

My concern would be that there'd be adequate resources for our Palm Beach County Fire Department to be able to combat a fire on site. Will there be fire hydrants?

Will there be sprinkler systems in that 8,000-foot recreation building that would control an outbreak of some kind while food's being

prepared there or barbecues are being held?

I haven't seen or heard anything about that, would be a great concern for me that there'd be adequate water supply there so that if and when that time comes for a fire and these things are back to back, that they have the resources they need to deal with those issues.

Thank you.

COMMISSIONER HYMAN: Kerry, can you tell us? Are there going to be fire hydrants there?

MR. KILDAY: Yes. There's going to be a central water system through the whole system. So there will be fire hydrants.

There's code requirements that there'd be storage and pressure built in for this, and I expect the 8,000-foot clubhouse will be required to have sprinklers and/or capable of providing them.

CHAIRMAN BARBIERI: Okay. After Kathleen Fahey would Susan Kennedy please come up to the podium.

MS. FAHEY: Good morning. I'm Kathleen Fahey. I'm vice president of the Jupiter Farms Environmental Council.

I remember the day that Paul Thomas came to Jupiter Farms residents and presented this, and when he first presented it, I initially supported it.

He's always been a very good neighbor to Jupiter Farms. He's been a -- he and his wife, Jan, have been great residents and really part of the community and they've helped us a great deal, and when he initially presented it, it sounded -- it was presented to us as a high end RV resort, but nobody talked numbers. We talked ideas, and we thought that this would be something that the community could stand behind, as he has stood behind the community.

When -- I've been to the meetings on behalf of the Jupiter Farms Environmental Council with Susan and Mr. Kilday, and when I first saw the site plan, my flashbacks as a college student in New York traveling, all I could think of was the Greyhound bus terminal that I had to go to, and I said, my God, this is in the middle of the midst of Cypress Creek that our organizations, our community, even Mr. Thomas and his wife supported -- we worked four years, and Palm Beach County worked really hard to get \$62 million to support and purchase Cypress Creek to support the northwest fork of the Loxahatchee River.

And now we're going to put this density? I understand that the code allows that they can have 12 units per acre. I understand that that's allowed for an RV park, but when the rest of Jupiter Farms is one in 10, I don't understand how they get away with nine units per acre. I don't understand how this density's going to be allowed.

I would like to have a greater address of what's going to happen with the stormwater runoff as this water exits this property and hits the watershed of the Loxahatchee River.

When we worked on the Toll Brothers project, we were able to get them to agree to Class 1 water, and I think that these people should reach the same agreement, that they should be held to the same standard as the Toll Brothers of the W -- which was WCI project.

Lastly, I want to echo Mr. Thomas' concerns, Bill Thomas' concern.

In my trade I am a critical care nurse, and my certification's in emergency nursing.

I am also an equestrian, and I pull -- I have a 250 truck and a 27-foot gooseneck horse trailer, and let me tell you, I echo everything Mr. Thomas has just said. It is very difficult, and there is no way you can make that turn.

Traffic has -- and Engineering has got to go back to this site. They've got to come out, and maybe Mr. Thomas, Bill Thomas, would be good enough to help them and bring them and do a little field trip, and you try and turn around one of these vehicles.

I challenge you. It can't be done, not without hurting somebody. We're all going to have major fatalities out there.

And I want to thank you very much for your time.

CHAIRMAN BARBIERI: After Susan Kennedy will be Bill Comensky.

MS. KENNEDY: Good morning. My name is Susan Kennedy. I'm the president of the Jupiter Farms Environmental Council and also the president of the Loxahatchee River Coalition. I'm here on behalf of both of those organizations.

I do have one small map that I'm handing out to you, a greenways map that I'll be referring to in a short time.

COMMISSIONER ARMITAGE: Move to accept.

VICE CHAIRMAN ANDERSON: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. KENNEDY: Thank you.

CHAIRMAN BARBIERI: Ms. Kennedy, when you come to the County Commission meeting, make sure you bring a letter with you from your organization saying you have authority to speak on behalf of that organization.

MS. KENNEDY: Okay.

CHAIRMAN BARBIERI: Okay.

MS. KENNEDY: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MS. KENNEDY: I'll be happy to submit one to the record after this meeting.

CHAIRMAN BARBIERI: Okay. That's fine.

MS. KENNEDY: The Loxahatchee River Coalition is a volunteer organization, as is the Environmental Council. We're made up of citizens

of this area that are passionate about protecting our natural resources and the Jupiter Farms rural character and way of life.

The Loxahatchee River Coalition participates in the Loxahatchee River Management Coordinating Council, which is the coordinating council that manages the Wild and Scenic portion of the Loxahatchee River.

We also sit on the South Florida Water Management District's Water Resources Advisory Council, which is actually meeting right now up in Jupiter.

We're here objecting to the property -- the project as it's proposed because of the intensity of the development and because of its location and vicinity to Cypress Creek.

I've handed you a map that we've used in our area for some trail events. This is actually our ocean-to-lake trail event map to show just how this is a donut hole in the middle of Cypress Creek and where it has the potential to impact the surrounding natural lands and water resources.

All of the green that you see on this map is public natural land, and it is all part of the restoration projects of one sort or another. Most of them have to deal with the Loxahatchee River and the restoration of six lost miles that have been lost to the saltwater intrusion.

Cypress Creek is part of this larger effort, and all of the land around this property is designated for restoration efforts.

We participated in all of the meetings with Mr. Kilday and the applicant. We asked last year for some of the information regarding water drainage off of this site, water quality, the rate and volume, where it's going to go, where it's coming from.

We have yet to receive any of that information so we're asking you here for a postponement. We're very concerned about the water off of this property.

In the conditions of approval it states that it's limited to a certain amount of cubic feet per second, and it's going to be a Class 3 water quality.

The river is a Class 1, and as Kathy stated, other developers have had no problem in meeting the Class 1 water quality regulations.

This is not an undue burden, and it's -- it's appropriate for the developer of this site to meet the minimum requirements to meet the restoration benefits of the Loxahatchee River.

So we're asking for you to help us get some more information from the developer because we have yet to receive that.

And thank you for your time.

CHAIRMAN BARBIERI: You're welcome.

Staff, who makes the decision, ERM? Who looks at this? ERM? They the ones who look at the water runoff and potential pollution?

MR. KRAUS: Bob Kraus, Environmental Resources Management.

The condition with regard to the South Florida Water Management permit is ours, and we had drafted it that it would have to meet a minimum Class 3 standards leaving the site and not to exceed a certain volume based on the 25-year storm event.

CHAIRMAN BARBIERI: She's referencing a Class 1 for the other project?

MR. KRAUS: That's a much higher standard.

COMMISSIONER HYMAN: What would he have to do to the site plan to achieve the Class 1 water runoff?

MR. KRAUS: I don't have a quick answer for you.

COMMISSIONER HYMAN: Kerry, do you -- if you -- if that was imposed on you, what would happen?

MR. KILDAY: It's -- I have our engineer here, and he can probably answer that, but let me -- this is an ERM condition, and the Class 3 is a more severe drainage criteria than if I was just any drainage thing.

But it's based on us being right here and the river being over here (indicating). So there is -- they made the determination that have the quality that meets their standards over here, Class 3 is needed.

Granted, Toll Brothers agreed to a Class 1, but look where Toll Brothers are. They're directly adjacent to the river. So that's a distinction.

Now maybe Alan can give a real scientific answer.

MR. WERTEPNY: Alan Wertepny with Mock Roos.

Now, one of the conditions that you see in this or that you have in front of you, there's a portion in here regarding it's an outstanding water body that we're discharging into, which means we've got to put more water quality provisions in our system in order to meet that criteria, because of it being an outstanding water body.

That means within our lake system we will have vegetated shelves to provide additional water quality treatment. We will also have to store more volume on site before we discharge on the system and release it at a slow rate. And so we have a large natural area that will be going through on here. So we will be meeting a high level of water quality standards because of that outstanding water body.

And that will be a condition of South Florida Water Management District. It's already a condition of Palm Beach County.

COMMISSIONER HYMAN: Would your retention pond have to be bigger if you were going to achieve a higher level?

MR. WERTEPNY: Usually what you have to do is to retain more water or actually detain more water on site before you discharge so you allow sufficient time for the other features you put

into the system to assimilate those pollutants that are coming off so you don't discharge these off site.

COMMISSIONER HYMAN: How much larger would the retention area have to be?

MR. WERTEPNY: For the water quality requirements you do 50 percent more. You have to do 150 percent is the requirement for outstanding water body. It's the same thing you would meet for a Class 1 standard.

I'm dealing with the same thing on a project in the Iron Horse development, which they're requiring, South Florida, 150 percent -- 151 -- or 150 percent.

COMMISSIONER HYMAN: So it'd be 50 percent larger than what is shown on the current site plan?

MR. WERTEPNY: That's correct. Not the lake system, but what we have to meet for our water quality we've got to be able to basically detain that water, that additional volume in here, and release it at a slow rate.

VICE CHAIRMAN ANDERSON: How will the -- how will the water coming off of this project be compared to what's the existing use now?

MR. WERTEPNY: We will have -- actually, I believe we'll have either a -- I think we're going to improve the water quality that we have coming off the site, of the impact of, let's say, in being a nursery-type operation you'll get some improvement.

You'll have other things in here regarding the landscaping, irrigation, everything else, and best management practices will be employed in that ponds or lakes that we do have on here.

So you'll be getting a high level of treatment, water quality, coming off the system, and it's got a long way to go before it gets into the -- from the Cypress Creek system into the Loxahatchee River.

There'll be no impact on the Loxahatchee River at all.

CHAIRMAN BARBIERI: All right. Thank you.

COMMISSIONER HYMAN: Guess there's a little disagreement there.

CHAIRMAN BARBIERI: After Bill Comensky, unless there's two Albert Rabadans here, you already had your chance, Bud, so we'll go to Leslie Gould next.

I guess I'm going to read her into the record, so would you please -- I guess that's it. Bill Comensky, you'll be last.

MR. COMENSKY: I'm last? Okay. First shall be last.

First of all, I would like to see a show of hands, please, of everybody right up here how many own and use an RV? Nobody. Okay.

I am Bill Comensky. I'm a retired senior control chemist of a sewerage facility in a Pennsylvania municipality.

I have also been involved in the RV industry as an RV dealer and a campground owner

for over 35 years in Pennsylvania.

I've carefully reviewed all these recommendations about this Jupiter RV Park and have found a glaring oversight. Please, Mr. Engineer, pay attention.

By the way, do you drive an RV -- where are you? Do you drive an RV?

CHAIRMAN BARBIERI: You need to put the microphone in front of your face.

COMMISSIONER HYMAN: The mic.

MR. COMENSKY: Okay. Apparently he doesn't drive an RV.

There is a glaring mistake being made here, and let me explain.

This park is being required to have a driveable berm surrounding it which creates a saucer effect.

Even though the recommendations are made to provide drainage pipes through the berm, the natural lay of this property will retain considerable surface water during -- especially during our rains.

Now, each site will have an RV sewer inlet, and when in use these sewer inlets are not watertight; therefore, each RV parking site with sewer inlet should be raised to a sufficient height to prevent surface water from entering the sewer system in order for it to operate properly and also for the gravity flow out of each unit into the sewer system.

If this is not done, surface water will enter 156 inlets, and I know from experience if this is not -- excuse me -- and I know from experience there will be a tremendous backflow in many places all over the campground and a lot of bodily waste, including feces, condoms, tampons, et cetera, all over the place.

When this happens, it is virtually impossible to protect the surrounding waterways. In fact, it will create a real health hazard. It would be like New Orleans when the dikes broke during Wilma.

Please, don't approve these plans as they are currently presented.

These sites need to be raised, and the inlet of the sewers must be raised accordingly.

Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

Leslie Gould's comment is, "I'm against this proposal. The area surrounding this proposed RV park is surrounded by sensitive preserve and natural areas which protect and enhance the Loxahatchee River. To run a sewer collection area to serve this concentrated RV park in a rural tier is a bad idea."

And I do have two cards from the lady that wanted to speak next to last, and the attorney that represents the Jupiter Farms will be speaking last.

Lois Taylor, would you please come to one podium. You asked to speak next to last.

And Ellie Halperin, the attorney, you

asked to speak last, would you please come to the other.

MS. TAYLOR: First of all, we in Jupiter Farms very much thank the County for all the public lands that they have purchased, and I want to emphasize that the purchase of the Cypress Creek was, yes, it had some very nice environmentally sensitive areas, but mostly it was purchased to be restored to its original hydrology system which was designed to channel water or let water flow to the Loxahatchee, and, therefore, of huge concern is the quality of that runoff water.

ERM is going before South Florida Water Management to get a permit even now to start that restoration, and they are going to be raising the water level there.

So flooding becomes a real possibility as they go forward getting that source of fresh water restored for the Loxahatchee River.

The Loxahatchee River is a beautiful river, a Wild and Scenic River.

The Loxahatchee Basin, which covers the whole northern county area, is extremely important to the quality of water that all of us get in our wells.

So I empathize this. I think that it would be -- I know it's a recommended thing in the rural tier to have RV parks, but I don't think when that was written, they anticipated having a park that is totally surrounded by public natural areas that was bought to restore fresh water to the Loxahatchee.

I also wanted to compliment the Thomases.

Through all the years we worked with them I have no idea how many trees that they have donated to the elementary school and planted on behalf of the Parade (ph) and many other organizations in the Farms.

It's just that the location of their property is such that it really, although it may not be environmentally sensitive itself, it is a key to the whole sheetflow problem that they're trying to correct.

So I would like to have this postponed so that some of the questions about water flow, quality of runoff and all of those things can be verified.

I think it's premature to approve this development before we've settled more of these water questions.

And thank you.

CHAIRMAN BARBIERI: You're welcome.

Ellie.

MS. HALPERIN: Good afternoon, Commissioners. Ellie Halperin. I represent the Jupiter Farm Residents Association.

They asked me to just come up, since you would be hearing from so many people, and summarize the points that they've made and maybe point out a couple that we had discussed that they overlooked.

I think it's very interesting that two of

the conditions that the applicant has agreed to confirm some of what the residents have said.

One is an environmental condition that says, "A notice shall be provided to all users of the site explaining that due to the differences in the wet season water table between the site and the natural area, there will be times during the year when the site may not drain. A draft of this notice must be submitted and approved by ERM prior to final DRO."

Another condition recognizing the fire hazard is, "A wildlife evacuation plan to clear the facility within 90 minutes shall be submitted and approved by ERM."

There are significant concerns regarding the location of this, despite the fact it is in RR-10, it's encouraged, an RV park, but it's also encouraged as a campground, as a place that fits in with the rural community, and the density just doesn't comport with that.

There's too much risk of people not being there when there is flooding, of a fire and of these risks to the water quality.

To require them to be a Class 1 water quality would reduce the density and eliminate a lot of the problems and the risks regarding flooding and the gas leaking, the oil leaking, them washing the facilities, washing the RVs and the runoff into this pristine area.

They also felt that the variance -- they've explained to you that the variance shouldn't be supported because the elimination of those three spaces would not hurt the overall density of the project.

And, finally, they talked to you about the safety concerns of the U-turns that we're not sure that Engineering has adequately looked at to protect the safety of the people that are going to be there, as well as the neighbors traversing Indiantown.

We would like the density reduced. The density in the existing RV park is only 7.4. This really should look more like a campground, especially that you're going to have old Indiantown Road.

The trail as a walkway that people are going to be enjoying the environment, we should be assured that it's going to look like a campground from that view, as well as from Indiantown Road, and that the lighting's not going to interfere with the evening, looking at the stars and the uses to that which that property will be used.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

Is there anybody else that wanted to speak?

(No response)

CHAIRMAN BARBIERI: The record should reflect that Commissioner Zucaro has left, and that Commissioner Bowman will be voting as a voting commissioner on this petition.

COMMISSIONER HYMAN: Kerry, I think there

are a lot of questions that were raised today, and I am concerned, also, about the density, you know, how many spaces there are.

So I'd like to see a postponement for you to take 'til the next meeting, maybe, and address some of the concerns or address the concerns that were raised, you know, with regards to like the turnarounds and the water quality, things like that.

MR. KILDAY: Well, I haven't responded yet, and my client -- I've been working on this project with him for two and a half years. He's postponed this item twice already before coming to you to get all the answers, and I can -- think we can provide them and --

COMMISSIONER HYMAN: Okay.

MR. KILDAY: -- and we've had several meetings with these residents, and I'm never going to satisfy these residents, and they're always going to have questions --

COMMISSIONER HYMAN: Okay.

MR. KILDAY: -- and I'm not going to win.

So I'd like to at least kind of answer some of these things.

I think that one of the things is that this a unique property, and I think everyone's agreed on that. This is the only piece on the north side.

Just so the record is clear, 'cause it wasn't clear when I said it earlier, the County at one time did approach Mr. Thomas on buying it. They decided that they weren't going to go the condemnation route. The two sides were never close on money, and then the County said it'll stay where it is.

In the last, I would say, six months, we've had many meetings with the County on the water quality issue because one of the issues is, as they said, is they're going in for their permit here, and as their permit they need to make sure that the Thomas property is not harmed by it, and so it's in both our interests, ERM's interest and our interest, to work together.

And the engineers have worked together. They've gone through various elevations. They've discussed it, the flow way, I've sat in on some of the meetings, and they're satisfied.

And the next issue is that you would actually apply for the necessary permits, and -- but you don't apply for those permits 'til you get through this process here, but what I can tell you is that the conditions of ERM, they're not our favorite conditions. There's a couple of items.

One is that when ERM says that, you know, we're going to do periodic burning of our property around it, and we want you to provide fire break, my immediate response was, you're doing the burning, you provide the fire break around us.

But we compromised, and so they are providing some fire break external to us, and we said we'll provide some on our side, too.

But -- but it's -- it was one of those

things that was a good thing because we were working together to reach a compromise on it.

On the sewer issue, the sewer compromise is the biggest win-win of them all, and that is that you're going to be not only having a package plant here for good reasons, but you're getting rid of a package plant here (indicating), which is that much closer to the river in the same flow, and you'll be able to get rid of a septic tank here (indicating), which is directly adjacent to the river, almost, with countless uses that come in and go out and what goes into that septic tank, who knows. Maybe some of those other things that the man said we're going to float around our site.

And then you're going to make sure the park has sewer. So it's definitely a good thing.

On the traffic, I can explain the traffic.

We met with Engineering early on because currently there is a driveway and a median cut right here (indicating), and currently if you went to Mr. Thomas' property right now, you could come down Indiantown Road and come right through the median into this property, and you can exit right here (indicating), this fence, and go right out and make a left turn. No U-turns.

Problem was that that's been there forever, and the property line runs to the middle.

So when we met with ERM, we said to them here's a solution that works for everybody. We're going to give you this up here, swap us this small piece of land where the driveway already is down here (indicating), and we had Engineering at those meetings, as well.

The problem was that the money they used to acquire this property is all environmentally conditioned, and they came back and said we just can't do it; it made sense, we can't do it.

So the solution was to move the entrance as far away from this so there'd be adequate turning room, and one of our conditions is that we're going to extend the turning lane further.

Now, there's two schools of thought on this, and I've been lectured to by DOT so I know it real well, 'cause my clients always want full medians.

DOT school of thought is that the safest way to get across the road is to make everyone do U-turns, so all the new roads you've seen expanded have many U-turns, and they have those, what we call, limited turn lefts, and the reason is they say a vehicle coming out here (indicating) and gets midway and then says, oh, now I see someone else coming, is now blocking, and broadside accidents are the worst accidents.

So what from a safety standpoint they say is coming out here and having to make a right turn and get into a turn lane and stop out of the traffic flow until you see pure clearance coming toward you and then making a U-turn is the safest position, and I've become convinced that they are probably right on that. Obviously, it makes you look twice.

Now --

COMMISSIONER HYMAN: But, Kerry, what about the turning radius?

MR. KILDAY: Turning radiuses. The turning radius came up, and Mr. Thomas, who owns one of those big honkin' RVs, attached a vehicle to the back of his RV, and we went out there, and we physically stood in that median and took a videotape, and we have a videotape, and it shows that he was able to come out here, get in the lane, make the left turn lane fully within the lanes on that.

So that's -- maybe a fifth wheel on the back of another truck might have something different, I don't know, but I can tell you that we actually went out, 'cause that question was raised by your Engineering Department, and we put a video together to make sure, and it did it with plenty of clearance.

So the traffic flow that's there is the traffic flow we're permitted and meets the County code, and it has satisfied the various agencies.

Environmental. The environmental issue is that this property is probably going to be better drainage-wise, and I think Alan said it, than what can go on now.

Right now is a commercial nursery. It's entitled to use all the nursery products, and the drainage of this site, even as it exists today, drains right into this area (indicating).

Our historic drainage -- we do not drain into Jupiter Farms drainage system. This is a separate drainage basin from this. This property because it's in this basin, has a -- there's a little pond right here in the corner, and everything that flows off the nursery flows into that pond and into the area.

The design of the new system is going to be significantly enhanced in terms of that drainage.

With regard to the sites and the heights and the hook-ups for the sewer and the heights of the sewer, all those items have been planned. We've done preliminary engineering as to what the various heights of the pads are, what the heights of the hook-ups are.

The reason for the driveable berm around that site is specifically to anticipate drainage issues and protect this site from what could be going on, and that needs to be done with or without this project; otherwise -- someone talked about the sheetflow across this project.

This is privately owned property that deserves to be protected in drainage, and the drainage system and the conditions do provide for it.

The Class 3 waters I think were well explained. That is the standard that ERM says applies to this property and this location. It is a tougher standard than we would be required if we weren't -- if we were able to drain into this canal on the south side, we wouldn't be needing to

do Class 3, but we've agreed to it.

So in the long run, I understand there's always time to get more information, but given that my clients' tremendous patience, and it has been tremendous patience, and I've had to do the convincing to be patient, I think he deserves a chance to move forward.

He has solved the sewerage problem. He meets the code. In the ultimate layout maybe there'll be some adjustments.

All these pads here, just so you know, were all laid out to national design standards for large vehicles, towing trucks, making sure that they had the proper radiuses for turning, either backing in or forward, all the radiuses of the roads through here (indicating).

The width of the sites were all designed to take into account many of these vehicles have hydraulic expanders that allow rooms to move out from the sides and to meet all the landscaping in the code.

So it does meet the standards for the very largest vehicles. In fact, if you look at the enclosed site plan, there's two different type sites. One is a larger site than another site, depending on vehicle.

So we finally got to the point where we have satisfied all of the staff concerns on this project. We found a use, and I think it's a great use, by the way, and take issue -- I looked at the Florida State Parks Guide yesterday online, and probably 80 percent of the Florida parks, and most of them were bought because they were pristine lands, have recreational vehicle sites, and they also have recreational vehicle hook-ups of various things.

Palm Beach County's own John Prince Park has 90 full service recreational vehicle sites.

So having that next to a park area, I just think it's a wonderful compromise on what to do with this one last piece on the north side of the road, and I'd ask you to make your decision today.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Okay. I'm not going to move to postpone, but -- and you did answer those questions for me, but I have a couple of others.

This area is basically cleared because it's -- doesn't have a lot of vegetation on it now?

MR. KILDAY: That's correct.

COMMISSIONER HYMAN: I mean I am familiar with the general area 'cause I work up there, but I don't remember this particular site.

So all the trees and all the vegetation between the individual campsites or whatever you call them you have to plant?

MR. KILDAY: Yes.

COMMISSIONER HYMAN: Okay. And --

MR. KILDAY: There's some -- there's some trees that we're showing right in this area (indicating), one little cluster, in the

recreation area that may be able to be saved, but one of the issues is we're going to have to raise --

COMMISSIONER HYMAN: So do we have a landscaping plan?

MR. KILDAY: -- the value.

You have a requirement -- we have submitted a conceptual plan called an alternative -- ALP exhibit, but we will then have to give a detailed plan, and that plan has to show where all these trees are going, and all these trees are also inclusive of all the landscaping that we're moving out of the -- out of the fire break and into the site.

COMMISSIONER HYMAN: So do we have a requirement that you guys approve the landscaping plan?

MR. Mac GILLIS: Yes.

COMMISSIONER HYMAN: You sure?

MR. Mac GILLIS: It's part of the building permit process. They'll have to bring one in before the -- any of the -- well, actually, they won't be coming in for -- well, building permit for the rec vehicle.

We may need to condition that, when the landscape plan comes in.

MS. HERNANDEZ: No, they're submitting an alternative plan at final DRO.

MR. KILDAY: So -- yeah, we -- actually, the condition has us do it prior to building permit --

COMMISSIONER HYMAN: And then the last --

MR. KILDAY: -- so it goes to DRO.

COMMISSIONER HYMAN: The last question I have is show -- can you show us exactly where the variances are that you're asking for?

MR. KILDAY: Yes. The primary variance, which was the ERM-related, is to take landscaping that would be here and move it over to here (indicating). That's one variance, and that's around the entire site.

The second variance is this is the Thomas' existing house, and it'll become part of the management and maintenance, and that house -- it's just to allow that house to remain where it currently is, and that was previously approved.

Third variance staff had mentioned was previously approved was to eliminate a wall around the site and go with the fence, which made sense.

And then the three lots that were brought up by several owners, that's these three lots right here (indicating), and the actual lot size, not the pad where the vehicle stays, extends into this buffer area right here up on the north side.

So that was the only thing. It's very minor, but where we were saying that we were going to dedicate out this area here and then provide a park area in this here, we moved them over, and the tips of those lots went into that setback area.

COMMISSIONER HYMAN: Okay. So -- but -- all right. So how -- if we don't grant that

particular variance, you just lose those three lots?

MR. KILDAY: I either lose the lots or they become short stubby lots. They'd have to get shorter length-wise, so not necessarily lose them, but their dimension would become shorter in that area.

COMMISSIONER HYMAN: 'Cause that is a pretty self-imposed type of hardship; right?

MR. KILDAY: Well, the County's getting their missing piece of -- it's a trade.

COMMISSIONER HYMAN: It's a trade.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: One question I had is on the look from the road of this project when you -- as it's built out.

As you drive down Indiantrail [sic] Road now on that side, it's just all natural vegetation.

The two things I'd like -- is this going to look like a brand new project with real fancy landscaping, or is there going to be landscaping and try to -- makes it blend in to the existing area?

MR. KILDAY: Yeah, the -- right now if you drive down the road, you'll see the natural landscaping until you get here (indicating), and some of the people rightly said to me that they can see the Thomas' house from the road.

So we're going to have to create the landscaping, and that's why we had suggested to staff that we use some sort of a natural landscape material to come in there, and we have -- went to one of the places where we've used, and that's using your pines, your Sabal palms, your saw palmettos, and some of those are actually specified in the condition.

So what we're trying to do is as you come down the road, getting landscaping that looks a lot like what is existing already on the road, so it just creates a blend across the front of this 600 feet.

VICE CHAIRMAN ANDERSON: Now, if, you know, three years from now this is built up and I'm driving down this road, will I be able to see any of the trailers as I drive by?

MR. KILDAY: You shouldn't be able to see them because we're doing a berm as well as the landscaping, and, you know, just to -- putting this in here, you know, maybe like if you're in here, you might see -- knowing what the height of this is on this berm here, that's probably about 12 feet, so there's a possibility you might see a roof back there between here, but it would be looking between trees to get to a point, and I can tell you that we can definitely probably eliminate that, too.

I mean we can --

VICE CHAIRMAN ANDERSON: And then --

MR. KILDAY: We can eliminate the view if that's the issue, I'm sure.

VICE CHAIRMAN ANDERSON: And then the last

question is the driveway. If I'm driving by and I look down the driveway, is that going to be as heavily landscaped, or should that have a little meander to it so you're not looking right at --

MR. KILDAY: What we --

VICE CHAIRMAN ANDERSON: -- straight down the parking lot?

MR. KILDAY: What we did is we wrapped -- this is the entrance road here (indicating), and then you come in here where there's a gate that then lets you into the park back off the road, and so we turn the landscaping along this side.

These are vehicles -- the closest vehicles to the road are these vehicles here (indicating). So that landscaping actually will extend, and we'd accept a condition to extend the same style of plant materials and spacing up along this side of the road here.

This buffer you'll see here, we are required by ERM to provide gates here and here (indicating), so there will be one small area that I suppose if you're driving by, you may be able to see across through that gate across the lake and maybe spot a few vehicles. I mean you'd have to be intentionally looking to do it.

VICE CHAIRMAN ANDERSON: I'd just like to see you block the view of these as much as you absolutely can.

MR. KILDAY: I think --

VICE CHAIRMAN ANDERSON: That would be --

MR. KILDAY: I think we can do that.

VICE CHAIRMAN ANDERSON: You know, even if you have to -- where that gate is if you have to put a little bit more landscaping on the other end of the lake just to block the few little trailers there.

MR. KILDAY: Up through this area (indicating). And we are showing it. I just hadn't given it a lot of thought --

VICE CHAIRMAN ANDERSON: And then on the other side if you have --

MR. KILDAY: -- across here.

VICE CHAIRMAN ANDERSON: -- on the west side where that gate is down that dirt area, anything you can do to kind of --

MR. KILDAY: Okay.

VICE CHAIRMAN ANDERSON: -- the rear landscaping.

And then another question, that dirt trail that goes all the way around, is that going to be a recreational amenity, or is that blocked off from use?

MR. KILDAY: No. This is actually all going to be grassed and sodded, and, hopefully, I'm going to get ERM to let us put some low groundcover-type things within this green area within it.

But we've also talked about perhaps doing something like a putt and pitch, some golf-type use on it, but it'll be green. It won't be dirt.

VICE CHAIRMAN ANDERSON: I mean, again, one of the other neighbors' concerns is that

everybody here would leave and walk down their streets and stuff, so as much as you --

MR. KILDAY: Yeah.

VICE CHAIRMAN ANDERSON: -- can create a walking area for them on site --

MR. KILDAY: Yeah, we --

VICE CHAIRMAN ANDERSON: -- or recreational activities.

MR. KILDAY: We -- actually, we have a -- we have a walking area shown on one of our site plans through here, and -- but it was more internally based to here than it was external.

But this could definitely be part of a trail system around the edge.

All we have to do is we can't be putting large trees in that area because we have to keep it open, and we could get with staff and probably work in a condition on how to deal with that area prior to the BCC. I don't see that being an issue.

I don't see anybody going across the street, and I think that's -- you know, one of the concerns was that somebody staying over here is going to start meandering across the road.

You know, this road across the street, that's a canal, so the only places you get in are where these roads enter it.

So I mean there's just no good reason why anyone would want to walk across a four-lane highway into a neighborhood to the south, and to the north I have no neighbors.

VICE CHAIRMAN ANDERSON: I've been down that street that's directly across from the park --

MR. KILDAY: Rocky Point?

VICE CHAIRMAN ANDERSON: -- dozens of times, Rocky Pines Road.

MR. KILDAY: Yeah.

VICE CHAIRMAN ANDERSON: I've been down that road a dozen times, and it's a beautiful place to go for a walk so I can understand the neighbors' concern of having 100 people --

MR. KILDAY: If we were on the south side -- if we were on this 20 acres here (indicating), I think there'd be a lot more chance of it. I think part of it is, you know, the road, as they pointed out, is pretty well a highway, so it would take a lot more conscious effort, and if I got this trail here, and I've walked this bed, and it's spectacular, by the way, where I can enter right from the campground, I think the direction and the pull for people here is to be going and walking on that trail there.

VICE CHAIRMAN ANDERSON: All right. I understand.

COMMISSIONER HYMAN: Is there a walkway around the lake?

MR. KILDAY: Yes.

COMMISSIONER HYMAN: Yeah, I don't think they're going to cross the road to go to the south side, personally.

CHAIRMAN BARBIERI: Any other

commissioners want to speak?

(No response)

CHAIRMAN BARBIERI: Staff, do you have any follow-up? Yes.

MS. OWENSBY: I'd like to mention that on the add/delete we had to add back in the motion regarding the approval of the Class A conditional use for the water plant.

I had inadvertently deleted the motion that said water and treatment plant. It should be revised to say water plant. That is on the add/delete. Make sure the motion's clear.

CHAIRMAN BARBIERI: All right. Anything else from staff?

(No response)

COMMISSIONER HYMAN: I have no problem with this, and I mean I think you've addressed the questions. I'm not sure that you need that one variance, and I would probably not vote for the reduction of the rear setback for those three rec vehicles.

It is -- it was a swap, but it's -- I think you need just a squattier, you know, I don't think it's a big deal.

But I thought the issues raised by the residents are really good issues, and I thought you had really good answers for them. So I appreciate everybody coming and --

So I'm going to move for the resolution approving the Type II zoning variance to allow the reduction in the required setback for the single-family residence, to allow the relocation of landscaping required for the perimeter buffers and to allow for the reduction of the required recreation area, subject to the conditions.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Seconded by Commissioner Anderson.

Discussion.

VICE CHAIRMAN ANDERSON: And just under discussion that make sure, staff, when you're working with the design and the landscaping, to make sure you look at the issue of sight line into the park to make sure there's as much reduction of any sight of any interior parts of the park as possible.

COMMISSIONER HYMAN: Yeah, you need to -- Kerry volunteered to have that one condition, but the landscaping in front will continue down the entranceway that needs to be part of it, and we ask you to be really diligent when you look at their landscaping plan.

And I think Kerry's idea -- I think it should be indigenous type of vegetation so it doesn't stand out, it needs to blend in.

CHAIRMAN BARBIERI: All right. Any other questions?

(No response)

CHAIRMAN BARBIERI: Staff, I have one question that one of the ladies brought up. I think it was the vice president.

Can you just explain the density, why it's different from Jupiter Farms across the street, why you're allowing so many units per acre?

MS. OWENSBY: Actually, they're not -- they're not technically units because it's not year-round living; however, the number of RV sites is within the code limits, and we did not have any objection to the density because it's a recreational use adjacent to a natural area, and there are no abutting residences.

It is strictly, you know, open, natural area. So there was no direct compatibility issues with the surrounding properties.

CHAIRMAN BARBIERI: Okay. Okay.

Is there any other questions?

(No response)

CHAIRMAN BARBIERI: All in favor of the motion.

COMMISSIONER HYMAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER BOWMAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

CHAIRMAN BARBIERI: Ayes.

Opposed.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER ARMITAGE: Aye.

COMMISSIONER HYMAN: You're opposed?

CHAIRMAN BARBIERI: We have Commissioner Armitage and Commissioner Kaplan in opposition.

So the motion passes 5-2.

COMMISSIONER HYMAN: Now, did I need to make mention of the --

MR. BANKS: Motion denying the variance?

COMMISSIONER HYMAN: Yeah, I was just going to -- right.

So I'm going to recommend a denial of the one variance for the reduction of the rear setback for the three recreational vehicle spaces.

CHAIRMAN BARBIERI: No, not a recommendation.

MR. BANKS: Not a recommendation. You take final action.

COMMISSIONER HYMAN: Well, then I'm moving to deny that section.

CHAIRMAN BARBIERI: We have a motion to deny the setback variance.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Seconded by Commissioner Anderson.

Any discussion on that motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: That motion carries, 7-0.

COMMISSIONER HYMAN: Then I move for approval of the official zoning map amendment from Ag Residential Zoning to Recreational Vehicular Planned Development District, subject to all the conditions as modified.

CHAIRMAN BARBIERI: Okay. Commissioner Bowman was opposed to that last motion, so that motion was 6-1.

Commissioner Hyman --

COMMISSIONER BOWMAN: Sorry about that. I should have brought it up in discussion. I just feel that they made a deal with ERM. They donated the land to the County to make the road, and to take those three spots to make them a little bit shorter, it's not a -- not part of the deal, and that's the reason I opposed it.

CHAIRMAN BARBIERI: All right.

COMMISSIONER HYMAN: Commissioner Hyman, would you restate your motion, please.

COMMISSIONER HYMAN: The last one?

CHAIRMAN BARBIERI: Yes.

COMMISSIONER HYMAN: I recommend approval of the official zoning map amendment from Agricultural Residential Zoning District to the Recreational Vehicle Planned Development District, subject to all the conditions as modified.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: That motion was seconded by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER BOWMAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

COMMISSIONER KAPLAN: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Commissioner Armitage is opposed.

That motion carries, 6-1.

MR. KILDAY: Thank you.

MS. OWENSBY: Oh, we need the motion on the add/delete for the conditional use.

CHAIRMAN BARBIERI: Pardon me?

MS. OWENSBY: The motion on the add/delete for the conditional use -- I mean the requested use. That should be a requested use.

COMMISSIONER HYMAN: I move for -- recommend approval of the Class A conditional --

MS. OWENSBY: Requested use. I'm sorry. Requested use.

COMMISSIONER HYMAN: This is for the water plant?

MS. OWENSBY: Yes, yes.

COMMISSIONER HYMAN: Recommend approval of the Class A conditional use for the water plant.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER HYMAN: Subject to the conditions.

CHAIRMAN BARBIERI: Second by Commissioner Anderson.

Discussion on that motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER BOWMAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

COMMISSIONER KAPLAN: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Commissioner Armitage is opposed.

The motion carries, 6-1.

MR. KILDAY: Thank you.

CHAIRMAN BARBIERI: All right. Thank you.

We're going to break for lunch. Everybody please be back here at 2:00 o'clock.

(Whereupon a lunch break was taken from 1:00 p.m. until 2:00 p.m.)

CHAIRMAN BARBIERI: We'll get started. Will everyone take your seats, please.

MR. Mac GILLIS: We'll begin with Item 26 on Page 14 of your agenda, ZV/PDD/DOA/W2007-884, Lyons West AGR PUD.

CHAIRMAN BARBIERI: Okay. We have to hold a minute.

MR. Mac GILLIS: Oh, I'm sorry.

CHAIRMAN BARBIERI: Channel 20 has got a program running for five more minutes.

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

MR. Mac GILLIS: Okay. Item 26, ZV/PDD/DOA/W2007-884, Lyons West AGR PUD, Pages 637 through 725.

Staff is recommending approval on three of the motions and denial of the waiver of cul-de-sacs.

Staff is recommending approval with 61 conditions found on Page 670 through 691 and on your add and delete.

Maybe to -- brevity on this petition, if it's the pleasure of the Board, the only issue that staff and -- I believe there's any issue on is the motion for the waivers, and just for your -- on this application here, unless you want to hear the whole application, go through it all, the only thing that we're -- the reason it's not on the consent agenda was because of the waiver of the cul-de-sacs.

You just want to hear it? Okay.

Just so you -- the Board has been hearing

waivers of cul-de-sacs now probably for two years.

At your direction I did go back and fix the Unified Land Development Code --

COMMISSIONER HYMAN: Good.

MR. Mac GILLIS: -- and allow 40 percent of cul-de-sacs now by right.

COMMISSIONER HYMAN: Great.

MR. Mac GILLIS: They don't even need to come to the Board.

They're coming in doing 57 percent. That is the only objection staff really has to it, and Zoning staff and Planning staff I don't think is ever going to see differently to the applicant on allowing these waivers without either pedestrian or vehicular access. We just feel the whole point of a planned development intent is to have interconnectivity.

By allowing this large number of cul-de-sacs within the planned development you have -- I don't know how many, it's like 57 percent of the streets in this thing are ending in cul-de-sacs, and I know there's different view on that.

Some people like the cul-de-sacs in the development. The Zoning staff and Planning staff have been clear that we do not support this high number of cul-de-sacs in the planned developments, so --

CHAIRMAN BARBIERI: Why is that?

MR. Mac GILLIS: Well, it's interconnectivity. You have parcels where people go in, and they can't get to the next parcel or whether -- I mean we would even support it I think a little bit more if somebody was having pedestrian linkages, but a lot of these, they're completely screened off from the adjoining parcel.

So if somebody wanted to visit the other parcel, there's no pedestrian linkages. They got to go all the way out of the pod and back into it.

COMMISSIONER HYMAN: Okay. Well --

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Personally, I think you probably consider -- I mean some of these tiny little cul-de-sacs aren't like your typical cul-de-sacs because they're -- it's really not the end of the road. It's just like a little blip in the road.

So I don't have any problem with these cul-de-sacs. You know, I don't have a problem.

VICE CHAIRMAN ANDERSON: If you eliminate it -- you could have a similar plan, eliminate these little cul-de-sacs, and it wouldn't change the plan at all, so --

COMMISSIONER HYMAN: But then you couldn't get to the lots from the cul-de-sac.

Anyway, so what do you need from us?

MR. Mac GILLIS: Well, just you don't go along with staff's motion -- just go through the regular motions.

If you don't agree with us on the last one that we were recommending denial --

COMMISSIONER HYMAN: Right.

MR. Mac GILLIS: -- on the motions and you

do that --

COMMISSIONER HYMAN: Right.

MR. Mac GILLIS: -- then we could proceed on this -- the next application then.

I don't believe there was any objection from the public on this one.

CHAIRMAN BARBIERI: All right. I just would like Barbara Katz, president of the -- COWBRA to come up. She has a card.

MS. KATZ: Yes, I put in my card this morning. I got to change my speech.

Good afternoon. I'm Barbara Katz, president of COWBRA.

We met with GL Homes and reviewed the plans. We like them very much.

We agree with the first three motions and have no problem; however, we are opposed to the -- to your recommending denial of the fourth one, which is the waiver for the cul-de-sacs.

Most people love cul-de-sacs. People love privacy, and, you know, they don't want to know where the rest of the world is and they like dead-end streets.

So we ask you not to support that denial, and everything else is fine with us.

CHAIRMAN BARBIERI: All right. Is there anybody else from the public who'd like to speak?

COMMISSIONER HYMAN: I'm going to move approval of the resolution approving the Type II zoning variance to allow the replacement of the required six-foot high wall with a six-foot high hedge and berm combination and to reduce the width of the east buffer.

CHAIRMAN BARBIERI: Do we have a second?

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, 6-0.

COMMISSIONER HYMAN: Recommend approval of official zoning map amendment from Agricultural Reserve Zoning District to the Agriculture Reserve Planned Unit Development Zoning District.

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, 6-0.

COMMISSIONER HYMAN: And I'm going to recommend approval of the development order amendment to add land area, reconfigure the master

plan, add units and to allow a model row, subject to all the conditions in the --

CHAIRMAN BARBIERI: Motion made by

Commissioner Hyman.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Seconded by

Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: Move approval of the request for a waiver to allow more than 40 percent of the local streets to terminate in dead-ends or cul-de-sacs, subject to the conditions.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER KAPLAN: Denial or approval?

COMMISSIONER HYMAN: Approval.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by

Commissioner Hyman, seconded by Commissioner Anderson.

Any discussion.

COMMISSIONER ZUCARO: Comment.

CHAIRMAN BARBIERI: Comment.

COMMISSIONER ZUCARO: I just want to go to the rhetorical question that was asked as to why 40 percent, 50 percent. I mean, I know that planning staffs all over the country, and I know that some planning staffs here in Palm Beach County are very strongly supportive of this new urbanism-type concept, and PUDs that end up in cul-de-sacs don't allow for connectivity, both in the function of walking and in the function of driving.

There are ample examples that I've had experience with and perhaps others have experienced where these private enclaves become very cost-ineffective.

So I don't think that this vote should discourage the planners and the Zoning people from continuing to think in terms of urbanistic formulas for connectivity. I think that that's the future, but I'll support the motion.

CHAIRMAN BARBIERI: Any further discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

The record should reflect that the commissioners' composition after lunch is Commissioner Armitage, Anderson, Barbieri, Hyman, Zucaro and Kaplan.

MR. KILDAY: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. KILDAY: By the way, my name's Kieran

Kilday, and I represent the applicant.

COMMISSIONER HYMAN: Don't talk so much next time.

VICE CHAIRMAN ANDERSON: I'm sorry. We didn't see you there.

MR. Mac GILLIS: Page 15, Item 27, Z/CA2006-1912, Planet Kids, Pages 726 through 771. Staff is recommending approval on the two motions, subject to 32 conditions found on Pages 745 through 750.

Anthony Wint will give us a presentation on this item.

MR. WINT: Good morning, Commissioners. We'll now turn to Item No. 27, which can be found on Page 726 of today's agenda.

Proposed is the rezoning of 9.18 acres of land from the Residential Estate Zoning District to the Agricultural Residential Zoning District and a Class A conditional use to allow a daycare center.

The proposed site plan shows two one-story buildings totaling 14,000 square feet for 200 children, 61 parking spaces, and access to the site will be from 130th Avenue North.

This project was postponed four times in order to have the applicant meet with staff and the Jupiter Farms group.

At first glance it would appear that a 14,000 square foot building would not have an impact on 9.18 acres; however, when staff reviewed this project under the compatibility criteria in Article 2.b.2.b of the ULDC, we found that the intensity of the use, the number of the children at any one time, hours of operation and access on 130th Avenue North were all issues that posed a potential impact on a rural residential neighborhood.

Staff has received 28 letters in opposition for this project.

Staff supports the project, pending the --
COMMISSIONER HYMAN: Sort of?

MR. WINT: Staff supports the project pending 33 conditions of approval in Exhibit C.

We realize that the applicant showed good faith in the reduction of the size and the number of buildings, but staff feels -- it's staff's professional opinion that the applicant could further reduce the building to 10,000 square feet.

And if there are no questions for staff, I could turn it over to the applicant.

MR. BARRY: Chris Barry, from Jon Schmidt and Associates.

And we're just going to start off with just a project schedule just to show you some of the efforts that we've made to this point.

The application was submitted in December of '06, and since that time we've had meetings with the neighborhood leaders on their own and then with the commissioner and then with the Jupiter Farms Residents Association, and as of the last couple of months we've had a combination where we've had a meeting at the Commissioner's office with the residents association there, and that just shows you that, you know, our client's made a good faith effort to meet with the neighborhood over the time of the application.

And the purpose to showing you the site plan over again was just to emphasize from the standpoint of how the buildings are on the site, there's a lot of vegetation that exists on the site, and we're preparing to save a lot of that vegetation on the site through a 2.2-acre upland preserve, as well as a tree preservation area that's been negotiated with ERM.

And just to show you from the proposal that was first certified by the development review officer to where we are now, we just wanted to show you some of the differences between those requests and how much the project's been reduced.

The certified project had 440 children. We're now down to 200 children, and that's about a 55 percent reduction.

The building square footage has gone down from 24,000 and some change to 14,000, which is just over 40 percent reduction.

The pervious area's been increased slightly, and the outdoor activity area has been increased by 13 percent.

And we concur with most of staff's recommendations and their conditions, but there's a couple that we would like to go through.

First, the 10,000 square feet. We understand that staff's professional opinion is that a 10,000 square foot building could accommodate the 200 children; however, our client, who's been -- owns and operates Planet Kids, has been operating daycares for a number of years, and the purpose behind him asking for additional square footage over the minimum code requirements are -- is that the minimum code requirements are for classroom space for the children.

It doesn't account for the common rooms or, you know, rooms outside of the day-to-day classrooms where the children can interact, such as a, you know, science room or a room where, you know, they can do a play or they can do dancing.

So it's our client's professional opinion as the owner and operator of daycares that 14,000 square feet is a space that he would need to accommodate 200 children and a quality daycare center.

And just to point out, and this is also

pointed out in the staff report, the FAR on the site, you know, would come with a lot of other factors, but just straight FAR would be just under 60,000 square feet, and the requested 14,000 is about 23 percent of the allowable FAR.

And this is just going to -- this is just to show you the way the buildings will possibly be laid out, and that there are classrooms, but also to take into consideration with the square footage is the common areas, as well as some of the areas that just come along with the logistics of a daycare, such as a kitchen facility, a utility room, bathrooms and then hallways, walkways and then office space. That was the purpose of showing you the floor plan.

Then our issue with the Engineering condition that we would be obligated, if a warrant study was done and found that a signal was required at the intersection of 130th and Indiantown, it's our opinion -- and we haven't gotten the Traffic staff or the Engineering staff a revised traffic report, so we haven't had a professional opinion, but it's our unprofessional opinion coming from a traffic engineering standpoint that a 42 percent reduction in the square footage of our buildings -- and that's how the traffic impacts are qualified for a daycare is off the square footage, not the number of children, that the reduction in the square footage wouldn't come close to warranting a traffic signal at 130th and Indiantown.

And we just wanted to go on record and understand that it would probably be in our best interest to have our traffic engineer update the study to bring that to Engineering staff so that they can formulate the professional opinion on it.

The next condition of approval that we have an issue with is the landscaping buffer along the east property line.

The whole premise behind where the buildings are located on the site is that there is a lot of existing native vegetation on the site and to preserve as much of it as possible.

Going along with that emphasis is that along the eastern side there is some existing vegetations to be saved, and we feel adding the split rail fence down that property line doesn't really serve a purpose from, you know, a security or efficiency standpoint, and we would request that it be removed so that that buffer can remain as natural and native as possible.

The use limitations, I think this just may be a discrepancy in the terminology, but the 200 children, that's the capacity at any one given time. That's not the maximum enrollment.

The maximum enrollment can be higher than 200. It's just the maximum capacity at one time.

There cannot be more than 200 children in that facility.

So we just wanted this condition to reflect verifying the capacity, rather than the enrollment capacity.

CHAIRMAN BARBIERI: Let me ask you a question.

MR. BARRY: Sure.

CHAIRMAN BARBIERI: How are you going to do that? What if the 201st kid shows up for school that day? What are you going to tell him? He's got to go home?

I don't understand how you're going to do that. If you -- if your maximum capacity's 200, but you're allowed to have an enrollment of whatever, 250, how are you -- what are you going to do with the 50 kids that might show up?

VICE CHAIRMAN ANDERSON: You have kids like Monday, Wednesday, Friday and Tuesday, Thursday

MR. BARRY: Yes.

CHAIRMAN BARBIERI: Is that what you're planning on doing?

MR. BARRY: Yeah, I mean that's how it's offset. You know, there's kids that may only come for half days or kids that only come three days out of the week.

So if the enrollment is capped, then that doesn't account for children that come at different times and different days.

But I mean I'll -- our client is here. He can get up and discuss the operation of the facility if you'd like.

The -- okay. So the next condition that we would like to -- or, actually, back on the condition about limiting the number of children, we just want to point out that this is language directly from the Jupiter Farms Neighborhood Plan that says that proposed non-residential development should be neighborhood oriented and shall not depend solely upon customers from outside the Jupiter Farms planning area.

And we've gone back and forth a lot with the neighborhood, as well as staff, on, you know, what this terminology means and where are we drawing our children from, and just want to point out that staff, not only in the staff report, but also in a letter that was sent in September of last year, said that there would be -- the current demographic information indicates the daycare center could serve primarily the local community, and that was before we reduced the number of kids from 440 to 200.

Further, in the staff report that's in front of you today, I'll read verbatim.

"The daycare general and institutional use is allowed in all future land use categories. Furthermore, based on current population data, the Jupiter Farms area has enough children under 12 years of age to justify the use as neighborhood serving. The request is consistent with the land use designation of the Palm Beach County Comprehensive Plan."

And then just some of the other conditions. This gets back to our disagreement on the square footage, the cap on the square footage.

And then the other provision in this

condition that we disagreed with was that it says subject to development -- any expansion would be subject to a development order amendment, but currently the ULDC has a provision that if there's a field adjustment that's necessary, that you can get staff level approval if square footage needs to be amended within, you know, a certain parameter, and we would just respectfully request that same flexibility that's in the code today.

And then our other disagreement with staff is on the hours of operation. Our client would prefer to have weekend hours, Saturday and Sunday hours, and staff is currently with their conditions limiting it to Monday through Friday from 6:30 a.m. to 8:00 p.m.

And the only point that we would like to bring up there is that the Jupiter Farms Neighborhood Plan did address non-residential uses adjacent to residentially zoned properties, and the only provision that it said in there that it shall not commence prior to 6:00 a.m. or close later than 11:00 p.m., and that didn't mention anything about a further restriction on the weekends.

And we understand that the original proposal that we came in with was a 24-hour, seven-day-a-week operation that we reduced after, you know, this provision in the neighborhood plan was pointed out to us, and so we then went from 6:00 a.m. to 11:00 p.m. Monday through Sunday, and now our client is even willing to reduce that down from -- to 8:00 a.m. to 6:00 p.m. on Saturdays and Sundays and 6:30 a.m. to 8:00 p.m. Monday through Friday.

And if there's any questions.

CHAIRMAN BARBIERI: All right. Let's go to the public, and I'm sure we'll have questions after that.

We're going to limit you to three minutes.

Please watch the clock so I don't have to cut you off in the middle of a thought, because we have a whole lot of people who want to speak, and I want to make sure everybody has the opportunity to do that.

Susan Kennedy, would you please come up first, and then Kathleen Fahey. After Kathleen will be Craig Chesler.

MS. KENNEDY: Sorry, you called me earlier than I thought.

Susan Kennedy, president of the Jupiter Farms Environmental Council, and I'll get a letter authorizing my statements into the record after this meeting.

I'm again handing that map out so you can get an idea of what we're talking about.

Need a motion? No?

COMMISSIONER ARMITAGE: Move to accept.

COMMISSIONER HYMAN: I think we already have it.

MS. KENNEDY: Okay. Well, it's -- it is slightly different because it has the Planet Kids site indicated on it, and that's what I wanted you

to zero in on.

This Planet Kids location is located at the far western end of Jupiter Farms. It is surrounded by, as is Jupiter Farms, by all the natural lands purchased by Palm Beach County, the State of Florida and South Florida Water Management District.

And the reason this is important goes to the amount of student need there is in this area.

As was pointed out, we've gone back and forth with the developer on the size of this facility. This was our initial concern with the site, and it is -- remains our concern with the site, is the number of maximum students allowed on -- in the building because the number of students directly relates to the size of the building, the amount of traffic, et cetera, et cetera.

We think that the property is really a pretty piece of property, and it was probably bought for a lot of money, and you need a certain amount of students in order to make your business plan work.

We don't feel it's right for our rural community to pay for the price for a poor business decision, essentially.

The largest daycare center in Jupiter Farms is less than 100 students.

Regardless of what the staff has said about being consistent with the land use plan, you also need to look at the consistency with the neighborhood.

This building as it's proposed by staff with maximum capacity of 200 students is twice the size of anything in Jupiter Farms. It's located on the far western side of the Farms, so anyone that has -- wanted to go to this facility would have to travel all the way west to the Farms.

It's located away from the commercial center, which is at Jupiter Farms and Indiantown Road, and it's located furthest away from the Turnpike and I-95 that you could ever get in Jupiter Farms.

It's -- it's a quarter-mile away from your Pine Glades natural area that Palm Beach County, ERM, owns.

And regarding the numbers of students and the hours of limitation, we ask that you look at your previous approvals of daycare centers outside of the urban service area in Palm Beach County, Resolution 2004-0509, which is a Planet Kids approval in The Acreage.

That was approved for 110 students, maximum capacity, and their hours of operation were limited to 7:00 a.m. to 7:00 p.m. Monday through Friday, no holidays, no weekend hours.

We are even more rural than The Acreage is, and we ask you, respectfully, to respect our rural community and not impose a quasi-commercial development at the furthest edge of our Jupiter Farms community.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

After Susan Kennedy, Kathleen Fahey, Craig Chesler, then Paul Gurdak.

MS. FAHEY: Kathleen Fahey, vice president, Jupiter Farms Environmental Council.

I apologize. It's going to be hard for me not to echo Susan's comments.

I do want to refer back to the neighborhood plan that you referred to, and I have to tell you that was made up by not developers and planners, but that was by residents, and I sat in the background as that was being drawn up, and I don't think anyone was thinking that they were going to have the sprawl into the neighborhood area when they drew that up.

They were talking -- that was about when the shopping center came out, and I'm sure you all remember that.

And so they weren't talking about bringing this type of a development, which is urban sprawl, out into the rural area, which is a really big, big, big thing.

There's no evidence that we need this. There's no evidence that we can support it without drawing from other areas.

Last thing I can say to you that as a nurse at Jupiter Medical Center in Jupiter we are one of the largest employers in the Town of Jupiter.

Because of the disaster of the nursing shortage the draw is to hold nurses as -- however you can, and if you can't do it by the dollar, you do it by the benefit. And Jupiter Medical Center is currently serving daycare centers for places in the Town of Jupiter so that -- as a draw for nurses to come there so that they can take care of their sick kids, so they can easily go to and from work.

That is going to affect all the existing daycares. So when we start talking about need, we know that Pratt-Whitney also has their own daycare center.

We really don't see it. We see it as urban sprawl, and the 200 at one time could also mean 400 in a day 'cause they're going to be split hours, so that's not just 200 traffic trips. That could be 400.

Thank you very much.

CHAIRMAN BARBIERI: Craig Chesler.

MR. CHESLER: Yeah. Hi, I'm Craig Chesler. I was here a month ago. I'm going to try to do it within the three-minute time, but I would like to say that thank you for making sure I finally got mailings, and it amazes me that for as long as this been -- has been going on -- I live right here (indicating), and no one has ever sent me anything in the mail, although my wife has gone to the meetings and put her name on the e-mail address. I've never got anything directly from the people that are proposing this. So I've come twice now, and I'm glad that my wife did push me.

I do want to say that she's a

schoolteacher at Bak Middle School of the Arts, and she gave up a career to be a teacher in design, and so she does support the schools.

However, she also likes her life, and we left growing up in communities that were planned that had zero lot lines, that you could hear the neighbor burp, and we moved out to a community seven years ago that we have totally fell in love with.

And although my children didn't at that time think it was a good decision, they support it and would love to have it now in their history forever.

I know if my wife came home or was home on the weekend after working with children all day long, having to sit out on her porch and listen to them running and playing, it would be quite a distraction, and that's what I'm asking all of you. How would you like to be put in that environment?

Also, I was here last time and explained to the gentleman over here that works for the County that I've watched trucks dump illegally on that property for seven years.

I've called the Sheriff's Department. I've have complained and was told it's private property, there's nothing that I can do.

I know that there's toilets there. I know that there's propane tanks there. I've walked that property.

And they call it vegetation. It's a natural Florida ecosystem. I'm sure there's hawks that have nests there. I have woodpeckers on my property, bluejays on my property, cardinals on my property, hawks on my property.

When they built the golf course that's off 95 west, I had foxes run to my property. I saw otters dead on the side of the road because they had to run to the west.

So I want to be able to live my life, and that's why I moved out there, and I'm hoping that you won't take my right to live out in that community away, because I'll sure lose plenty of value, as well.

So I looked at the conditions today. They did hand me the very thick booklet, and I didn't see one condition about checking the soil to see if there's any kind of lead in it that maybe could impact the children, nothing about doing any kind of investigation on that, nothing about doing investigation on any kind of birds that could be habitating [sic] that property.

Also, they're going to put a well that would be deeper than mine which means I could have to put a new well some day which is a big expense, and I was heavily involved in real estate, so I'm not going to go into how much extra cash I have available.

I urge you to please come out, visit my home, walk the land with me, and you'll see what a beautiful piece of property that is.

I can't see why I have to be forced to

live with the kids' noise, and the noise level will be very high.

CHAIRMAN BARBIERI: Thank you.

After Paul Gurdak, Virginia Scott, and then Lois Taylor -- I'm sorry. She'd like to speak next to last again.

So after Virginia Scott, Bryan Daly.

MR. GURDAK: Good afternoon, Commissioners. My name's Paul Gurdak, Jupiter Farms resident.

My main ingress and egress to my property is 130th Avenue, and at times in the morning, just with the local residents, trying to get out onto Indiantown Road, because Indiantown Road widens to four lanes at that point, we have the trucks and semis going east toward the Turnpike and I-95 coming down the two-lane version of Indiantown Road.

That's going to create a massive traffic tie-up. As it is now, we cannot get in and out in the morning rush hour, in the afternoon rush hour.

That's one of my objections.

I'm not going to reiterate. Prior speakers here did a great job. Not going to harp on the same thing.

This is my first time dealing with County government, and from what I'm seeing today I think staff here in front needs to get out of their office and go check out some of these neighborhoods where they want to have this urban sprawl and its impact on our lifestyle, our property values and the general location of the habitat that we're involved in and we're very much appreciative of that habitat, and we don't want anybody else coming into it.

And the fact, again, my main beef is the entrance and the exit on 130th Avenue. It's a residential street. If this thing goes through and you're going to build it, please put the entrance and exit onto Indiantown Road. Make them put in a traffic light, 'cause if not, you're going to have a lot of dead people out there.

Thank you for your time.

CHAIRMAN BARBIERI: You're welcome.

Before the next speaker I just want to clarify one item -- issue.

Mr. Gurdak suggested that staff members go out and visit the sites, I'm positive that staff members visit the sites because I've seen staff members visit the sites when I've asked them to come out and look, and they've said they've already been there.

So they do go out. Every one of the staff members that's assigned to one of these petitions, visits the site so they know exactly what it looks like, just so you all know that.

Yes, sir.

MR. DALY: Bryan Daly. I'm a resident in Jupiter Farms, also, vice president on the Jupiter Farms Residents Association.

I don't want to rehash what's already been said. I do want to point out one thing.

The corner of Indiantown Road and 130th has a large brown sign that says please slow down for horses. That gives you an idea of the character of the community.

It's a very rural community. That's why we're -- we love it, and that's why we live there, and that's why we're here to fight for it.

But I want you to picture horses, children, et cetera, in the neighborhood with four to 500 vehicles a day traveling down what used to be a dirt road. It's a recipe for catastrophe.

Aside from traffic problems, I think the safety issues are tremendous.

The second issue I think which has really been not really addressed is they were shooting for 440 students from the beginning with -- the fact that they've reduced their request, they started with something that was outrageously sized for the community.

By reducing that doesn't -- they shouldn't get kudos for reducing that.

Secondly, the number of square feet. My concern is that once it's built, they'll come back and say yes, we had 200 students there, but now we'd like to have 300 or 400.

And lastly my -- in talking to other daycare centers in the area is the practice of driving the competition out and then being the only game in town by pricing the competition out.

They have 16 other facilities throughout the county, have the ability to do that, lower their prices, drive the competition out, and then we in a rural community will pay the price of all that traffic, et cetera.

I'm not against children. I'm not against daycare. It's not needed in our community. It's not needed. Most of the daycare is under-utilized currently. There's no big development coming. We just think that it's -- it went from very outrageous to mildly outrageous.

I think at half the size that it's currently being proposed we would probably agree with that.

Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

By the way, we have a motion on the floor made by Commissioner Armitage, second by **Commissioner Hyman** to accept the map into the record that Ms. Kennedy gave us.

So we'll take a vote on the motion.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

Virginia Scott, are you here?

After Ms. Scott, would Bill Thomas please come up?

MS. SCOTT: May I ask which of these staff members is assigned to --

CHAIRMAN BARBIERI: You need to go to the microphone, please. You have to go to the

microphone. Wrong place. That's all right.

MS. SCOTT: I'm blond. Good afternoon. Could you please tell me which one of these staffers here is assigned to the Jupiter Farms?

CHAIRMAN BARBIERI: The staffer that's assigned please raise his hand.

MR. WINT: (Raises hand)

MS. SCOTT: Thank you.

My name is Virginia Scott. What I see coming is Planet Kids wanting to take a huge behemoth commercial enterprise, plop it down in the middle of trees, chasing birds and everything else away, keeping us up 'til all hours of the night.

We all want the kids and everybody else that lives in the Farms to be safe, but we also want to be able to sleep.

I remember going across West Virginia driving, and all of a sudden I saw this little glow on the highway, and I got to it, and it was an oil rig in West Virginia, but it was the only thing that was turned on in the whole state at the time. It was interesting.

Anyway, if we are doomed to having Planet Kids there, we request that the close of business day be at 6:30 or at sunset, whichever comes first, that only the buildings be lit for security, not the playgrounds, not any of the extraneous property that's going to be there.

In fact, we would prefer bollard-type lights, which are, you know, low level and not the 15-foot spotlights which are currently in Planet Kids' proposal.

The lights, the noise, everything else, should not be aggravating the people who surround that property, the people that lived there before they come.

I have had the pleasure for the last four and a half years of living in Jupiter Farms and living next to my beloved neighbors, but when I have to go to the bathroom at 3:00 o'clock in the morning, I am lit up like a movie star from the spotlight that my neighbors have over there.

I wouldn't ask them to remove it, but it really is an aggravation. I hope that all this doesn't befall you all.

Thank you very much.

CHAIRMAN BARBIERI: Thank you.

Bill Thomas, and then Constance Holmes Frausto. Are you here? Okay.

MR. THOMAS: Good afternoon again. My name's Bill Thomas. I just happen to be stuck between both of these developments out here in the Farms.

We own the campground which is right here (indicating), and these are some of our sites.

As I said earlier this morning, our campground business is mainly from December through March or April, and it's snowbirds.

Our quiet hours are from 10:00 o'clock at night to 8:00 o'clock in the morning.

This place is going to open at 6:30.

Our average age of these people that come from up north who drive motor homes, fifth wheels, travel trailers, is probably 68 to 69 years old.

I guarantee you they've already told me if this comes through, we'll be back next year, but we're not going to guarantee anything after that, Bill, and they're coming from the -- from up north, spending their money in our community, and they're -- they just aren't interested in having a daycare.

This thing is upside down, realistically.

This is the back of the campground. This is the -- where they're building is.

Up front is Indiantown Road. All the shrubbery is out here (indicating).

There is nothing to protect our neighbors over here. This is where the cars are going, everything. Nothing's up here with Indiantown Road being right here (indicating).

If it does get approved, why isn't everything reversed, moved up there? You've got a big septic plant over here, package treatment plant, which maybe now if it's approved, they would tap into the system going down at the other campground.

But this is totally reversed. Right here is a road where the kids are picked up at 6:30 in the morning and 8:30. This is your exit from that camp -- from the daycare. You're going to have cars flying out of here, making a little short turn to get here (indicating).

The kids are standing here. You're going to have people running out of out of here, oh, we're not going to make it that way, let's go this way.

Somebody's going to get hit, not unless the School District does something about that corner, and that's just been paved from a dirt road to a regular road.

Again, we've been out there 10 years, but the campground's been there since 1979. So it's been around a long time, and we hope you take that into consideration.

There is three other daycares out here in the Farms. We sure don't need another one.

And it -- again, it will have effect on our business eventually. Hopefully, if it is approved, you'll make them come back with a new plan and reverse the whole setup there because everything is to the back.

Nothing's to the front, and across the street on the front is a gravel yard, a sod place and a tractor-trailer place, which I assume if these people have been out there, they've seen that, which would be on the other -- the side of -- the north side of Indiantown with all your shrubbery here. I don't know what you're trying to protect.

But kindly take into consideration the people that live around it, rather than what's out on Indiantown Road.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

Staff, the map on Page -- the handout edition one of three shows an upland preserve up front and tree preservation area.

Is that why the site plan was reversed? It does make more sense, obviously, to have the buffer in the back to separate it from the residents, but it looks like the map --

MR. KRAUS: Bob Kraus, Environmental Resources Management.

That's exactly why it's like that. Our preserve is on the northern end, and that's where all the valuable vegetation is, and any wildlife or environmental issues has to do with the northern part of the property.

CHAIRMAN BARBIERI: Okay.

All right. After Ms. Frausto, Bill Comensky, and then Dan Vanderlaan.

Yes, ma'am.

MS. FRAUSTO: Yeah. Thank you.

My name is Constance Holmes Frausto, 13230 153rd Road in Jupiter Farms.

I operate a home-based business, teaching swimming in my back yard, and you would think I would be very excited about the prospect of your -- of this proposed daycare center bringing more children, but I am not.

I'm asking you if you can continue -- or if you can consider the integrity of our community.

We have two fabulous daycare centers that are under-utilized right now. They're run by families who live in the Farms. Their children are our children, and we don't need an additional facility.

If you bring an additional facility, I'm afraid you may jeopardize the future of the daycares that we currently have.

So that's why I'm here today, just to ask you to consider the integrity of our community and allow those who are there to continue to operate their businesses and succeed.

COMMISSIONER HYMAN: Just so that you know, that criteria --

MS. FRAUSTO: Doesn't -- it's more like the Board of County Commission --

COMMISSIONER HYMAN: We can't base our decision on that.

MS. FRAUSTO: Yeah, I wasn't sure if you --

COMMISSIONER HYMAN: No, we can't.

MS. FRAUSTO: -- you know, if the integrity of the community was anything that was within your parameters.

CHAIRMAN BARBIERI: Integrity is, but we can't -- we're not permitted to look at the financial aspects of whether one business is going to put another one out of business.

We're not allowed to do -- we've been faced with that with new shopping centers where the residents have said we have enough empty

shopping centers, we don't need another one, but certainly the integrity of your community is something that's within our jurisdiction, and we will consider that.

MS. FRAUSTO: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. COMENSKY: I am Bill Comensky again, and --

COMMISSIONER HYMAN: Not again.

MR. COMENSKY: Yes, again. From Jupiter Farms, and I've been a resident now for 17 years there, and I've seen many changes on Indiantown Road over these years.

One of the biggest is a tremendous increase in the number of times Tomahawk [sic], PBC's emergency helicopter, flies low over our house to land on Indiantown Road to evacuate the injured of an automobile accident.

Or course, the roads are all shut down when that happens.

Many of these are caused by motorists turning south into the Farms and being smashed by cars speeding eastward.

Now, we are here today on the verge of creating another slaughtering intersection at 131 Trail North. This is because cars that would be heading west on Indiantown Road and wanting to turn south into 130th for the proposed Planet Kids at the corner of 130th and Indiantown would need to go down further west to 131st, turn north and then make a U-turn just at the area where Indiantown Road changes from a four-lane to a two-lane.

Now, at that point this is a real bottleneck as it is today even, and drivers are jockeying for position as they're coming down the four-lane so they'll be out front in the two-lane section west of Jupiter Farms, and all of this is occurring at the time of day when traffic is at its height.

My urgent request for this is that construction be initiated to open the median on Indiantown Road at 130th and construct sufficiently long turn -- sufficiently long turning lanes at 130th for both east and westbound cars, plus an on demand traffic signal installed for these turns.

Now, the portion of 130th in front of Planet Kids is currently loaded with traffic in the mornings. Children are picked up there by the schoolbus, dropped off at night there.

So, therefore, the portion of 130th in front of Planet Kids should be widened to four lanes from the southern edge of their southernmost driveway northward all the way across the canal, which runs along the south side of Indiantown Road at that point.

This would necessitate widening the culvert over the canal.

Since each of these changes is needed for the safe flow of traffic and protection of the customers of Planet Kids, I believe Planet Kids

should pay for all these changes, including the on demand traffic signal.

I recommend that no approval be given for construction of Planet Kids until the above changes have been properly made, inspected and paid for.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

After Dan Vanderlaan would Brenda Johns please come to the podium, then Jennifer Wagner.

MR. VANDERLAAN: Good afternoon.

We've been hearing a lot of things about the changes in the request from the original proposal that Planet Kids first brought to us, and while we perhaps should be gratified to see that, it does beg some questions.

As a resident of Jupiter Farms I know that the children are not there to support additional childcare. The existing childcares we have are, none of them, none of the three that we have are operating at licensed capacity. None of them.

The elementary school that serves most of our community and the one in town, Jerry Thomas, both have gone through reduced enrollments for the past three years or more. So there's decline in children in the community in general.

Perhaps when this property was purchased, the buyer went out and saw all of the open land that surrounds Jupiter Farms and thinking, oh, my goodness, look at the potential for development. This is going to be a fantastic place to put a childcare center.

But that's not the case. Palm Beach County has seen fit to buy those lands as preserves. Jupiter Farms is an island now, and we are pretty much built out. There's not going to be a lot of more internal growth, and so we can't even fill the centers that we already have.

So it begs the question, where would these children come from. Well, if we are already serving the community for childcare that we already -- that already live in our community, they would have to come from the outside, and then we start running into the rural tier limitations of businesses that exist in areas like the Farms, not being regional centers in nature, and this has been a description that the folks that are building Planet Kids have used about the center. They anticipated this being a regional center, even at these reduced limits.

Further, I have to laud staff that they're noting that the size of these buildings -- for the reduced number of 200 children the buildings are still over size by more than a factor of two, and I'm sure the children need room to dance, but the parking spaces are also in excess of requirements by a factor of more than two, almost three.

Maybe I'm just a skeptic by nature, but I have to think there's something else behind this, a longer term plan, biding the time. Get the buildings built. We'll see if we can nudge it

perhaps up a little bit later.

But I'm just urging you to decline it. We can't even justify a center of half its size because we don't have the children to fill the three centers we do have, and this just would be a poor use for this property at this time.

Thank you.

CHAIRMAN BARBIERI: After Brenda Johns I said Jennifer Wagner, but you wrote a comment, so if you don't want to speak and you don't come up, I'll read your record after -- read it into the record afterwards.

Brenda.

MS. JOHNS: Hi. My name is Brenda Johns, and I am one of the owners of the other preschools in Jupiter Farms. I do have many comments on my opposition to Planet Kids; however, I think it would be repetitive to what many of the other speakers are saying.

As a resident I would like to say that my concern is that bringing a business as large as Planet Kids, any business, sets a precedence for the future out in Jupiter Farms.

I have been there for 14 years, and I've seen it grow, and we moved there from Fort Lauderdale because we absolutely loved the rural community, the rural feel. My children ride their bicycles.

I know that they will not be allowed to go to the campground -- to the candy store because I'll be afraid of the traffic flow on 130th and Indiantown Road now.

So it will change our life. We don't live right next door to where it is, but it will greatly affect us as residents, and I really urge you to think about the ruralness of the community and to oppose Planet Kids.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

Jennifer Wagner, "A project of this size has no place in the development, residential horse community. There are a lot of children that travel up and down 130th to and from school and homes -- school and homes. The amount of traffic will endanger their safety."

Kevin Wagner, did you want to speak? "The risk of impact to our groundwater with the addition of the sewage plant, the noise, why are you allowing this kind of precedent to occur within the rural tier? You're opening the door to more development in an equestrian community."

Leslie Gould said she doesn't want to speak. She wants it read.

"I moved into Jupiter Farms because of it being a rural area. Living next to the proposed site of this 14,000 square foot structure would negatively impact -- affect myself and many other Farm neighbors. The traffic, it would create noise. Strain on our septic systems would be substantial. I'm very much against this project."

Patricia Sickles, "I oppose Planet Kids as this development is too large for the number of

children to be attending. There are not enough children in Jupiter Farms to support the school."

Thomas Sickles, "I oppose Planet Kids as current plans appear to be targeted toward a large facility after approval. I don't think they are telling all the story. Too much traffic when paired with RV park and the -- something Baptist Church.

UNIDENTIFIED SPEAKER: Beacon Baptist Church.

CHAIRMAN BARBIERI: Beacon Baptist Church.

Okay. I'm sorry. I can't read that.

Kevin Johns, "The size of buildings are not compatible with the rural tier designation of a residential neighborhood, no commercial development in residential areas."

Ewart Short, "As a resident of Jupiter Farms and living on 130th Avenue I oppose Planet Kids as proposed because of the traffic impact on 130th Avenue and Indiantown Road.

It is proposed to enter and exit on 130th Avenue. This will create new traffic of up to 500 additional cars per day on a residential street. Entry and exit needs to be from Indiantown Road to avoid this traffic nightmare."

Lois Taylor, you asked to speak next to last, so please come up, and, Ellie Halperin, you asked to speak last, so you got it.

MS. TAYLOR: Hello again.

Everybody so far has been correct. It is a nice tranquil neighborhood in which the Planet Kids proposes to locate.

Jupiter Farms people look to their neighborhood plan and to the rural tier for protection of their rural lifestyle and their neighborhoods.

Bill Thomas told you that the trailer park gets along just fine as a neighborhood -- as a neighbor. In fact, they were the neighborhood before all the other homes came. They were really there first.

So -- and the community in that area gets along just fine and quietly.

The rural tier suggests that commercial uses be clustered in a town center, and, if not, then they must be compatible to the neighborhood in which they are located.

Compatibility doesn't mean having a facility that is almost twice the size as any other daycare center in the rural tier.

It's not impacting a quiet established neighborhood with traffic generated by parents dropping off in excess of 200 children. That would equate to about 500 trips a day when teachers come in and out.

The other thing is when Palm Beach County Traffic Division reviews for traffic trips, they don't do it by usage where we simply multiply that a child has to come and go, and, therefore, that's two trips multiplied by 200.

They say it's based on the size of the building, which, in their mind, will generate more

like 1100 trips a day. So that 14,000 square foot building is really too large for a rural neighborhood.

COMMISSIONER HYMAN: Can I ask you a question?

MS. TAYLOR: Yes.

COMMISSIONER HYMAN: If it was restricted to 10,000 square feet, how would feel?

MS. TAYLOR: We would feel a lot better.

Karen Marcus made the statement once that we should be looking at buildings that were compatible with the neighborhood, and you're looking at homes that are 2500 to 3,000 square feet.

So when she said that, we're envisioning a couple of homes, maybe home-like buildings, maybe 3,000, 3500.

We did work out the figures driving down today. Fourteen thousand square feet allows for 320 children by the law, plus with around 32 or 300 square feet for extras. Unfortunately, they consider restrooms as part of the extras, but kitchens and offices and things, and so that's a whole home extra in a facility if you're talking your 10,000.

So that's a -- it's good space for the children.

The 14,000, coupled with the fact that the site plan plans 2.75, the number of parking spaces required for a daycare licensed for 200.

Except for handicapped it requires 30 spaces. They've planned 82. That's a lot of extra non-pervious paving we don't need in a neighborhood.

It really -- the ideal thing would be, of course, for them to come in and out Indiantown Road so that they would leave the neighborhood much as it is.

And I had some pictures, and somebody was carrying it, and I don't know where it went, but it is a very nice quiet neighborhood. And it's not a new neighborhood. It's just been there.

So the other thing, of course, is that the facility is to be sized for the number of children available.

We have 4500 households in Jupiter Farms, and that number has declined by about 50 in the last six months. People must have just moved away and left their homes.

And you use the School Board multiplier and you adjust it for adding in the children, three to four, and you subtract out the kids that are currently in the two elementary schools, and it comes out to the grand total of 104 children available for daycare, and I'm sure there are a lot of moms at home, too, that cut that number even further.

So we just feel that this is too big for the neighborhood. It's not sized for the neighborhood. It's not set for the community, and we would like to see it particularly come down to a size that is more compatible with the number of

children licensed.

Susan mentioned that we had another daycare, that the other -- the largest most licensed is 110. A hundred and twenty, maybe 150 are reasonable numbers for a daycare.

But you can't approve a daycare licensed for that smaller number and give them the privilege of building a building that is obviously good for 300 or parking for 300. They have to match.

I thank you very much.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Ellie.

MS. HALPERIN: Ellie Halperin, attorney for Jupiter Farms residents, and Lois was very articulate, and you've heard from a lot of people, and some agree with what the group, the Jupiter Farms residents, have proposed in their meetings with Commissioner Marcus and staff, and some don't.

So you've gotten both sides. You've gotten those that don't support it and those that want certain concessions made in order to support it.

So like you do sometimes in court, you need to consider both. If it is going to be supported, then there are certain things I'd like to highlight that we'd like considered, many of which has been put into the conditions suggested by staff, and we very much appreciate that.

One of the things we learned today that I think does need to be addressed is that conflict between the driveway and the schoolbus stop. They obviously shouldn't be at the same point for -- in opposition on the road.

I'd also spoken already with the applicant, and they said they would consider between now and BCC ascertaining whether or not low level lighting, bollard lighting, could meet the code in lieu of the 15-foot lights, since that certainly is not compatible with the community.

As Lois said, the most that the residents have discussed is -- as might possibly be compatible, given the fact that this is not clustered, this does not fit the neighborhood plan in putting all commercial uses near the shopping center, that this does spread it out, that they could potentially support a school with an enrollment or an occupancy of 150 students, provided the building was sized accordingly.

And if you use the State requirement and then add in the 3,000 square feet that the staff is supporting for 200 students, that would bring it up to 8,250, and it should be in two or three buildings, so it does look like homes within the neighborhood.

Once the total occupancy is set, we would like some sort of monitoring implemented so that it can be checked to make sure that there aren't more students than that occupying the premises, and that limit should also be conveyed to the

Health Department so that they know what the full licensure is before they could ever expand it.

The hours of operation, again, we support staff. This is not an area -- this is a residential community and shouldn't have a commercial business on the weekends.

And the parking, as Lois mentioned, should be compatible with what's required for the size of the building, not giving it an opportunity for much expansion by having adequate parking for a higher use.

And, finally, as regards to the signal, the condition is usually written, if warranted, and we don't see a reason why that shouldn't stay in place. If ultimately it's not warranted, we understand that, but if it is, this applicant should be responsible to pay for it.

Thank you.

CHAIRMAN BARBIERI: Okay. Is there anybody else before we close the public portion?

(No response)

CHAIRMAN BARBIERI: Okay. I notice Commissioner Hyman was making notes on all the things that I wanted to discuss so I'll ask her to speak first, I guess.

COMMISSIONER HYMAN: Well, you know, when I first looked at this petition, certainly a childcare facility in this residential area seems to be warranted.

After hearing from the members of the public it certainly seems to me that the facility, because of its size, is probably not consistent with the neighborhood plan and probably doesn't satisfy all the criteria that are called for that it needs to meet.

But before voting on it I'd like to go through those things that people have mentioned and see if we can reach some kind of agreement, and then we could determine whether or not we support it.

Did you -- I don't --

CHAIRMAN BARBIERI: Well, why don't we --

COMMISSIONER HYMAN: Yeah. Did you want to have any rebuttal, or did you want to wait?

CHAIRMAN BARBIERI: Why don't -- you've got a lot of points. I've seen what you've written down. I think you should go through them --

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: -- so he can answer your questions.

COMMISSIONER HYMAN: All right. First thing was the entrance on 130th, as opposed to Indiantown Road.

Indiantown Road would seem to be the logical place to put this entrance, rather than putting it on their -- one of the community's main accessways, but I'm sure you have a good reason.

MR. ROGERS: Any time you put a new entrance somewhere, it's going to have some sort of impact.

COMMISSIONER HYMAN: Right.

MR. ROGERS: So the question is where is the least amount of impact going to be to the greatest number of people, and there's absolutely no question that an access onto a side street, which will eventually, we suspect, be signalized, is a much better opportunity than having a driveway onto a road such as Indiantown Road where we all know that, although the posted speed limit is one thing, that the actual practice of the people driving that road is something significantly different than that.

COMMISSIONER HYMAN: Ken, Indiantown Road -- the signal would be on Indiantown Road; right?

MR. ROGERS: At the intersection of 130th.

COMMISSIONER HYMAN: And who --

MR. ROGERS: That is a condition of approval.

COMMISSIONER HYMAN: Is that DOT or County?

MR. ROGERS: It's a County road.

COMMISSIONER HYMAN: And so where is it in terms of the trips? How close are you to a signal being warranted there?

MR. ROGERS: I do not have that information with me.

COMMISSIONER HYMAN: Any guess?

MR. ROGERS: The condition of approval was placed upon it, so we suspect that the traffic volumes would be in a range that would support the condition, as opposed to last month, remember that project on -- about two months ago, that project on Sims Road where the residents wanted the traffic signal, and our analysis showed that we could never get there.

COMMISSIONER HYMAN: Right.

MR. ROGERS: We did not put that condition of approval there. We have the opposite situation here.

COMMISSIONER HYMAN: Okay. All right. The modifications to 130th, what modifications are they being required to make in --

MR. ROGERS: We're asking them to construct left and right turn lanes on 130th at their driveway.

CHAIRMAN BARBIERI: Mr. Ennis, do you want to comment on --

MR. ENNIS: Yes, I would.

On the access issue I guess one reason why the access was not put directly to Indiantown was because it would have gone through the preserve area, but more than that I think the problem would have been that you would have had a right turn in, right turn out access on Indiantown Road, which would have required that U-turns be made where that four-lane section tapers down to a two-lane section, and that probably would not be a very safe situation, either, for people that come from the east and going to the entrance to the daycare.

COMMISSIONER HYMAN: Well, we knew you guys had a good reason for those, but we needed to

hear it.

CHAIRMAN BARBIERI: Thank you.

COMMISSIONER HYMAN: So you're going to have left and right turn lanes with -- and what about paving?

I don't -- 130th isn't paved, is it? It is paved? Okay. It's not paved? It is paved?

MR. BARRY: It is.

COMMISSIONER HYMAN: It is paved.

So any other modifications that they're making?

MR. CHOBAN: They're going to carry that left turn lane up to tie in with Indiantown.

COMMISSIONER HYMAN: Okay. The signal when warranted. Okay. We talked about that.

The big thing, of course, is the capacity and the size. If you -- the 200 kids they want, 200 children, 14,000 square feet.

I agree. I think after hearing the neighborhood that that's probably too large for that area.

Staff, you've recommended 10,000 square feet, and how many children would you bring it down to?

MR. WINT: Two hundred, same amount of children.

COMMISSIONER HYMAN: But does that make sense? I mean if you're going to reduce it by that percentage, why wouldn't you also reduce the number of students that would be permitted there?

MS. KWOK: Actually, the original proposal was actually for a 23,000 square foot building with 400 -- I believe 490 children.

MR. WINT: That's correct.

MS. KWOK: And after a few postponements and discussions with the neighbors and the District Commissioner, and staff actually would recognize that the applicant did demonstrate an effort to reduce the intensity and the capacity of the facility.

So we were debating whether we should capped it at 200 children at any one time or just the whole overall capacity, and, you know, we also recognize that the 130th Street is a local residential street, and there should be some impact.

And we have other use limitation conditions like hours of operation.

I think at this point we're comfortable leaving that at 200 children at any one time and have other restrictions like limiting the size and put in additional use limitation condition and also landscape buffer.

I think that would adequately address that.

COMMISSIONER HYMAN: So the hours of operation that staff recommended were --

MS. KWOK: It's Monday through Friday --

COMMISSIONER HYMAN: Right.

MS. KWOK: -- 6:30 --

MR. WINT: To 8:00 p.m.

MS. KWOK: -- a.m. to 8:00 p.m.

CHAIRMAN BARBIERI: And no weekends.

MS. KWOK: And no weekends.

CHAIRMAN BARBIERI: Let me ask you a question, Maryann.

I mean if we allow 200 kids, which I think is too many, but if you're going to allow 200 kids, you might as well give the kids more places to play and more things to do, so I mean the difference between 10,000 and 14,000 is not a big deal.

I think the big deal is how many kids because that's what's going to bring the traffic.

So I mean I'd prefer you to have less children so you can bring the size of the building down without penalizing the children by saying you're not going to have this extra 4,000 square foot of area to play in.

COMMISSIONER HYMAN: So if you reduce -- you're reducing the kids by -- you're reducing the size from 14,000 to 10,000, that's -- is that a quarter? Then a quarter of 100 kids, then you're going down to 175 kids: right? Is that right?

Do not rely upon my math. I mean I'm not --

VICE CHAIRMAN ANDERSON: It's terrible.

COMMISSIONER HYMAN: I mean is it 150 kids?

MS. KWOK: Well, let me tell you the rationale of that 10,000 square feet. Okay.

It's -- first of all, we were never given those floorplan that represented to you. So we do not have a full understanding of how this building is being laid out.

What we decided to do is based on what Health requirements. Health required 35 square feet net area for each child.

COMMISSIONER HYMAN: How many square feet?

MS. KWOK: Thirty-five. And so what we did is we just multiplied by 200, and that's, you know, equates to 7,000 -- a 7,000 square foot facility, and then we also add in 3,000 square feet for, you know, to accommodate the kitchen, the offices and storage area.

So I think that 3,000 square foot would very -- would, you know, okay to accommodate all these other extra facilities for the daycare.

COMMISSIONER KAPLAN: Well, you also have another conflict, Mr. Chairman.

The residents have objected to the size of the building at 14,000. You're talking about additional space for the children, but we just got the answer.

That's 7,000 required. There's an extra 3,000. This may satisfy the developer and may satisfy the residents who don't want a large structure there.

So this is something that we, the Commission, will have to balance in our determination.

CHAIRMAN BARBIERI: Well, but if we go to 100 and --

MS. KWOK: And I personally --

CHAIRMAN BARBIERI: -- go to 150 children times thirty-five square feet, then they still get enough room to play --

COMMISSIONER HYMAN: Yeah, what's the math on that?

CHAIRMAN BARBIERI: -- and there's less kids, so what --

COMMISSIONER HYMAN: What's the math on that?

CHAIRMAN BARBIERI: -- would that calculation be? Somebody --

COMMISSIONER HYMAN: 150 kids.

MR. Mac GILLIS: Okay. I worked out -- if you had 135 -- 175, I think it comes out to 8,100 square feet. That's 175 students.

COMMISSIONER DUFRESNE: If I might address the Commission.

COMMISSIONER HYMAN: Wait a second, wait a second.

MR. DUFRESNE: Don Dufresne, for the petitioner.

I think what -- when you talk about the 35 net square feet, that's the minimum Health Department requirement, okay, and it affects the quality of the educational experience the children will receive if you squeeze them in. I cannot imagine 200 children in 7,000 square feet.

COMMISSIONER HYMAN: Neither can we. That's why we're thinking about reducing the number of the children.

MR. DUFRESNE: Right. But, still, the number, 35 net square feet, is a very small number.

It's a minimum number, and if you don't have the ancillary science rooms and the larger play areas and a drama center, then the enhancement to their educational experience is greatly reduced.

CHAIRMAN BARBIERI: If we have 35 per square -- square feet per child, 150 square feet [sic] is 5,250.

COMMISSIONER HYMAN: That's right.

CHAIRMAN BARBIERI: We add on 3,000. That's 8250. We give them the 10,000 square foot structure --

COMMISSIONER HYMAN: Right.

CHAIRMAN BARBIERI: -- for 150 children, max.

COMMISSIONER HYMAN: I agree. That's what I think.

MS. KWOK: Well, the traffic is also related to the size. Traffic concurrency does not rely on the number --

CHAIRMAN BARBIERI: But somebody made a valid point. I mean we don't look -- we're not going to look at the size of this building to determine how many kids -- how many trips. We're going to look at how many kids are going to be delivered there everyday. That's really the reality.

I realize you have to go by the formula in the book, and I -- and I don't fault you on that,

but if we just look at reality, I mean is there's 150 kids, they're going to be brought in the morning, they're going to go home at night.

So there's probably 300 trips there, just --

MR. DUFRESNE: Well, Mr. Chairman, let's talk about reality. The reality is that this is an example of Planet Kids, which, by the way, there are only six of them in the County, not 16 of them.

You will see the red dots. This arrow -- that is -- this is the school's location here (indicating).

These red dots represent the children and the families that attend this school.

It is a very localized traffic pattern. There are not a lot --

COMMISSIONER HYMAN: Which school?

MR. DUFRESNE: -- of extra --

COMMISSIONER HYMAN: Which school?

CHAIRMAN BARBIERI: What school is this?

COMMISSIONER HYMAN: Which school are you talking about?

MR. DUFRESNE: This is the Planet Kids 5 in The Acreage, okay, and we have -- we have --

AUDIENCE: A whole different environment.

MR. DUFRESNE: If I might.

CHAIRMAN BARBIERI: Please let him speak.

He's got the floor.

MR. DUFRESNE: The -- what this shows -- this is off of our enrollment records, and this shows where our students come from.

It is a very localized traffic pattern, and this -- we use this example because it's the closest to Jupiter Farms. It's a, you know, relatively rural area, and this is where the traffic patterns are.

The school does not add a lot of traffic to Indiantown Road. It just doesn't.

VICE CHAIRMAN ANDERSON: Now, your school there is in the center of The Acreage. If you had that school all the way up in the north left-hand corner of the Acreage, you'd have a different traffic pattern.

MR. DUFRESNE: Well, I don't disagree with that, except for the fact that although north of Indiantown Road there are no students. They're all coming from here, anyway.

VICE CHAIRMAN ANDERSON: Now, where's Planet -- your current proposal on that site, on that map?

MR. DUFRESNE: On this map?

VICE CHAIRMAN ANDERSON: Yes, or is it -- it's not on there?

MR. DUFRESNE: I don't know if this map -- yeah, it's going to be up in there somewhere.

VICE CHAIRMAN ANDERSON: Okay.

MR. DUFRESNE: It's on Indiantown Road.

VICE CHAIRMAN ANDERSON: I understand.

COMMISSIONER HYMAN: Couple other things.

You asked -- the -- somebody said something about a driveway by a bus stop.

The driveway in has the bus stop right there, as well?

UNIDENTIFIED SPEAKER: Yes.

COMMISSIONER HYMAN: So --

MR. DUFRESNE: Ken, did you talk to --

MR. ROGERS: We have a School Board representative that would be able to address that.

CHAIRMAN BARBIERI: Would the School Board rep please come up.

MR. OWENS: Good afternoon. For the record, Michael Owens, representing the School Board.

We do have some -- a bus stop there along on 179th, but it's not a permanent bus stop. If needed it could be moved. I mean there's no permanent structure there for the children.

So we could move the bus stop if needed.

We also have two home stops, however, the buses stop near residents there, pick up those children.

Those obviously won't move, but we could move the one that picks up for the other children.

CHAIRMAN BARBIERI: Okay. That would -- obviously, that's something we're going to want to see to be done. If this is approved, we don't want the bus stop where the cars are coming out, so --

AUDIENCE: The bus stop has been there for at least nine years.

CHAIRMAN BARBIERI: Well, it can be moved.

The School Board has indicated it can be moved. The children will learn, the parents will learn where it's been moved to, but we move the kids to a safer place to get the bus.

MR. DUFRESNE: And if -- and there's probably flexibility in the site plan to move that driveway up or down if necessary.

COMMISSIONER HYMAN: What about the impervious paving. Somebody said there was lots more parking than they needed.

CHAIRMAN BARBIERI: Can the petitioner address that? Why do you have two and a half times the number of parking spaces that you need for this?

MR. BARRY: It -- it gets back to the operation of the daycare, and our clients operated daycares, and he feels that it's better to go above the code minimums for the number of parking spaces.

And the other side of that, as well, is if you provide more parking spaces, then you lessen the amount of stacking and queuing on the site because people are actually parking and taking their children into the facility, rather than going through the drop-off at the main entrance would, you know, then have additional stacking.

But from his standpoint it's an operational thing that he feels that he needs over the code minimums at his sites.

COMMISSIONER ZUCARO: Eighty-two versus 30?

MR. BARRY: That's what he's requested us

to put on the plan.

COMMISSIONER HYMAN: Well, at some point -- I mean I think that's a legitimate, valid comment, but at some point if, you know, in a rural neighborhood like this that's probably not appropriate.

MR. DUFRESNE: Well, it's also -- well, I think it's more appropriate because it takes it off the roadway, number one.

Number two, this is not an elementary school where you have everybody arriving at the same time.

So you have some parents there for other -- different age groups have different events going on, and so there are going to be crossovers with parking -- the necessity for parking with crossover traffic, and different age groups coming in and doing different things at different times.

CHAIRMAN BARBIERI: I -- personally, I don't have a problem with having too much parking because I've visited elementary schools where the kids are trying to run all over the place, and there's not enough room for the parents to park, and they're all lined up.

I prefer that everybody can park on the property.

I think if we just limit the size of the building and the number of the children, we're accomplishing the objective. If you have some extra parking, it's not a big deal, at least in my opinion.

I just want to limit the size so it's compatible with the neighborhood and limit the number of children.

I think 200 children is too many, and I think anything over 10,000 square feet is too big.

That's my personal opinion. I don't know how the rest of the commissioners feel about that.

Please -- please don't applaud. We're not doing this for applause. We're just trying to get through the --

COMMISSIONER HYMAN: Just send money.

CHAIRMAN BARBIERI: Yeah, just send money.

COMMISSIONER HYMAN: The exterior lighting, we talked about that, and I know there are regulations that, you know, the lights can't spill over to other properties and all that, but somebody said they wanted low lights, as opposed to the higher lighting.

How are we going to address that?

MS. KWOK: I think what we want to do is ask the applicant to come up with a lighting plan so at least we know where these 15-foot light poles are being placed, and then we'll work with them to put in those -- the shorter lights, and we can work that out.

If they can come up with even a very preliminary plan showing us where those lights are going to be and whether they have any security lights attached to the building, and we can work out something, a condition of approval.

MR. DUFRESNE: That shouldn't be a problem. There's 10 acres there. This isn't a postage stamp lot. I mean it's --

COMMISSIONER HYMAN: They asked for the right to expand as provided for in the code, but, because this is such a sensitive issue here, I would suggest that we don't have that right if they ever did want to come back and -- if they ever did want to expand, that they would have to come back through the process.

MS. KWOK: There is an existing condition, right, on Page 749 of the staff report, use limitation condition two, that talks about no further expansion shall be permitted except subject to a development order amendment --

COMMISSIONER HYMAN: Right, right.

MS. KWOK: -- going back to the Zoning Commission.

COMMISSIONER HYMAN: I'm just raising the points that they wanted to --

MS. KWOK: Sure.

COMMISSIONER HYMAN: -- they didn't agree with staff.

MS. KWOK: Okay.

COMMISSIONER HYMAN: They had a thing about east -- the east property line and landscaping on a fence.

MR. DUFRESNE: Commissioner, I'm sorry, I'm not sure where we ended up on that issue.

COMMISSIONER HYMAN: What?

MR. DUFRESNE: I'm not -- are you in favor of staff's recommendation on that?

COMMISSIONER HYMAN: Yeah, I am, personally.

MR. DUFRESNE: That we get to modify the code on an ad hoc basis?

We're only asking to be treated like everybody else under the code.

COMMISSIONER HYMAN: Well, we're not modifying --

MR. DUFRESNE: And if we want to come back -- no, but if we wanted to expand, we would have to come back through under the code.

COMMISSIONER HYMAN: Right.

MR. DUFRESNE: But that we would have the right to come back, not be prohibited from coming back, which I believe is what the provision from staff is right now.

MR. Mac GILLIS: Well, the provision is that Mr. Barry clarified that through the DRO process once you approved is they can do up to five percent or a thousand, whichever is max, redesign through the DRO administrative --

MR. DUFRESNE: At the staff level.

MR. Mac GILLIS: So we're saying no, that should come back here because of the tightness in this design.

COMMISSIONER HYMAN: Right.

MR. Mac GILLIS: Not allow any administrative, other than what comes off this -- off the BCC to get it approved the first time, not allow them to come back subsequent to --

COMMISSIONER ZUCARO: Is that a provision of right? I mean is Don's comment accurate that this is the code, and everybody -- and he just wants to be treated --

MS. KWOK: No.

COMMISSIONER ZUCARO: -- like everybody else?

MR. Mac GILLIS: Well, it is, but once again, staff recommends it when we have very tight sites where we have to work out things with residents.

There is --

MR. DUFRESNE: This is not a tight site.

COMMISSIONER HYMAN: All the conditions that we place are over and above code.

MR. DUFRESNE: We're asking for 14,000 square feet.

COMMISSIONER HYMAN: Stuff that's in the code we don't even put in this -- in the packet.

COMMISSIONER ZUCARO: But you're taking an entitlement away is what I'm hearing.

COMMISSIONER HYMAN: But it's not entitlement.

COMMISSIONER ZUCARO: If the code says you can do something, and staff's recommendation says we don't want it to be that way, that's taking an entitlement away from them or provision in the code.

MR. DUFRESNE: It's a code provision. It's not even an entitlement. It's in the code.

Others are entitled to operate under the code. We're only asking to be treated the same way.

CHAIRMAN BARBIERI: Then let's limit the size of the project to 8500 so that he can't come back -- he can't get more than the 10,000 -- I mean we want a limitation.

I personally want to see a limitation to 10,000.

If he's got the authority to go to DRO and get it increased by 1,000 square feet or whatever that number is, then whatever that number is let's back it up so that we get the preliminary approval so that he can't possibly get more than 10,000 square feet without coming back to this Commission.

COMMISSIONER HYMAN: I still support leaving the -- leaving the condition as staff has it. We can do it.

MS. KWOK: Yeah.

COMMISSIONER HYMAN: Explain it to the commissioner. We can do it --

MS. KWOK: Yes.

COMMISSIONER HYMAN: -- and I think we should do it.

MS. KWOK: Yes, because all the BCC conditions, you know, exceeds code --

COMMISSIONER HYMAN: Oh.

MS. KWOK: -- and usually when you have a use limitation or a square footage limitation, the condition rules and not the code.

That's why we have conditions of approval.

COMMISSIONER HYMAN: Right.

MS. KWOK: Otherwise, we'll be silent.

It's not going to be --

COMMISSIONER HYMAN: We wouldn't be here.

MS. KWOK: Exactly.

COMMISSIONER HYMAN: The east property landscaping and fence issue, was that an issue at all, or did you agree with him?

MS. KWOK: It's not going to be an issue, but we want to hear about other things before we discuss that.

COMMISSIONER HYMAN: Okay. And then the last thing Ellie said was about monitoring the number of children, adding some kind of condition that they -- that there is monitoring.

Those were all the -- those were all the issues that were raised.

MR. DUFRESNE: Commissioner, we're a State-licensed facility so we're going to have State inspectors that are going to come in and monitor our capacity.

CHAIRMAN BARBIERI: All right.

Commissioner Anderson -- oh, I'm sorry. Maryann.

MS. KWOK: No, no. I'm just going to go back.

There is a condition about any report verifying the enrollment capacity.

COMMISSIONER HYMAN: That's it. Right. Okay.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Yeah, I just wanted to say that when you have an area of sprawl like this, every -- all the homeowners live way out west, the concept of bringing services to the residents, you know, is kind of the idea, you know, bring services to the residents.

But in this situation you're putting a big facility so far west that instead of reducing the trips by moving someone out to the west, you're actually -- a lot of your draw is now going to be coming from the east 'cause that's where the majority of the population of this area is.

So, in essence, you're actually doing the reverse. You're increasing -- you know, instead of moving facilities to the people to reduce the sprawl, you're actually going to be increasing the sprawl because you've picked a site that's so far west in the community.

So that's one objection I have.

The other objection I have is I hate to see such a large facility going into a mainly residential area on large lots.

The idea there, again, is I prefer to have a road going off Indiantown Trail -- or Indiantown Road so that you're not impacting the people, and especially when you start getting a bigger and bigger facility, then you definitely need to be off of Indiantown Road.

If it was a small facility, then, sure, then maybe we could allow on 130th, so I'm not -- I don't object to a big Planet Kids. You could

have one three times this size, but not in this location.

So I think, again, that's another reason it needs to be small.

And the one question I do have about 130th, is 130th any different than like 129th, 128th? Is there something special about that road?

COMMISSIONER HYMAN: Some of them go all the way through, right?

UNIDENTIFIED SPEAKER: It's a major collector road.

COMMISSIONER HYMAN: Yeah, some of them go all the way --

VICE CHAIRMAN ANDERSON: I mean it is a collector road, so that would be, again, the fact -- I mean is that -- is it a collector -- I know this area is kind of built up.

So is the road going to stay that way, or is it planned in the future this is going to become like a major highway?

COMMISSIONER HYMAN: Oh, I don't think so.

MR. ROGERS: 130th is one of the, what we'll call the major minor collector roads in the area.

VICE CHAIRMAN ANDERSON: Okay.

MR. ROGERS: Other streets feed into it, and those -- and then 130th does go to Indiantown Road, and so it is a -- more of a major road than a lot of the other roads are, but it's still a relatively low volume road --

VICE CHAIRMAN ANDERSON: It's not going to change --

MR. ROGERS: -- compared with the more urban areas in Palm Beach County.

VICE CHAIRMAN ANDERSON: And it's not going to change much; is that correct?

MR. ROGERS: No, it will not change.

VICE CHAIRMAN ANDERSON: Okay. The other point I wanted to get at is do you know how many lots you acquired for this parcel?

MR. DUFRESNE: I think it's one parcel. It's only one parcel.

VICE CHAIRMAN ANDERSON: It's only one parcel?

MR. DUFRESNE: And I think it's important to also point out that on the south side of the parcel is an RV park.

VICE CHAIRMAN ANDERSON: I understand.

MR. DUFRESNE: It -- so this is -- I don't know who would ever buy a residential or build a residential -- a home there, a home and a barn there on 10 acres on Indiantown Road with an RV park behind it.

This is a nice buffer and a nice transition --

VICE CHAIRMAN ANDERSON: I understand.

MR. DUFRESNE: -- for the neighborhood.

VICE CHAIRMAN ANDERSON: The biggest thing I'd like to get into is the site plan.

If, for instance this parcel was divided up into residential homes, let's say they wanted to put six lots in here, then some of this area to

the north that's environmentally protected, you know, would have some homes and some trees taken down.

MS. KWOK: No. They can -- they cannot do --

VICE CHAIRMAN ANDERSON: They could not do that?

MS. KWOK: -- six lots. They can only do one unit per --

VICE CHAIRMAN ANDERSON: Oh, they can only do one? Okay. Well, that negates that point.

But assuming you -- that ERM does not allow you to move the property any more north, and if ERM could sacrifice a few trees to help the neighbors, that would, you know, I would agree with that.

But if not, if the site has to be exactly where it is, it's a terrible design because you have all of the impact to the south.

You have the dry retention area, which gives no buffer. You have the main driveway and the main circular drop-off there which increases all the intensity, and then you have the outdoor play structure about as close as possible to the south side of the property.

So, to me, as one gentleman said, this project is kind of built backwards. Well, he was saying it should be on the north side of the property, but what I'm saying is you -- if you have to keep the parcel where it is, you could reorient everything within that location to minimize the impact to the south.

COMMISSIONER HYMAN: Well -- can I say something?

VICE CHAIRMAN ANDERSON: Yes.

COMMISSIONER HYMAN: First of all, there is an outdoor activity area to the north, so there must be like two little areas.

Plus I didn't hear the residents complain about --

VICE CHAIRMAN ANDERSON: Well, the trailer park did.

COMMISSIONER HYMAN: Well, the -- except for the campground.

VICE CHAIRMAN ANDERSON: I mean you're -- you're creating, you know, if you're coming down here staying in this trailer park, then you've got -- you got a big dry retention area that gives no protection. You have all the cars coming at 6:30 in the morning driving directly in front of the trailer park.

You have this huge piece of property, and he's putting all the intensity right up against the trailer park.

I mean I'd like to see a postponement and come back with a design that does not impact that south neighbor as much as this does.

I mean I think --

MR. DUFRESNE: Well, there is a landscape --

VICE CHAIRMAN ANDERSON: -- any other design you could possibly do would be less of an

impact.

MR. DUFRESNE: Well, there is a landscape buffer there.

COMMISSIONER HYMAN: How big a buffer is it?

MS. KWOK: Fifteen feet.

COMMISSIONER HYMAN: How big?

MS. HERNANDEZ: Fifteen.

MS. KWOK: One five, 15.

COMMISSIONER HYMAN: Fifteen feet?

MR. DUFRESNE: Fifteen feet.

COMMISSIONER HYMAN: Not very big.

COMMISSIONER ZUCARO: Is that a motion?

VICE CHAIRMAN ANDERSON: I -- I would -- I would make a motion -- I would make a motion to postpone this for 30 days to come back with a totally redesigned site plan that gets with ERM to try to push it a little bit more to the north, if possible, put all the playgrounds, all the driveways, all the turnaround, all the impact on the north side of the property.

COMMISSIONER ZUCARO: I second.

VICE CHAIRMAN ANDERSON: I think it's a terrible design for the trailer park.

CHAIRMAN BARBIERI: We have a motion and a second by Commissioner Zucaro, but before we vote on that motion, I mean I -- I just want to make sure the petitioner also knows the other issues we have so -- just come back with a redesigned site plan --

VICE CHAIRMAN ANDERSON: Hold on. We don't have to -- we don't have to --

COMMISSIONER HYMAN: Well, I'm not sure --

VICE CHAIRMAN ANDERSON: -- vote on the motion now.

COMMISSIONER HYMAN: I'm not sure there's --

MR. DUFRESNE: In trying to --

COMMISSIONER HYMAN: -- support for a postponement.

MR. DUFRESNE: Commissioner Anderson, trying to -- in trying to maximize the natural preserve this is, unfortunately, the only place this building can go on this site.

Now, it becomes a qualitative and dollar issue to relocate that building to the north. You're going to lose trees --

VICE CHAIRMAN ANDERSON: I didn't say -- if you cannot move it to the north because of ERM, I'm saying get with ERM and say, hey, can we move it 10 feet farther north.

MR. DUFRESNE: We've been there.

VICE CHAIRMAN ANDERSON: And if ERM says no, that's fine.

MR. SCHMIDT: If I may, Jon Schmidt, for the record.

This is our fourth design on the property. We did go to ERM. That's where the most pristine areas for preserve are.

VICE CHAIRMAN ANDERSON: Okay.

MR. SCHMIDT: The reason it's -- the reason it's like that, also, is to keep the rural

character along Indiantown Road.

So, although we're, you know, we're trying to lessen impact on the whole neighborhood.

Now, adjacent to the campgrounds is a 15-foot buffer. We did provide -- although it's a dry detention area, it is additional setback space, so we're trying to push, you know, the kids and the outdoor play activity as far away from neighbors as we can.

So that pushed them up into the upper -- in this quadrant.

VICE CHAIRMAN ANDERSON: But I mean I've been to daycares early in the morning when the kids are -- you know, at 6:30 in the morning the noise factor is -- is close.

If you had -- if you took that exact building and just totally flopped them 180 -- I mean you took it and diagonally on 130th and flip the whole thing so that the driveway was on the north side and the buildings were on the south side --

COMMISSIONER HYMAN: I, you know, Bill, we don't typically, you know, I know we try not to redesign these projects for the people.

I mean if you've ever dealt with our friends at ERM, there ain't, you know, you're not getting to take down these trees.

So --

VICE CHAIRMAN ANDERSON: No, but I'm saying --

COMMISSIONER HYMAN: But I think what we should do --

VICE CHAIRMAN ANDERSON: -- existing where the buildings are.

COMMISSIONER HYMAN: -- rather than --

VICE CHAIRMAN ANDERSON: Don't move any trees at all. Exactly where the --

COMMISSIONER HYMAN: Rather than postpone this, because they're going to come back with the same thing, I'd like to condition it and impose the kind of conditions that will force them to reduce the size and intensity of this project, which will address your concerns and all of our concerns.

VICE CHAIRMAN ANDERSON: But if they reduce it down to 150 and reduce the size of the building by 40 percent, you're going to want to see that redesign, aren't you?

COMMISSIONER HYMAN: Well, I don't know. I, you know, we're -- I don't know.

VICE CHAIRMAN ANDERSON: I mean you usually do. I mean the -- most of the time whenever there's a --

COMMISSIONER HYMAN: You know, on one hand we get --

VICE CHAIRMAN ANDERSON: -- redesign, you want to see it back.

COMMISSIONER HYMAN: -- don't postpone, don't postpone. I'm willing to pass on this with increased restrictions, or we can say -- or we can tell them what the restrictions are and say come back in 30 days, and they may or may not take us

up on our recommendations.

But here's what I would say. My -- if I were to make a motion on this project, the only way I'm going to vote for it is if it's restricted to 150 kids and 8500 square feet.

And that reduces the size and intensity of the project that will cause you to redesign, put -- I would put it all under one roof so it looks more like a larger house, leave it at one story, increase the buffer on the south side, move that bus stop and come up with a decent lighting plan, and with those conditions and the other conditions of staff I would vote in favor of it.

Short of that I'm not going to vote for it, so --

CHAIRMAN BARBIERI: So we have a motion --

MR. DUFRESNE: **Commissioner Hyman**, may -- may I just --

COMMISSIONER ARMITAGE: Mr. Chairman, we can't have a motion. We have a motion --

CHAIRMAN BARBIERI: I know.

COMMISSIONER HYMAN: There's a motion on the floor first.

CHAIRMAN BARBIERI: I know. She's not making a new motion. She's saying if she made a motion.

COMMISSIONER ARMITAGE: I move --

COMMISSIONER HYMAN: I didn't make a motion.

COMMISSIONER ARMITAGE: I move Commissioner Anderson's question.

CHAIRMAN BARBIERI: All right. We have to take a vote on the motion to postpone for 30 days. All in favor.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ZUCARO: Aye.

CHAIRMAN BARBIERI: Opposed.

COMMISSIONER HYMAN: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Aye. Commissioner Armitage, Commissioner Kaplan, **Commissioner Hyman** and myself.

So that one fails.

MR. DUFRESNE: If I might address **Commissioner Hyman's** comments.

The problem with limiting the square footage and the number of students on this site is we have 10 acres. It's not on a five-acre site. So the cost of the land -- just the economics will not work, and if that --

COMMISSIONER HYMAN: I could appreciate that, but that's that's not our problem.

MR. DUFRESNE: No. I appreciate that, too, but I just want you to realize that 150 kids and 8,000 square feet is brutal on the kids.

We could probably live with 12,000 square feet and 200 kids, but that's about as low as we can go, so --

COMMISSIONER HYMAN: I think there was enough compelling evidence from the neighborhood, and this is not the first petition we've heard in

this neighborhood, and we're familiar enough with it that I just don't think it's -- I don't think it's consistent with the neighborhood plan.

MR. DUFRESNE: But that's not what County staff found. That is not what --

COMMISSIONER HYMAN: But they --

MR. DUFRESNE: -- the neighborhood plan says.

COMMISSIONER HYMAN: They recommended the 10,000 square feet. You're not even agreeing to 10,000.

COMMISSIONER ARMITAGE: Mr. Chairman.

CHAIRMAN BARBIERI: Commissioner Armitage.

COMMISSIONER ARMITAGE: I would just like to remind the Commission that we actually have two issues before us.

There is the rezoning --

COMMISSIONER HYMAN: Yes, that's right.

COMMISSIONER ARMITAGE: -- and then there is a conditional use, and I think we're tending to conflate the two.

COMMISSIONER HYMAN: No, no, I'm very aware of the two, and I don't even have a problem with the rezoning because staff report says it's consistent, and so I would vote for the rezoning.

COMMISSIONER ARMITAGE: I wasn't done yet.

COMMISSIONER HYMAN: What?

COMMISSIONER ARMITAGE: I wasn't done.

COMMISSIONER HYMAN: Oh. Sorry.

COMMISSIONER ARMITAGE: After reading the staff report I think it's arguable, but defensible, perhaps, to re -- the rezoning from RE to AR; however, having heard what we heard today and reviewing the conditional use standards, I don't think that this project passes three, six and nine of the conditional use standards, and I can't support the conditional use.

COMMISSIONER HYMAN: Under any circumstances?

COMMISSIONER ARMITAGE: Not what we've heard today.

COMMISSIONER ZUCARO: Which is why I was in favor of the postponement.

I agree with --

COMMISSIONER HYMAN: You can vote against it.

COMMISSIONER ZUCARO: I agree with Commissioner Hyman's comment with regards to we've heard a lot from the neighborhoods that raises serious concerns about this project, and we're trying to micromanage a business decision that they're going to have to take in terms of whether there's any viability of the project at the kind of levels that we think it supports.

I think that it's -- it's hard to negotiate that deal from here to the business decision maker. They know what our concerns are, and -- and let them, you know, I would, you know, I -- like I said, I'm in favor of the neighbors right now. I think that they've presented a very strong case.

MS. KWOK: If --

COMMISSIONER ZUCARO: Let them go back and let them sit down and work it out over 30 days.

COMMISSIONER HYMAN: But tell us, are you willing to reduce the size of this project?

If you're not willing to reduce the size of this project substantially to 10,000 or under, then there's no sense postponing.

VICE CHAIRMAN ANDERSON: Might as well go for a denial.

COMMISSIONER HYMAN: Might as well just, you know, let us vote, pass it on.

COMMISSIONER ZUCARO: If they take a denial, they're out of the box. They have to start all over again?

COMMISSIONER HYMAN: No, they take it to the County -- well --

MR. Mac GILLIS: It would go to the Board.

COMMISSIONER HYMAN: No, it goes to the County Commission.

MS. HERNANDEZ: It goes to the Board as a recommendation of denial.

COMMISSIONER HYMAN: Yeah, it still -- that's my preference.

My preference is to vote it, condition it and pass it on to the County Commission.

And, Allen, I'm sure you would be in favor of that since you don't want to see any postponements.

COMMISSIONER KAPLAN: As you know, I'm against micromanaging, and I'm against postponing all the times, though, I'm beating a dead horse before this Commission.

So I'll still stand and be a minority of one again. I will oppose postponing. I will postpone micromanaging. That's not our job.

COMMISSIONER ZUCARO: But we don't have any motion right now. We're just discussing --

CHAIRMAN BARBIERI: No, we're waiting for the petitioner to give us an answer to Commissioner Hyman's question.

Well, we don't typically do this, but -- no, he's done. Let me go back to him.

Yes.

MR. DUFRESNE: Question, please?

CHAIRMAN BARBIERI: Question was would you accept Commissioner Hyman's request to make the project smaller, 10,000 or less.

MR. DUFRESNE: The minimum we can live with is 12,000 square feet and 200 kids.

COMMISSIONER HYMAN: Okay. So I'm going to make a motion. All right. I'd like to make a couple motions.

CHAIRMAN BARBIERI: Go ahead.

COMMISSIONER HYMAN: The first motion is to -- I recommend approval of the official zoning map amendment from Residential Estate to Agriculture Residential Zoning.

CHAIRMAN BARBIERI: Do we have a second on that motion?

COMMISSIONER KAPLAN: Well, before you do that, Mr. Chairman, since she's conditioning

things, I would like to have her total picture first before I vote on parts of it.

CHAIRMAN BARBIERI: All right. So why don't -- before you -- before we vote on the first motion, why don't you tell us what your second motion is going to be when you're ready to make it, **Commissioner Hyman**, so we know what the conditions are so -- I think that's what Commissioner Kaplan would like you to do.

COMMISSIONER HYMAN: My second is going to be a -- recommend denial of the Class A conditional use, or in the alternative, recommendation of approval based upon 150 kids and no more than 8500 square feet.

COMMISSIONER KAPLAN: Thank you, Commissioner.

CHAIRMAN BARBIERI: Okay. So we have the first motion, which is?

Read it again, **Commissioner Hyman**.

COMMISSIONER HYMAN: Recommend approval of the official zoning map amendment from Residential Estate Zoning to Agriculture Residential Zoning District.

CHAIRMAN BARBIERI: Do we have a second?

VICE CHAIRMAN ANDERSON: I second.

CHAIRMAN BARBIERI: Second by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

Aye.

COMMISSIONER HYMAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ZUCARO: Aye.

CHAIRMAN BARBIERI: Opposed.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: One in opposition.

The motion carries --

COMMISSIONER KAPLAN: No, we have two.

MS. KWOK: Five-two.

CHAIRMAN BARBIERI: Four --

COMMISSIONER HYMAN: You're voting against that.

COMMISSIONER KAPLAN: Voting against.

It's two of us against --

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Four to two.

COMMISSIONER HYMAN: Okay. That's fine.

CHAIRMAN BARBIERI: Commissioner Armitage and Kaplan against.

COMMISSIONER HYMAN: Okay. I recommend denial of the Class A conditional use to allow the daycare, general, based on the fact that I do not believe that the project meets the criteria set forth in the code.

Specifically, I don't think it's consistent with the development patterns or consistent with the neighborhood plan, nor do I think there have been changed conditions that warrant this approval.

I would not want to see any more than 150

children and no more than 8500 square feet for this -- for this particular project.

And I would also add to the conditions, because this will go to the County Commission with conditions, the lighting plan, the moving of the bus stop and increasing the buffer on the south side.

CHAIRMAN BARBIERI: So --

COMMISSIONER HYMAN: That is my motion.

CHAIRMAN BARBIERI: I agree with **Commissioner Hyman**, but let me ask.

Can we -- can we have a motion for denial but put conditions that we want to go forward to the County Commission?

MS. KWOK: Yes.

CHAIRMAN BARBIERI: We can do that? Okay.

COMMISSIONER KAPLAN: Let's go.

CHAIRMAN BARBIERI: Okay. So hers is 150 children, no larger than 8500 square feet, which is the --

MR. BANKS: Wait a minute. Your motion for denial and then essentially a comment -- a comment for some additional things that you might recommend approval.

COMMISSIONER HYMAN: We're adding to the additional --

MR. BANKS: You can't be -- you can't say denial and then add conditions to what you've denied.

COMMISSIONER HYMAN: We're adding to the staff report that if this goes on to the County Commission and they vote to approve it, you know, we ask that these items be in there.

But we're sending it up as it is, in its current configuration with the recommendation of denial if it passes.

MS. ALTERMAN: I think what --

MR. DUFRESNE: With a comment.

MS. ALTERMAN: -- what it would be is that you're recommending denial; however, if the Board chose to approve the project, this is what you would suggest --

COMMISSIONER HYMAN: That's right.

MS. ALTERMAN: -- that they would do, just so it's clear.

CHAIRMAN BARBIERI: All right. So that's how it'll go forward.

The Zoning Commission would request that these conditions be used.

MS. HERNANDEZ: Can I clarify if --

COMMISSIONER ARMITAGE: Second.

MS. HERNANDEZ: -- the denial is based on consistency with the code, Item 2, consistency with the neighborhood plan and changed conditions, right?

COMMISSIONER HYMAN: What, the basis for the denial?

MS. HERNANDEZ: Yeah.

COMMISSIONER HYMAN: Was five, six and seven and nine.

COMMISSIONER ZUCARO: So let --

MS. HERNANDEZ: Without prejudice?

COMMISSIONER HYMAN: Without prejudice.

COMMISSIONER ZUCARO: Let me just understand.

The motion is denial.

COMMISSIONER HYMAN: The motion is denial.

COMMISSIONER ZUCARO: Period, based upon the items that you just quoted.

The comment is separate from the motion.

COMMISSIONER HYMAN: The comment -- yes.

What we said is that if this -- when this goes on to the County Commission, if they choose to not take our recommendation and vote for it, we're asking that these additional conditions be placed in the file limiting the amount of children to 150, to the 8500 square feet, demanding that they also provide a lighting plan, move the bus stop and increase the buffer on the south side next to the trailer park.

CHAIRMAN BARBIERI: All right.

COMMISSIONER ZUCARO: But that --

MS. KWOK: And --

COMMISSIONER ZUCARO: That's a gratuitous comment.

COMMISSIONER HYMAN: It's not gratuitous.

It's --

MS. KWOK: And I believe that there is some mention of the outdoor play area, the hours of operation. It's only limited to the indoor activities.

There is an issue raised by the -- by the Jupiter Farms attorney that the outdoor play area, there should be some hours of operation limiting those play area.

COMMISSIONER HYMAN: Well, I thought --

MS. KWOK: Outdoor activities.

COMMISSIONER HYMAN: -- it was 6:30 to 8:00.

MS. KWOK: From six -- from 8:00 a.m. in the morning 'til 6:00 p.m. at night.

VICE CHAIRMAN ANDERSON: I agree with that.

CHAIRMAN BARBIERI: Okay. So the --

COMMISSIONER HYMAN: So we're --

MS. KWOK: This is on the outdoor activities.

CHAIRMAN BARBIERI: Hours of operation are 6:30, they start at 6:30 --

MS. KWOK: Right.

CHAIRMAN BARBIERI: -- but the children are -- stay inside until 8:00 o'clock in the morning?

MS. KWOK: Uh-huh, until 8:00, yeah.

COMMISSIONER HYMAN: I would add that to my motion.

CHAIRMAN BARBIERI: Okay. Any discussion on Commissioner Hyman's motion?

COMMISSIONER KAPLAN: Again -- the pest is back again.

I cannot support the motion. I think we're micromanaging to a terrible, terrible extent. I think we are abrogating our responsibility, and it's being -- voting no

against the original recommendation, I must vote no on this second motion.

CHAIRMAN BARBIERI: Commissioner Kaplan --

COMMISSIONER HYMAN: Do you know what the second motion is, Allen? I -- we're recommending denial of the project.

COMMISSIONER ZUCARO: Period.

COMMISSIONER KAPLAN: And I'm -- I'm arguing that you cannot, and I cannot, because now you're denying it because you want to micromanage it, and I cannot accept micromanagement from this panel.

COMMISSIONER HYMAN: Okay.

COMMISSIONER ZUCARO: But I -- I don't -- Commissioner Kaplan, I think that the motion is simply a motion for denial, and then if we take that vote and it's denied, Commissioner --

COMMISSIONER HYMAN: Hyman.

COMMISSIONER ZUCARO: -- Hyman, sorry, Commissioner Hyman is suggesting that we send a comment to the County Commission that when they hear all this evidence all over again, these were the kinds of considerations that this Board had, but the motion is simply a motion to deny with no management issue.

COMMISSIONER KAPLAN: Well, Commissioner Zucaro, I appreciate your thoughts. I most humbly disagree.

This is part of the micromanagement that I'm objecting to, and I have to be consistent. I'm going to vote against it, against the motion, because I do not approve of micromanaging with telling the petitioner that here's the way you should do it in order to get approval, and that's not acceptable.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Commissioner Kaplan, with all due respect, we do this all the time. I mean it's not --

COMMISSIONER HYMAN: We do this all the time.

CHAIRMAN BARBIERI: -- micromanaging --

COMMISSIONER HYMAN: We're recommending -- making recommendations --

CHAIRMAN BARBIERI: We tell petitioners they can't have a -- you can't have a sign size, and we have to reduce the sign size.

COMMISSIONER KAPLAN: Mr. Chairman.

CHAIRMAN BARBIERI: We're telling that this is too large of a project.

COMMISSIONER KAPLAN: Mr. Chairman, all you got to do is call the motion. You get my negative vote, period.

CHAIRMAN BARBIERI: I just want the record to be clear that the County Commission knows that the Zoning Commission is recommending that those conditions be changed --

COMMISSIONER HYMAN: Right.

CHAIRMAN BARBIERI: -- when they -- if they decide they want to approve the project, that we recommend 8500 square feet, maximum size, 150 children.

COMMISSIONER ZUCARO: But I don't. You know, I don't.

CHAIRMAN BARBIERI: All right.

COMMISSIONER ZUCARO: I'd vote for the motion if it's simply --

CHAIRMAN BARBIERI: Okay.

COMMISSIONER ZUCARO: -- a motion to deny.

CHAIRMAN BARBIERI: Okay. Let's take -- let's do this then.

Let's take a motion for the denial, and **Commissioner Hyman** will make another motion that we recommend to the County Commission what the conditions should be if they -- so let's divide it up.

Make a recommendation for denial.

COMMISSIONER HYMAN: Okay. My -- that's what my motion was.

I move recommendation of denial on the Class A conditional use for the daycare, general.

CHAIRMAN BARBIERI: Commissioner Anderson, you second that motion?

VICE CHAIRMAN ANDERSON: Yes.

CHAIRMAN BARBIERI: Okay. All in favor.

COMMISSIONER HYMAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ARMITAGE: Aye.

COMMISSIONER ZUCARO: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER KAPLAN: Aye.

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER KAPLAN: No. I oppose. Five-one.

CHAIRMAN BARBIERI: Five-one.

COMMISSIONER KAPLAN: Thank you.

CHAIRMAN BARBIERI: You're welcome.

COMMISSIONER HYMAN: Okay. I also move that we add to the conditions, in the event that the County Commission decides to approve this project, that they add the following conditions.

Limiting the number of children to 150, limiting the amount of square footage to 8500, adding -- and I don't know why we're even voting on this, I mean lighting plan, they should have to do that, moving the bus stop and increasing the buffer on the south side and adding the additional restriction on the exterior play area hours of operation.

CHAIRMAN BARBIERI: Do we have a second on that motion?

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Second by Commissioner Anderson.

Any discussion.

COMMISSIONER KAPLAN: Same discussion, Mr. Chairman.

CHAIRMAN BARBIERI: Thank you.

COMMISSIONER KAPLAN: This is micromanaging --

CHAIRMAN BARBIERI: Thank you.

COMMISSIONER KAPLAN: -- and I will vote to deny the motion.

CHAIRMAN BARBIERI: Your objection is duly noted.

All in favor.

COMMISSIONER HYMAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER ZUCARÒ: Aye.

CHAIRMAN BARBIERI: Motion carries, 5-1.

COMMISSIONER ZUCARÒ: Four-two.

CHAIRMAN BARBIERI: Excuse me, 4-2.

Motion carries, 4-2.

MR. DUFRESNE: Mr. Chairman.

CHAIRMAN BARBIERI: Mr. Owens.

MR. OWENS: Yes, I'm sorry. Michael Owens again, representing the School Board.

Just for clarification, and maybe a legal thing, I'm just curious if the Board of County Commissioners approve the project, do they have, I guess, the authority to have us or kind of tell the School District to move the bus stop?

CHAIRMAN BARBIERI: No, they don't have the -- you know they don't have the authority --

COMMISSIONER HYMAN: I don't think they do.

CHAIRMAN BARBIERI: -- nor do we, but you understand our concern --

MR. OWENS: No -- yeah, I'm just --

COMMISSIONER HYMAN: We're imposing a condition -- we would be imposing a condition on the petitioner. It would be up to the petitioner to somehow convince you guys, reach an agreement with you so that you agree to do it.

MR. OWENS: I understand. I just wanted some clarification with regards to that portion of your motion.

Thank you.

CHAIRMAN BARBIERI: And, of course, you would do that, wouldn't you?

MR. OWENS: Okay.

MR. DUFRESNE: Well, Mr. Chairman, I also wanted a point of clarification.

On the motion to deny on the final vote I did not hear you reimpose the same set of reasons.

Would you be willing to reimpose those and add those to your motion?

COMMISSIONER HYMAN: I did.

CHAIRMAN BARBIERI: Two, five, seven, nine.

COMMISSIONER HYMAN: Okay. I thought I did.

It was based on the fact that the petition failed to comply with Conditions -- or the elements of No. 5, 6 -- five is development patterns, consistency with neighborhood plans, No. 7; changed conditions or circumstances. That's No. 9.

MR. DUFRESNE: Thank you.

UNIDENTIFIED SPEAKER: In the event this is overturned I just want clarification on the

hours. Is it able to be open on Saturday and Sunday?

CHAIRMAN BARBIERI: No, it was not. We --

COMMISSIONER HYMAN: That's not what we recommended.

CHAIRMAN BARBIERI: It was not -- it was not part of the recommendations of staff --

VICE CHAIRMAN ANDERSON: But the Board of County Commissioners can do whatever they want. We're just making a recommendation to them. They make the final decision.

UNIDENTIFIED SPEAKER: I didn't hear that in the final outline.

CHAIRMAN BARBIERI: All right. That takes us to the last item on the agenda, which is 29.

MR. DUFRESNE: Thank you, everybody.

MR. Mac GILLIS: This is DOA/TDR2007-1202, Colonial [sic] at Lake Worth PUD, Pages 796 through 837.

Staff is recommending approval of three motions, subject to 46 conditions found on Pages 817 through 833.

Joyce Lawrence will give you a brief presentation.

MS. LAWRENCE: Good afternoon, Commissioners. Joyce Lawrence, for the record.

Proposed is a development order amendment for Colony at Lake Worth, formerly known as Belmont at Greenacres, and this is a 22.2-acre parcel of land that was approved by the Board of County Commissioners on January 8th, 2004, for 149 units, of which 38 were TDR units.

And the applicant is now requesting to reconfigure the previously approved site plan to add 77 units, including 28 TDR units for an overall total of 226 units, including one single family unit.

Of these 226 units a total of 58 will be workforce units, and these will be provided within the development.

The proposed preliminary site plan indicates 31 multi-family buildings, a 1.29-acre lake tract and a 1.09-acre recreation site.

There are 500 -- there will be 516 parking spaces, and access to the site will be from Lantana Road and Myers Road.

A little background on this request. In October to December 2004, as mentioned before, this was previously Belmont at Greenacres, and it's now Colony at Lake Worth.

This was presented and discussed three consecutive times to the Zoning Commission hearing, and at the December hearing the Zoning Commission had recommend an approval at a five to one vote.

There were concerns from the residents on traffic issue, high density and design issue.

And on Page 810 of the report you can see a copy of the conceptual plan that was then presented.

During Zoning Commission and the BCC hearing we -- staff will be doing some modifications on the conditions, and that is landscaping, PalmTran and the Planned Unit Development conditions.

Site is -- staff is recommending approval of the request, subject to the 46 conditions that the Zoning Director mentioned, and that is found on Pages 817 through 830, and 12 conditions in Exhibit C.1, which is shown on Pages 831 to 833.

And this concludes my report. I'll now turn it over to the agent for presentation.

MS. TIGHE: Good afternoon. Jennifer Tighe, with Land Design South, representing Holiday Organization, and last, but not least, I appreciate you all hearing our presentation today.

I will -- it's pretty thorough. I will leave out a couple of slides 'cause I know we're at the end of the agenda, but I do think it's important to give a thorough overview of the project, based on the fact that we do have some neighborhood opposition here today.

Just a little bit of project history, as Joyce had mentioned, this project was approved back in 2004 by the Board of County Commissioners.

It was a 148-multi-family unit development. There was approval for 38 TDRs.

The site plan that's up on the screen is the plan that was approved at that time. You can see that it was a central lake system with a road and units on either side.

Just to orient you, those that might not have been here at that time, exactly where the property is, the site is 22 acres in size, and it's located west of Haverhill Road on the north side of Lantana Road.

Some of the other major roadways in the area, Military Trail, Jog Road and Hypoluxo Road to the south.

A little more detail area of our site and the surrounding uses. To the -- directly east of us is the American-German Club. It's a pretty quiet use most of the year, except for the month of October, and then, look out. They have Oktoberfest there. That's an institutional use.

As you go further to the east we have a commercial node and then, again, further to the east, Lantana Plaza commercial.

So this sets up for a nice transition between commercial, institutional, our property, which is high density residential, and then low density commercial to the west.

To the south of our subject site, just to the east, is Winston Trails PUD. The multi-family pod actually fronts on Lantana Road and has a density of 19 dwelling units per acre.

And directly south of our project is the Buttonwood Park, and I'll talk a little bit about that later on in the presentation.

Further to the west is a daycare, and then we have single family, as well as agricultural and equestrian uses to our north and west.

Again, this is the previously approved site plan, and this is the proposed site plan.

The biggest difference in the two plans as from a sight planning perspective is the location of the lake.

The lake has been relocated from being central to the overall project to act as a transition between the large lot residential development to our west.

Let me just go back.

As I -- I just want to mention that we are requesting 226 units. One of them is a single family lot that's actually on the north side of Nash Road. It acts as a transition from the intensity of our multi-family project to a single family lot to the north.

Again, this is Nash Road separating the two developments.

We are requesting approval for a workforce housing project. We -- with this project we would be providing 58 workforce housing units. The density proposed is 10.14.

And those of you that have been following the Workforce Housing Ordinance and the Workforce Housing Program established by the Board of County Commissioners back in December of '06, the trade-off for providing the workforce housing units is the additional density.

Developers are able to provide that -- those workforce housing units that the County needs by supplementing it with additional density, and that's what you see on this plan that you have before you.

Workforce housing, it's not just something that we read about in the newspapers or hear about on the news. It's something that has been a strong direction from the Board of County Commissioners. It's actually written into the Comprehensive Plan, a strong statement that the Board is looking for workforce housing projects.

They would like these projects to be located in infill developments or towards -- not located out west, basically.

Under the land use element we are encouraged -- they encourage infill development in urban areas to increase efficient use of land and existing public facilities and services.

The Comprehensive Plan objective under the housing element says the County shall make adequate provisions to enable the public, private and not-for-profit sectors to provide affordable housing and shall support the distribution for

very low, low and moderate income houses to avoid concentrations of affordable housing throughout the County and throughout the Workforce Housing Program.

Why is this site ideal for workforce housing? It's because of where it's located and the uses that currently exist around the property.

To the east, American-German Club.

I've identified here in red the commercial nodes that are located within close proximity to the site.

To the west you have a major commercial node at Jog and Lantana. You've got a Home Depot, as well as a Publix.

Also going to our east you have the Military Trail, Lantana Road intersection, as well as the Haverhill Road, Lantana Road intersection.

All these are commercial nodes, and then if you go down to Hypoluxo Road and Military, again, a major commercial node intersection. That is one of the requirements for a workforce housing project.

Secondly, where are the schools in the area?

We have two elementary schools located within -- one is 1.1 miles away, and the other is a half a mile away.

We -- our children will either be attending one of these two schools. We've gotten reports saying that they will be going to Indian Pines Elementary School, which is about a half a mile away.

There is a sidewalk from our site along Lantana Road going to Indian Pines Elementary School.

Another report said that they would be going to Diamond View Elementary School. Again, we have a sidewalk that runs along Lantana Road and takes the students up Haverhill Road to Diamond View Elementary.

The middle school is located just to the north of Diamond View Elementary School, and, finally, the high school is located down in the southeast corner of the slide off of Hypoluxo Road just east of Military.

So we've got an ideal location for schools. We've got -- in addition to the schools we have a daycare center just to the west of the site, and, finally, right across the street we have the Buttonwood Park.

On our site plan you'll notice that we have provided the recreational facility centrally located to the overall project. We have a pool and clubhouse and tot lot, but there has been comments on where are these kids going to run and play and, you know, what other activities can they do in such a tight development.

Well, what better place than right across the street at the County park?

And, finally, we are on PalmTran Route 63, so we have access to transit.

The Workforce Housing Program. In order

to be eligible to utilize the Workforce Housing Program and the density bonus we were required to do a sector analysis.

This area has been identified as having 49 percent concentration of low and very low income households; therefore, the code allows a minimum of 40 to a maximum of 60 percent density bonus.

When we first started our project, our original site plan that we submitted included a 60 percent density bonus.

Following that submittal we worked closely with the Planning Division and they issued a recommendation for a 45 percent density bonus.

We in turn reduced our density down to the 225 units that are on the plan for the -- to comply with the 45 percent density bonus, again, the Planning Division supporting this density and the sector analysis that was done.

That, in turn, equates to 58 workforce housing units. Thirty of those units have actually already been purchased through our earlier application and TDRs that were purchased at market rate.

The additional TDRs that we need in order to allow for the 58 units, we're requesting to be purchased at a dollar, which is the going rate for workforce housing units, and they will be restricted to workforce housing units.

The Workforce Housing Program came into effect in 2006. Since then only 100 workforce housing units have been approved.

If you think about all of Palm Beach County and all the residents within Palm Beach County, this doesn't begin to put a dent in the amount of workforce housing that is needed throughout the County.

Currently in process there are applications that consist of a total of 206 workforce housing units. Our project accounts for 28 percent of those 206 units.

And just to clarify because I know there's a lot of confusion about what is workforce housing.

Workforce housing is not Section 8 housing. Workforce housing is housing for people that are right out of college, people that come to work for our firm, planners, landscape architects, engineers, that want to get into a house and can't pay the high price of housing that is standard in Palm Beach County.

It's the teachers, it's the firemen, it's your normal person that has a full-time job that just wants an opportunity to buy a place.

The Workforce Housing Ordinance is broken down into four categories. It starts with a low and goes up to a middle income range.

We have 58 workforce housing units. Of those 58 units we're required to evenly distribute -- disburse them of the -- between those four categories; therefore, we'll have 14 units selling for around 164,000. We'll have another 14 units selling for 189,000, additional

15 units at 240,000, and the final 15 units at 304,000 or less.

Those units are evenly disbursed throughout the project. They cannot be clustered within one portion of the site or within one building.

For all intents and purposes when you drive through the community, you will not be able to tell the workforce units from the regular units -- from the market rate units, I should say.

Later on today you're going to hear concerns from the neighbors addressing buffering for single -- of the single family homes, traffic issues, utility issues.

They're going to talk about workforce housing and density. Workforce housing and density, I've already explained that, you know, that is the mandate from the County. We need more workforce housing. Our project complies with the zoning code.

We've met every requirement in the code to provide -- every requirement in the code for getting the density bonus. In turn, we are giving the County 58 workforce housing units.

We have done everything that they've asked.

Finally, one of the comments from the residents, several of the different residents, has been we want you to let your residents know that this is an equestrian area, and members of the American-German Club want it in our documents, as well, that the German Club is just to the east of us.

It's already written in the condition of approval, but I wanted to put that on the record, as well.

My next three slides will address our buffering, traffic and utilities.

Again, this was the original plan. That plan had a 65-foot buffer and an 80-foot setback.

All those units backed on to the single family lots just to the west of us.

The proposed plan actually, instead of only having a 65-foot buffer, we actually have a lake that is -- averages 160 feet in width. It's 100 feet of water and 30 feet of bank and maintenance area on either side.

In addition to that lake, we have located a 28-foot buffer along our western property line, and this at first was tough for our client to swallow, mainly because when you lay out a community, your lake is an amenity, and you don't -- you want to maximize that amenity and put as many units on that lake as possible.

Well, this new plan, we considered the concerns of the neighbors, wanted to address their concerns to the greatest extent possible, and, therefore, we relocated our largest element that would provide separation from the single family to the multi-family, and we located that along our western property line.

There is a portion where we have one unit

that's a -- the side of one unit that's a 78-foot setback, but, again, we have a 28-foot buffer all along that property line.

So we believe we've done everything possible to increase the buffering and increase the separation from the residential and agricultural uses to our west.

Secondly is access. Our major ingress and egress is located on Lantana Road. It is a right in, right out only. There is no median opening.

We have at the request of the County, as a condition of approval we are providing a right turn lane into our site, and we have a secondary ingress and egress off of Myers Road.

This actually is at a full median opening, and it allows traffic to go eastbound without having to do a U-turn.

All traffic will access Lantana Road. No traffic will access through Nash or into the residential or equestrian community to the north.

That can be -- right now there's a barricade along the northern portion of our property so that prevents any of our residents from actually driving back into that portion of the community.

We've also told the American-German Club that at such time that they decide they want to abandon Myers Road, because there has been discussion to do that, that we will support their application to abandon it.

We'll sign whatever forms we need to, but they can file the application and then receive the full benefit of that right-of-way.

Another comment that the neighbors have made is they don't want to see any construction traffic on Nash Road. Well, one, we don't have any access to Nash Road, and, two, we'll agree to a condition that says no construction traffic on Nash Road.

Finally, we've submitted a traffic study to the Palm Beach County Traffic Division, and it satisfies -- it's been approved as satisfying all the TPS requirements.

Utilities, how are utilities going to get to the site. Our water is going to come from the water main that currently exists on the northwest corner of the site, and our sewer, we're required to put a lift station in our northeast corner, and it will come up Myers Road.

Exemplary design standards. This is kind of -- we've had discussions about first we're doing workforce housing, and then we have to do all the exemplary criteria.

Our client -- this -- wants this project to be a quality project. When you drive through here, you will not be able to tell that it is a workforce housing project. It will look like any other residential PUD that gets approved through Palm Beach County.

Again, we have a secondary access point to reduce the number of U-turns on Myers Road. We have visitor parking evenly distributed through

the site. We have a six-foot wall surrounding the property to prevent any kind of pedestrian connectivity into the neighborhood to the north and west.

We've got a series of open spaces on the property. We have increased our side setback from the code required 15 feet to 20 feet for most of the units, and we have centrally located the pool and rec for easy access.

We did receive a comment from one of the commissioners about moving the tot lot to be located closer to the recreational area, and I have a slide showing that, and we would have no problem tweaking the plan to provide for that amenity.

We have passive open spaces. We have resident gathering areas through the gazebos and pedestrian pathways around the lake, again, connecting to scenic areas, and currently our tot lot is located here, but I have a feeling that at the end we may be relocating that.

We tried to do pavers at all the intersections, which is what you see in most PUDs.

We tried to add as much curvature to the lakes as we -- I mean to the road as we could, and we have units that are six, seven and eight-unit buildings.

This is just to show you the possible revision where we took the tot lot which had been located, as I showed on the previous site plan, right at the entrance and relocated it next to the clubhouse, and we shifted units around.

Again, we did this very quickly this morning, but wanted to present that today and let everyone know that that is an option as far as we're concerned.

This is our site plan, and, again, it is a workforce housing project. It is dense, but that's what workforce housing is.

I don't think any workforce housing project ever gets presented that doesn't have neighborhood opposition, but, hopefully, we will present the evidence to gain support from this Board.

We do have a recommendation of support from staff for both the workforce housing and density bonus, as well as the recommendation from Zoning for approval of the project.

Just to let you know that we have met with the neighbors on several occasions, we actually -- our client is the third owner of the property.

When it was approved back in '04, our client was EB Developers. They flipped it to another developer, who in turn flipped it to our client, Holiday Organization.

They bought it at the height of the market. They actually redesigned the site to provide much larger units, and then the market crashed, and I think if you talk to any realtor today, they'd tell you that townhouses are the hardest things to sell.

They've looked at many different options.

We actually presented the neighbors with a zero lot line plan. It was rejected because we would have to reduce our 65-foot landscape buffer.

At the same time our client was working the numbers for the workforce housing, saw that there's a desire for workforce housing and seems to be a big push, and right now he thinks that's his best option, and really only option, to do something with the property.

So we -- and as I mentioned, we have had several meetings with the neighbors.

Finally, we agreed with the conditions of approval. Staff, I know, tweaked a couple of the landscape ones.

I got some revisions today that I haven't had a chance to look at, but assuming that they're similar to what was before, we should have no problem with that.

And that concludes my presentation.

CHAIRMAN BARBIERI: Okay. We'll go to the public.

Michael Gordon, then Ann Menor, then Patrice Manley.

MR. GORDON: Good afternoon,

CHAIRMAN BARBIERI: Good afternoon.

MR. GORDON: Michael Gordon. I own the equestrian center on the north side of the proposed project, and this has been an ongoing procedure for everybody to come to an agreement on what should be done with the property.

My point still stands that we are a country-style neighborhood. All of us own multiple acreage for our homes, for our house lots. I have just under five. All of my neighbors have at least one and a half to two acres.

This project that you're looking at is going to be built on approximately 20 acres with their project to the south of me. Two of the acres, the preserve, are separated, so it is a 20-acre parcel you're looking at for all of this.

It was approved for 149 units in the past.

Things change, and they've decided they need to increase density to somehow make some money out of this in this type of market we're dealing with today.

In and around our neighborhood we have other projects that are similar, not as dense, and they're having problems selling out their finished product as of today, and things, as we all know, look grim for selling those projects out.

As far as workforce goes, I know nothing about that. That's something new to me.

I don't understand why in our country community we would have to deal with a workforce density to help out the urban lifestyle.

We consider ourselves suburban, and most of my neighbors have been there for 20, 30 or 40 years.

I've been there just about 10, and the newest of our community actually bought home lots on Thunderbird just to the west, and they built

single family homes on their property.

One of them also is an equestrian, a horse owner as we are, and we would prefer to see this project drawn way back down.

Personally, I'd like to see it way below the 149 units. I don't know where that would stand, but that would be my recommendation.

As far as single family home goes, that would be my preference.

I was not aware of any of the meetings or -- and actually, I was out -- probably out of town. I travel quite a bit.

For the single family proposal I certainly would have been -- approved that, but I would like all of this to be rethought with the times that we're dealing with right now and also with the density of unfinished projects in our neighborhood within two and a half to three miles of our location.

Thank you very much.

MS. MENOR: My name is Ann Menor, and I brought a little drawing I did this morning. It'll give you a better idea on the size of the properties involved surrounding that were kind of glided over.

They pointed out everything as far as Lantana Road, Haverhill, the shopping centers and the schools, but they ignored the neighborhoods that are directly impacted by it.

I've been to all of the meetings, by the way, Zoning, as well as County Commission, including being involved with the developers, EB, with Markey, as well as these developers.

I'd really like to see it go back to what it was. We had agreed to it. As you said yourself, Commissioner Zucaro, a deal is a deal.

I don't think that just because times are tough that the commission is in a position for him to make money now, so he's changing everything.

I feel for people. Sorry.

Back to my little chart.

COMMISSIONER ARMITAGE: Move to accept.

MS. MENOR: I'm sorry?

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion to accept made by Commissioner Armitage, second by Commissioner Anderson.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MS. MENOR: Okay. From Page 802, which was the Palm Beach County zoning quad vicinity sketch in your paperwork, the blue question mark that I have on the side, which would be on the west side of the development, that's across the canal and an entirely different neighborhood accessed through Indian Springs.

I don't know why it was included in there unless it was to devalue the rest of the neighborhood. It was 12 properties, totaling

of -- well, I wrote at the top there for you to look at.

Sorry. I'm nervous. Okay.

I did not include any of the German Club in my figures. I did not include Abel's, which was a commercial. I did not include the Brown developed -- undeveloped area along Haverhill, which is just at this point Melaleucas except for one little house.

And the yellow on the right-hand side of the page is a future development that Greenacres is going to annex. So it's a whole different set of problems over there. Okay.

But we do have -- as you can see from this, the acreage is listed on a lot of these properties. The development is going for a density higher than that campground that you passed today, which was at nine acre -- or nine units per acre, and they're going for 10.

They -- those people can, you know, pull their house a way down the road. People that buy in here won't be able to.

That's about it. Thank you.

CHAIRMAN BARBIERI: You're welcome.

Patrice Manley, and then Robert Palahunik. Yes, ma'am.

MS. MANLEY: Yes, sir. I'm Patrice Manley, and I am on the west side of Thunderbird Drive, which says vacant on there, but I've been there for four and a half years.

And it's not that we -- I have a problem with any house -- housing moving in. It's just the size of the project that is there. It's not even aesthetic to the neighborhood.

You are bringing in so many houses to an area to where there is acres, and it just doesn't fit -- doesn't look aesthetic to the area, number one, and, number two, 560 parking -- 516 parking spaces.

I go right past the corner of Cadillac, 'cause I have to go Cadillac to my home, there is a daycare center there which is no objections. They're wonderful people. Everything is well organized, but, yes, there is an influx of cars going into that small area on Lantana Road coming off into Cadillac, even making U-turns, right turns or left turns going to east on Lantana. It is a problem that early in the morning.

Even at Myers there was two fatalities already this past two years of people making U-turns going from Abel Mowers just at that corner alone, and even I have a problem going out, 10, 15 minutes, trying to get either -- yeah, if I go right, I have to continue to make U-turns to go to the east. That was another concern.

And I just look at this particular area as being the -- one of the last frontiers in this middle of Palm Beach County of which is equestrian uses, just been there for -- for -- way before I even got there, and to at least make it comparable to the area of to where we all could habitat comfortably.

Yes, there were horse trails around there. I've made my way along a few canals, but to have this project and not have access to anything around it is -- never was addressed.

It never states on any plan what would be addressed for us that would like to still ride our horses for maybe 15, 20 minutes off the property, and I think that still needs to be addressed.

And I just -- it was mainly my concerns, and people coming out of that project are going to have to make U-turns if they want to go east at Lantana.

There are no lights there. You have to go to Edgecliff to make your proper U-turn, if you're going to make a proper U-turn and be safe at it.

That was my main concerns of this whole project coming in.

We can't stop the project coming in, but at least maybe we can lower the density to make it more acceptable and safe for all of us that -- we're going to be there for a very long time, and it's not just a project just for a year or two.

This is going to be for a very long time, and we all have to realize the impact it's going to have as this County even grows.

Thank you very much for your time.

CHAIRMAN BARBIERI: You're welcome. Thank you.

MR. PALAHUNIK: Before I start, I'd like to submit these to the Commission. What these are are residential houses for sale. These are for -- these are homes that are for sale with -- 1.5 miles north, 1.5 miles south, two miles west and two miles east.

I am a licensed realtor.

There is a person here that I don't know if they were sworn in, and she handed this young lady a card, so if she's not sworn in, then I don't want her to speak unless you can swear her in now, and she's with the developer, and she's in the back row.

So having said that, I'd like to submit these.

The first one is for 175,000 and down. The second one is 150 to 250, and I'll get to that as my last bulleted item once I start speaking.

COMMISSIONER ZUCARO: Motion to accept.

VICE CHAIRMAN ANDERSON: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. PALAHUNIK: My name's Robert Palahunik, and I live on 52nd Drive South, and I'm one of the landowners.

I'd like for everyone to have the map before I start speaking so they can actually see it.

The highlighted section on the map is what the homes I pulled from the MLS listing last night so they'd be most current.

There are 541 homes for sale between 150 and 250.

The second sheet, there's 183 homes less than 175,000, all well into the workforce housing price range that you're so trying to get to.

There's been no consideration for the equestrian community or the safety of the riders that will transverse from the stables on the north side to the stables on the east side. There's a -- there is a riding area, an arena, that they ride at night.

There are breeders and boarders. There's about 50 horses in this community, and they're shoeorning this right in without regard to our neighborhood.

People are not aware of the rules of the road, signs, horses. They'll just blow right by them.

Fireworks, huge for horses. They have to be tranquilized or have a vet there all night during these events. So it's very detrimental to the horses, and some of these other people all have horses, they can attest to the fact.

The builder made a bad choice when he bought this property, and now he's coming to you to bail him out for the money he made.

We made a deal back in 2003 and 2004 for 149 units with you guys and with the commissioners, that we would support them 'cause we knew it'd get built, and we said okay, we'll agree to 149. They wanted 175.

I can't help but they made a poor business decision. That's unfortunate, but that's not my problem.

Nash Trail and Thunderbird are to remain closed. All the kids that they -- that are going to go to that school are going to cut through that neighborhood. They're not going to walk down Haverhill. They're going to go right up 52nd Drive. They're going to cut onto the dirt road because that's a place, something to do.

Then alone when they're out of school, they're going to go, oh, look at all this land back here. We're going to run up here.

Everyone has horses. Everybody has farm animals. It's going to be a major, major hassle, but it really doesn't concern them.

All they're concerned about is how many units they can put in and how much money they're going to make, and this documentation right here supports, clearly supports, how many single family homes, condos, townhouses, are for sale within that little bit of radius right there, and it took me 10 minutes to pull this off the MLS listing last night.

I'm a licensed GC in the State of Florida, a licensed mechanical contractor in the State of Florida, and I'm an engineer, mechanical engineer.

So when I look at all this, I go this is

crazy. Before, 149, that was tolerable. The single family homes, it required all the buffers to be removed from the property. That means all the neighbors would be right on top of these stables.

There's 30 horses to the north. There's another 20 or 25 to the east, and they all go back and forth. I think if they want to be part of our community, they need to put in a shellrock trail all the way around, across Lantana and back up. Then we'll have a couple miles of trails to ride on. I think that's only fair.

And with that, I'll conclude my statement, and I thank you for listening.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Mr. Pope. Is it Aaron, I'm sorry, and Dagmar.

MR. POPE: Good evening.

Gentlemen, the reason I'm here is because you're possibly going to let a builder change his approval of 149 units to 229 units.

It imposes our neighborhood. It impacts our neighborhood. It does not go along with the belief that urban living is nice. Country living is better.

You're allowing and possibly going to go ahead and approve.

I'd ask for less density. At one time they asked for 175 units. They agreed to do 149 units. Now they want to go to 225.

Can you imagine 225 units, possibly having a lot of kids, where do they want to play? If they run across the street, you're probably going to have a few deaths because that's a four-lane highway. That's the way they can go across and play in the park.

Otherwise, they're going to play in my neighborhood. My horses are going to be involved.

People are riding bicycles, horses get scared on bikes.

Thank you very much.

CHAIRMAN BARBIERI: Thank you.

After Ms. Brahs, would Frances Pope come up to the other podium.

MS. BRAHS: Good afternoon. My name is Dagmar Brahs. I am a member of the German Club. I am here today with the president of the German Club, Tom Foster, and the vice president of the German Club, Kirk Freida (ph).

I am here only as a concerned member. We didn't want to fill up the chambers, but we are very concerned about the traffic that's going to come out on Lantana Road.

Myers Road had been previously mentioned a few times, and it is actually known as their secondary access, but the traffic will be quite heavy because that is the only place there is a median cut in order for you to go towards the east.

Myer Road is our only access in and out of the club so, again, we are very, very concerned

about that area over there. There have been several accidents already, a couple fatalities, also.

The developer has agreed to sign off on their 50 percent of the right-of-way of Myers Road because that is the road that -- like I said, we've been using, and we've been maintaining it since the American-German Club has been there, which has been 40 years. We just celebrated our 40-year anniversary.

So we would hope that you guys would agree -- you commissioners, sorry, you commissioners would agree to put in the conditions of approval that the developer would agree just to sign over their 50 percent of the easement so that we can be in control of our access into the American-German Club.

And the other thing is, and I do believe that's already a condition of approval, is the fact that all future residents, all buyers, do sign an affidavit or some kind of a notification that they are well aware that due to events that happen at the American-German Club there will be an increase in noise and traffic.

We're just trying to survive. We've been there for 40 years, and obviously we're going to heads a couple times, but if we can nip this in the bud in advance so that they are perfectly aware, I think that we can avoid controversy in the future.

Thank you.

COMMISSIONER ZUCARO: How do you -- excuse me.

How do you -- are you compatible to the issue of the horses and the equestrian community during your time -- during your celebration time?

How does the community react to you -- to the issue of noise and fireworks and bands and --

MS. BRAHS: Well, I don't ever recollect that we've ever had fireworks ever on our property.

I do want to say that we are not a 24/7 use. Usually we have evening board meetings once, twice a month --

COMMISSIONER ZUCARO: I was just talking about --

MS. BRAHS: Yeah.

COMMISSIONER ZUCARO: -- Oktoberfest.

MS. BRAHS: Yeah, Oktoberfest --

Oktoberfest is intense, yes, very much so, and, yes, we have bumped heads with the residents and we do understand their concerns, but we have tried very hard making sure that -- when Nash Road was cut off, we were very much in support of that, and we are very aware of their concerns and problems, and we try to meet them as best we can.

COMMISSIONER ZUCARO: Thank you.

CHAIRMAN BARBIERI: Thank you.

MS. MANLEY: Excuse me. I'm sorry. I -- just on that note of the music from German-American Club, the horses love it.

I have no problem whatsoever with the

music of the German-American Club --

CHAIRMAN BARBIERI: They're German horses.

MS. MANLEY: They love even the Latin music that's there at times, but the only thing is disclosure is -- this is not the only area around the United States this is happening in.

There are people moving into communities that are rural, and they don't like the smell. They don't like this. It has to be stated that you're moving into a community that's been there for years, and now they don't like the environment that they've moved to.

CHAIRMAN BARBIERI: Okay. Thank you.
Frances Pope.

MS. POPE: I did not sign up to speak.

CHAIRMAN BARBIERI: Okay. You just want this read?

MS. POPE: Yes.

CHAIRMAN BARBIERI: "Project backs up to equestrian neighborhood on acreage. Density extremely out of line with neighborhood. One hundred forty-nine units were approved with negotiation with neighbors a few years ago. Asking density today is 50 percent increase with help of extra TDRs for workforce housing, which is not necessary in today's real estate market.

Norm Speier, Walter Ross.

MR. SPEIER: Hello there, Commissioners. My name's Norm Speier, 5555 52nd Drive South, a/k/a Myers Road.

I've owned the property since 1953, resided there since 1981. That doesn't give me any special kudos, just to say that I'm certainly aware and want the area to stay as it is.

I know that things can't always stay the way they are.

The Commission has already studied, agreed on and recommended the density as it stands. Notwithstanding the fact now that Holiday Organization has made a, well, a bad business deal, the recommendation is already in.

Our rural, pedestrian, pastoral country style, equestrian style of area is -- it'll be in serious jeopardy, I believe.

The noise, the fireworks that have already been mentioned, the danger from them, the encroachment. How do you expect these children to go across -- I think Aaron Pope said four lanes. It's a six-lane major thoroughfare to get to Buttonwood Park. They won't. They'll be in our area after they've exhausted the enjoyment of the few amenities that are in this project.

We're asking for a continual and impenetrable buffer along the project's north border, the north border that keeps -- that is -- the north border that goes between our area and the project.

The -- now, that's to exclude the -- the buffer will exclude the two and a half acres that they've purchased in our area.

The pictures aren't up there right now, but the two and a half acres, to be able to get

the TDRs, the workforce housing, the density and so forth that they are requiring, but that's -- that's not going to -- we don't want that accessed by them or their people, and apparently it's -- hopefully that it's not going to be.

But also that Nash Trail be never opened to the west of where it is now, to the west of Myers Road. It's shown as an easement there. It's shown as opened or are going to be some electrical, I guess, and sewer considerations there, but that it never be a road, and that the Myers Road remain permanently closed at the end of the American-German Club property.

You know, there's three schools within a half-mile, three schools clumped together within a half-mile adjacent to our acreage area.

It's a logistical nightmare during school travel times. You can't go north on Haverhill, and that's our only inlet and outlet to our property, is Haverhill.

It should never have been allowed, but that's hindsight, isn't it.

Additional density would make it even harder to go south on Haverhill to get to Lantana to go east or west.

So we're concerned. We're passionate about the safety of the horses, about the protection of our property and about the preservation of our way of life.

We're asking you to please deny the proposal that's being made now by the Holiday Organization and Land Design South.

Thank you very much.

CHAIRMAN BARBIERI: Thank you.

Walter Ross, and then Jane Pike.

MR. ROSS: Yes. Good day, Commissioners, members of Zoning Commission.

My name's Walter Ross. I've been living in the area for 14 years up on the northwest corner.

I go on the record again four years later opposing the second re-rezoning amendment to this development. It was Belmont, now it's the Colony at Lake Worth.

I remember when it was first used as a plant nursery owned by Mark Tomberg (ph), and it was originally zoned single family housing sites.

They purchased it and came after us with high density, and we all agreed, 149 units was acceptable to the community with the proper berms and the barricades, and all was well.

We found a compromise, the staff, the Commission, the developer then and our community.

To come back to us and bring a higher density proposal couched in other affordable housing or low income area just is beyond me.

You know, we addressed the traffic issues before, the property values, the security of the neighborhood, the safety of the people with the four-lane highway, Lantana, four years ago. It's all in the file.

The lands remained vacant, and now it

comes back to us to make it a more -- a better investment by increasing the density by 50 percent, you know.

The property's owners have flipped the land, and they made their money back then with no construction costs, and now because of the fall in the market, business, the developers got caught short, you know, and we're not there to -- agree with Robert to -- the County and the community's not there to bail them out.

And I respectfully request the Commission deny this high density proposal and have them go back and stick with what we agreed on. That was 149 units.

Thanks for being here. Been a long day, and I appreciate you hearing me out.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you for coming.

Yes, ma'am.

MS. PIKE: It is my understanding that I do need to be sworn in. I was not --

CHAIRMAN BARBIERI: Okay.

MS. PIKE: -- here at the beginning of the day.

CHAIRMAN BARBIERI: County Attorney, please. Mr. Banks, would you swear in the young lady there, please.

(Whereupon, the speaker was sworn in by Mr. Banks.)

MR. BANKS: Thank you.

MS. PIKE: Thank you. My name is Jane Pike. I'm here at the request of Suzanne Cabrerra (ph), who is the CEO for the Housing Leadership Council of Palm Beach County. She was unable to be here today for business reasons.

She wants to express the Housing Leadership Council's support for this project.

On September the 10th, 2007, this project was presented to the Housing Leadership Council's Public Policy Committee, of which I am a member of that committee, and they evaluated the projected and recommended to the Board of the Housing Leadership Council that they approve as they felt that it was appropriate, and which they did.

And I would like to take this opportunity to express support of the proposed project as they have presented it today and as the Planning staff have recommended for approval.

Why would we support that? Every day that goes by there's a shortfall of over 9,000 units in this particular area right now, and it increases each day.

I know we have a housing market issue, as well, but by the time this project is built, that 9,000 shortfall in affordable housing is going to be farther along.

We recognize that the staff's willingness to recommend approval of the 226 units is commendable, that it is consistent with the MR-5 land use designation.

At the same time we need to be forward

thinking in projecting population growth and the still unmet housing needs in this approval process.

With the economy in its current state approving these units will provide extended employment in an industry that's depressed by the downturn in the market.

To address the concern of lackluster sales in the area in the months of January and February, Palm Beach County and a general area has gone from a 20 to a 30 percent increase in pending and closed sales over the previous quarter, and so I feel that the housing market is looking in that direction.

And as a forward-thinking County we really need to consider, with all due respect to the rural areas that we have, that in order to address the workforce housing that density is not necessarily a bad word.

The private sector is the driving force in solving the housing crisis, and with your approval on projects like this, including the conditions of the Myers Road and the Nash Trail issues, you can do your part in solving the housing crisis.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Yes. I just want to go back to the previous approval a little bit, and at the time we have this parcel of large single family lots very similar to, if you recall, the Gulfstream Polo area, and when Gulfstream started selling out some of the property to the same builder, we were restricting them to like three -- three units per acre, some of the zero lot line homes I think that GL Homes built.

And then even there was another project going down Haverhill that was, again, trying to encroach into a neighborhood that came in after this, and I think we reduced them to a less density.

With this -- with the homes of not even one per acre there are, you know, one homes per two to five to 10 acres, I had a problem with the original project, and when it was approved, it was more like seven units per acre.

After the meeting I talked to Bill Whiteford and asked him how in the world they -- this got that far through, and he said he disagreed with the rest of staff, and it shouldn't have been more than three to five acres.

But -- so here we compromise and agreed to seven, and now we're going up to over 10, and I think if you go back -- I was the -- I voted against the project at 149, and now we're talking 226.

And the thing that kills me is if you take the increase that they're asking for today, just the increase is twice the number of units of the rest of the neighborhood. There's like 30 -- I would say there's 38 -- 34 residents, and they're

asking an increase of 68.

So the project itself was five times the size of rest of the community, and if they had created a neighborhood association way back when with all this property, they maybe could have stopped that, but because they didn't, they're slowly being piecemealed in.

And to me 10 units per acre in an area where this project will be seven times -- seven times as many units as the whole rest of the neighborhood. Like we look at what -- we looked out in the -- off of Indiantown Road, imagine those areas. Those were only one to two acres. Imagine if we were proposing coming in with a project of 10 units per acre.

You know, I understand the need for workforce housing, but then what did they say? They were showing what those units would be selling for were in the two, three, 400,000, and there's all these homes for sale in that area at 150,000.

So I'm just -- I'm against this project, and -- in the density alone.

And then if you go to -- you look at the site plan, the -- if you were to live in the previous community, at least you weren't back to back.

I look at some of the units, and the distance between the backs of these units is less than the distance -- than the width of the units themselves.

I mean we talk about some of the single family units, we don't want back-to-back units. We want to have a little bit of distance.

I know they moved the lake for the residents, but to have units that -- I mean some of these units look like they're -- the backs, you know, they don't even have any windows on the sides because of the orientation so the only windows they have in the back -- and you're like 50 feet to the next unit.

So I just see a lot of problems with this myself, and I just don't think it's an appropriate -- it's not a transitional -- appropriate transitional use.

Three to five units per acre is an appropriate transitional use when you're going from one -- that size to this size.

CHAIRMAN BARBIERI: Commissioner --
Commissioner Hyman.

COMMISSIONER HYMAN: Let me ask you a question.

The way you got to the increased density was -- and I had not noticed this before. I guess you acquired that house to the north, and there's a preserve area, and then there's -- must be an existing home.

What's happening with that home?

MS. TIGHE: That is existing as part of the original approval.

Nash Trail kind of acted as a transition between what I would call the agricultural large

lot equestrian residential, and rather than -- I think some of the way earlier plans actually included units up there, but at the request of the neighbors and to act as a transition between -- I mean this property fronts on Lantana Road.

For all intents and purposes we're part of the Lantana Road network.

Once you get past Nash Road, you actually have to encroach into the equestrian --

COMMISSIONER HYMAN: So what happens to Nash Trail? Are you going to --

MS. TIGHE: We're doing nothing.

COMMISSIONER HYMAN: -- abandon it?

MS. TIGHE: We're doing nothing.

We -- under the old approval we had met with the residents, and there was discussion about abandoning Nash Trail, but none of the -- at that time the residents did not want to abandon Nash Trail.

We have no interest in Nash Trail. We have no access to Nash Trail. We actually have a buffer and a wall along Nash Trail so our impact on Nash Trail is zero.

This single family home and this preserve area are totally separate. It's a -- fits in with the rest of the character of the community to the north.

This is our project to the south of Nash Trail. We've got Myers Road here. We've got the American-German Club.

There have been discussions -- the American-German Club would like to abandon a portion of Myers Road.

We don't care. We're -- if they want to abandon it, we'll join in with their application because we're directly affected and allow them to utilize that land.

So we have no impact on Nash Road at all.

COMMISSIONER HYMAN: Well, why wouldn't we add a condition to abandon that portion of Nash Road that you at least can control, 'cause you don't own all of it. I mean you're not adjacent to all of it. Can't speak for your neighbor.

But if it doesn't go anywhere and it could provide, you know, more room for the horses, why wouldn't they just do it?

CHAIRMAN BARBIERI: Mr. Rogers, did you have a comment?

MR. ROGERS: I wanted to address another matter other than that.

MS. TIGHE: I was just going to say Nash Trail has access on Haverhill and comes around.

I mean there are -- as you go up Cadillac Road, Nash is -- this --

COMMISSIONER HYMAN: So it's a -- it goes through.

MS. TIGHE: It could go through, but it doesn't.

COMMISSIONER HYMAN: Doesn't go through?

MS. TIGHE: I mean the neighbors would be able to talk better to you about Nash Trail probably than I did -- do, but it comes to right

here (indicating)--

COMMISSIONER HYMAN: So do the neighbors support an abandonment?

MS. TIGHE: -- that goes to the north -- we would agree to abandonment if they wanted an abandonment, but the last time from '04 that was discussed, and some of the neighbors wanted it, and some of the neighbors didn't, so we dropped it at that point, and that's what I remember about Nash Trail.

COMMISSIONER HYMAN: Also, the other thing that we talked about -- I was the one about the tot lot, and I appreciate you showing -- moving it.

But what about putting the lake back in the middle of the property, as opposed to on the edge?

MS. TIGHE: I mean that benefits our client because then he has more amenitized units, and we would love to do that, but I think that we, you know, that was what we did to try and address the neighbors' concerns to the greatest extent possible.

You know, it -- whatever, like I -- the pleasure of the Board, that was something that we saw that we could do to address their concerns to really separate ourselves from their community.

We really are -- we have no impact. Again, we have a buffer, a lake along our western portion and our northern portion.

Our access is here (indicating). You come into this community, and you access it from Lantana. We have no impact on the developments off of Cadillac and Nash Trail to the north.

COMMISSIONER HYMAN: And it's going to be walled in; right?

MS. TIGHE: We have a six-foot wall going around the entire site.

CHAIRMAN BARBIERI: Yes, sir. Mr. Rogers.

MR. ROGERS: Just to follow up on -- just to follow up on that statement, we would -- the Engineering Department would request that the traffic analysis be revised between now and the Board of County Commissioners to be consistent with the comments that were just made, and specifically the turning movements that are shown in Figure 4 of the traffic analysis are not in concert with the comments that were just made this afternoon.

COMMISSIONER HYMAN: So does that change anything?

MR. ROGERS: The volumes will -- the change of the volumes shown on that graph will not have any material change on any of the recommendations, but just to be consistent between what was said at the public hearing and what is in the official record it should be -- that matter should be straightened out.

MS. TIGHE: And we did revise that page and showed it to Allan Ennis, but we'll submit it formerly to the record. We just did that today. We noticed that.

COMMISSIONER HYMAN: And what about the elevations? What about the elevation drawings?

MS. TIGHE: We do not have rendered elevations so what I have is --

CHAIRMAN BARBIERI: Ms. Alterman, you have a comment?

MS. ALTERMAN: Yes, I did. I just wanted to draw the Board's attention to Page 801 of your staff report which shows the existing land use, and if you'll notice, and I -- and although the residents do live on larger lots, they are -- their land use is MR-5, so that's Medium Residential 5.

So conceivably they could today come in and subdivide some of those lots or compile those lots and have a land use that would allow a density much higher than what they've got today.

MS. TIGHE: And this -- these are the elevations.

When -- we will get them rendered and try and get a perspective, but this is what we had submitted and -- as part of our application.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: One of the concerns of the neighbors is, again, the kids, all the people living in here going down the road between you and the American-German Club and walking back all the way into their neighborhood.

What -- right now the County'd agreed they just put a -- I think it's like a gate that goes across to keep cars from going through.

I guess maybe staff or Engineering can answer that.

What would be required for them to put -- I mean if it's gated so no cars can get through, what would be required to get something to keep pedestrians from walking through?

MR. ROGERS: In all actuality I guess you forget what it was to be a young person. If a young person wants to get around some sort of a barricade, they're going to find a way to do it.

VICE CHAIRMAN ANDERSON: I understand, but all I'm saying is if you're going to put 220 units into a neighborhood that only has 38 units, to me, that is seriously incompatible with that neighborhood because you're not just doubling or tripling or even quadrupling, you're increasing it by a factor of eight the number of people that are going to be in this neighborhood, I know, but -- so is there anything -- that's what the neighborhood -- what some of the neighbors had asked for in this petition and the petition before to keep the kids from going down -- is it Nash, not Nash, but what's the other road -- Myers, going down to Myers and then crossing over to Nash to walk to school?

I mean if you have a horse community of 38 families, and then all of a sudden you're going to be putting all these kids on these roads, I think that's a major incompatibility, and what can be done --

COMMISSIONER HYMAN: Kids from this

project shouldn't be on those roads. They're going to be oriented towards Lantana. They won't be able to get out onto Myers --

VICE CHAIRMAN ANDERSON: No, I'm just talking about all the people -- all the kids that live there are going to -- that -- every time they walk to and from school they're going to walk right through their neighborhood.

COMMISSIONER HYMAN: How are they going to walk to school?

VICE CHAIRMAN ANDERSON: They walk down Myers --

COMMISSIONER HYMAN: Oh.

VICE CHAIRMAN ANDERSON: -- then walk down Nash 'til they get to Haverhill and then walk to school, and when they come home, they walk down Haverhill, they go down Myers -- Nash, and they come down Myers.

COMMISSIONER HYMAN: Is there a schoolbus stop here?

CHAIRMAN BARBIERI: Is Mike -- is Mr. Owens still here from the School Board? He left. Okay.

COMMISSIONER HYMAN: Wait a second.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Is there -- is there a school --

CHAIRMAN BARBIERI: I think he left.

COMMISSIONER HYMAN: -- bus stop in your plan, Jennifer?

MS. TIGHE: Yes, there is, right at --

COMMISSIONER HYMAN: You want to -- take that down 'cause that's -- you can't see anything on that one, anyway.

MS. TIGHE: We've got the bus stop located right there (indicating), and it's approved by Palm Beach County. There's a condition of approval requiring the 10 by 20 schoolbus.

CHAIRMAN BARBIERI: All right.

MR. CHOBAN: I think it also depends on what school they're going to end up at because there was testimony that --

VICE CHAIRMAN ANDERSON: Right. I understand.

MR. CHOBAN: -- one of the -- one of the two schools would be the school for the elementary school.

One of them is west, and the other one is north.

MS. TIGHE: Right.

VICE CHAIRMAN ANDERSON: Right, but we don't know that.

MR. CHOBAN: I -- no, I --

MS. TIGHE: Well, the School Board told us that our school is going to be to the -- to the west, and then we got -- something in the staff report references the elementary school to the north, so there's a little bit of confusion, but we'll get that clarified by, you know, it's not a problem.

They're both within a -- one's within a mile, and one's within a half a mile. There are

sidewalks to both schools.

COMMISSIONER HYMAN: Well, whatever the Board does, I would like to have the tot lot added to the clubhouse area, as opposed to near the entrance.

MS. TIGHE: We have no problem with that.

CHAIRMAN BARBIERI: Commissioner Zucaro.

COMMISSIONER ZUCARO: You guys have a lot more history on this.

When the agreement -- I'm sorry -- when the agreement was made for the 149 units, was that made and approved at the County level or at our -- or at the Zoning Commission level?

CHAIRMAN BARBIERI: BCC did it. We did it, but the BCC approved it.

COMMISSIONER HYMAN: This happens all the time. People get approvals, and then they come back for changes, and that's why we're here.

COMMISSIONER ZUCARO: No, I agree. I think that there -- there is -- there are -- market conditions have changed, and that's being presented to us by the applicant, and the neighbors are saying we shouldn't respond to their bad business deal.

There is workforce housing issues that have now come to be a public purpose kind of argument that is being made that supports the higher density.

But seems to me that the fair thing to do to be consistent here today would be to deny it and send it to the County Commission and let them take the decision.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER HYMAN: Allen.

CHAIRMAN BARBIERI: Turn your microphone on.

COMMISSIONER KAPLAN: You have a lot of MR-5 units acreage down there. What is the maximum you can build on those MR-5s, per unit, per acre?

MR. VAN HORN: Well, that would -- that would be five units per acre if you had a Planned Unit Development or if you received an infill determination letter from the Planning Division that you could develop at your maximum density of five units per acre.

Otherwise, it's typically the standard density of four units per acre for MR-5, but you're also eligible to request additional units through the TDR program and also through the County's Workforce Housing Program.

So --

COMMISSIONER KAPLAN: Well, that's --

MR. VAN HORN: -- you could potentially have more than five units per acre.

COMMISSIONER KAPLAN: Well, that's what I'm trying to get at. You got the work -- if you get the workforce housing bonus, what could you build there, theoretically?

MR. VAN HORN: On the rest of the properties?

COMMISSIONER KAPLAN: On any MR-5

property?

MR. VAN HORN: We would have -- we'd have to look at it on a case-by-case basis.

COMMISSIONER HYMAN: Depends on how --

COMMISSIONER KAPLAN: Well, give me your best estimate.

COMMISSIONER HYMAN: It depends on the size of the property.

MR. VAN HORN: It depends on the size of the property, and it depends on -- currently you could get a 30 percent workforce housing bonus density if you qualify for the Workforce Housing Program.

For this property we allowed a 45 percent bonus density, which was subject to the workforce housing application and the sector analysis the County staff reviewed. It was part of their workforce housing application.

But they also have the ability, of course, to request additional TDRs, and for this particular area an applicant -- property owner can request up to three additional TDR units per acre, so that's what the request is right now.

They're pretty much maxing them out -- maxing out their PUD density, their workforce housing bonus density of 45 percent and their TDR request for a total of 66 TDRs, 20 -- 38 of which were approved previously.

COMMISSIONER KAPLAN: Thank you.

CHAIRMAN BARBIERI: All right. Any other comments?

(No response)

CHAIRMAN BARBIERI: I -- my comment is I -- I -- if you look at this from an aerial, it looks like it's part of the neighborhood, but if it's walled off and it fronts on Lantana, I don't believe it's part of the neighborhood.

I think if you can keep the kids from going into the horse area -- this fronts on Lantana, the bus stop's on Lantana, it's walled in so the kids can't get through.

There's -- there is three schools in the area, which is a perfect place for workforce housing, for teachers to live.

I, you know, there's all kinds of commercial development in this area where people need to live, and the fact that there's houses in the area right now that are selling for workforce housing prices is probably a fluke at the bottom of a cycle, and four years from now they won't be there any longer, but these units will be workforce housing restricted for, what is it, 20 years?

So for 20 years these houses -- this housing is going to be there, no matter what the market does, so I don't think I have support on this --

COMMISSIONER HYMAN: I do.

CHAIRMAN BARBIERI: -- Commission, but I -- I would -- I would vote to approve this, provided that we keep the, you know, the walls and keep the kids out of the neighborhood with --

COMMISSIONER HYMAN: I agree.

CHAIRMAN BARBIERI: -- the way it's structured.

COMMISSIONER HYMAN: And I agree with the Chair, and I also think if we can get some things for the neighbors, like get the abandonment of or the quit-claim of their interest in Myers Road so the German-American Club gets that, do something with Nash Trail, maybe make it more accessible for the horses 'cause if there's going to be a wall on this side -- and I think it could -- it's -- it's a good transition, you know, to the commercial and institutional type of uses that it surrounds.

So I'm going to support the proposal.

COMMISSIONER KAPLAN: Well, I don't see Nash Trail being an issue here. It's blocked off.

It's a rural road that's not being used. The entrance is on Lantana. The school is on Lantana.

And particularly I think, from the standpoint of the BCC, who are trying to get more workforce houses, we have a social obligation, a public service, to support workforce houses, and here we have 58 more units coming in.

I certainly will support it, and at this juncture I'll be glad to make a motion, Mr. Chairman.

COMMISSIONER HYMAN: Make it.

CHAIRMAN BARBIERI: Make it, please.

COMMISSIONER KAPLAN: Okay. We have three motions on this.

One is to recommend approval of a development order amendment to reconfigure the site plan, add units and modify/delete conditions of approval, Landscaping, Engineering and PUD.

COMMISSIONER HYMAN: Second.

COMMISSIONER ZUCARO: Discussion.

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

Discussion, Commissioner Zucaro.

COMMISSIONER ZUCARO: I don't think that anybody in the room is denying the building of this project. It's just a matter of whether it's going to be 149 units versus 225 units, and seems to me that we just beat up another applicant with regards to a 14,000 square foot unit, took them down to an 85,000 [sic] square foot unit to accommodate the voices of the neighborhood, and here we're not making any accommodation for the voices of this neighborhood.

So I -- I just see an inconsistent application of our -- of the way we are approaching the problem of responding to legitimate concerns from the neighborhood with regards to a density question.

So that -- that's my comment because we are -- we are taking a deal that was made four years ago at 149 units, and we're bringing it up to 225, okay, and I'm not -- I'm not -- and I'm not arguing against workforce housing, but it's just the equation that is being brought forward here, not the principle, and the principle's

inconsistent with the way we treat other -- we treated other applications.

COMMISSIONER KAPLAN: Commissioner Zucaro, we have an issue here before us of 226 houses with 58 workforce houses, which we didn't have before.

COMMISSIONER ZUCARO: Yes.

COMMISSIONER KAPLAN: What happened in the past, four years ago, taking into account the climate, the population, the economy, I don't think that we should relate back.

The question is where are we going forward, and for this reason I support this petition.

COMMISSIONER ZUCARO: I appreciate --

COMMISSIONER HYMAN: I call the question.

COMMISSIONER ZUCARO: I appreciate the fact that you support the petition.

All I'm suggesting to you is the same logic applies with the 14,000 square foot to 8500 where we imposed our will on them --

COMMISSIONER HYMAN: I called the question.

COMMISSIONER ZUCARO: I'm still talking -- excuse me.

COMMISSIONER HYMAN: I know, I know, but --

COMMISSIONER ZUCARO: We impose our will on somebody, then with almost an exact same equation in place we are -- we are responding in a different way, and that's all I want to say.

COMMISSIONER KAPLAN: Commissioner --

COMMISSIONER ZUCARO: We can call the question.

COMMISSIONER KAPLAN: -- we're not imposing anything here, and the 14,000 was opposed --

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: -- so let's get to the issue here only.

COMMISSIONER HYMAN: Everybody's repeating themselves.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Call the question.

CHAIRMAN BARBIERI: Question's been called.

VICE CHAIRMAN ANDERSON: Discussion under question, or we can't discuss it anymore?

COMMISSIONER HYMAN: I called the question so that --

CHAIRMAN BARBIERI: Okay. Well, you're going to get an opportunity on the next motion to discuss.

All in favor of the motion.

COMMISSIONER HYMAN: Aye.

COMMISSIONER KAPLAN: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ZUCARO: Aye.

CHAIRMAN BARBIERI: One, two, three, four -- 4-1, motion passes.

COMMISSIONER KAPLAN: No, three --

COMMISSIONER HYMAN: I think it's three to two.

CHAIRMAN BARBIERI: Three to two. I'm sorry, I didn't see your hand, it's 3-2, with Commissioner Zucaro and Commissioner Anderson opposed.

COMMISSIONER KAPLAN: We have another motion.

Motion to recommend approval to allow the transfer of development rights for an additional 28 units in a PUD zoning district and designate the subject property as the receiving area.

COMMISSIONER HYMAN: Second.

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

Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Yes, under discussion, just -- just a comment I'm going to make.

The previous petition that came through, we postponed it for redesign because of some of the things we didn't like about it.

When I compare the design of this to the design of the other one with those buildings in the center so close back to back, I personally think it should be postponed.

Even if we're going to approve the 222 units, I think the site plan is not very good, so I -- that's my only comment.

COMMISSIONER KAPLAN: On the site plan, Mr. Chairman, the lake, from what I understand, was moved for the benefit of the neighbors who had the larger properties to give them a much greater depth of protection, 150, 175 feet.

VICE CHAIRMAN ANDERSON: They moved the lake into the buffer area so they could get rid of the buffer so they could have more buildable land.

COMMISSIONER KAPLAN: They have much more vacancy between the units being built and the residences, and I think that, while I agree with you in a sense that I would like to see a more diverse building, but I think that in this case this is where they're trying to satisfy the neighbors, and I think they've done as good a job as they could to give them a greater barrier.

CHAIRMAN BARBIERI: All right.

COMMISSIONER KAPLAN: Move the question, Mr. Chairman.

All in favor of the motion.

COMMISSIONER HYMAN: Aye.

COMMISSIONER KAPLAN: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ZUCARO: Aye.

CHAIRMAN BARBIERI: Opposition of Commissioner Anderson, Commissioner Zucaro.

The motion passes 3-1 [sic].

COMMISSIONER KAPLAN: Make a motion to recommend approval to allow the reduced cost of

one dollar per unit --

CHAIRMAN BARBIERI: I'm sorry, 3-2. I can't count anymore. It's 5:00 o'clock.

COMMISSIONER KAPLAN: -- -- for the transfer of development rights units.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: All right. We have a motion by Commissioner Kaplan, seconded by Commissioner Hyman.

Any discussion.

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER HYMAN: And those were subject to all the conditions as modified.

CHAIRMAN BARBIERI: Aye.

Opposed.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER ZUCARO: Aye.

CHAIRMAN BARBIERI: Motion passes 3-2, with Commissioners Zucaro and Anderson in opposition.

CHAIRMAN BARBIERI: Staff.

COMMISSIONER HYMAN: Good job today.

MR. Mac GILLIS: The annual report, we'll bring that back when we have less items on the agenda.

CHAIRMAN BARBIERI: I was hoping you were going to say that.

COMMISSIONER HYMAN: Drinks for everyone.

CHAIRMAN BARBIERI: So the meeting -- meeting is adjourned.

COMMISSIONER KAPLAN: Mr. Chairman, I'd like to thank you for doing a good job today.

CHAIRMAN BARBIERI: Thanks a lot.

(Whereupon, the meeting was adjourned at 5:10 p.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA)

COUNTY OF PALM BEACH)

I, Sophie M. Springer, Notary Public,
State of Florida at Large,

DO HEREBY CERTIFY that the above-entitled
and numbered cause was heard as hereinabove set
out; that I was authorized to and did report the
proceedings and evidence adduced and offered in
said hearing and that the foregoing and annexed
pages, numbered 5 through 175, inclusive, comprise
a true and correct transcription of the Zoning
Commission hearing.

I FURTHER CERTIFY that I am not related to
or employed by any of the parties or their
counsel, nor have I any financial interest in the
outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 21st day of April, 2008.

Sophie M. Springer, Notary Public