

**ZONING COMMISSION  
OF PALM BEACH COUNTY**

Thursday, June 5, 2008  
9:05 a.m. - 10:30 a.m.  
Jane M. Thompson Memorial Chambers  
301 North Olive Avenue  
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer  
Notary Public

**A T T E N D E E S**

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

Barbara Alterman, Ex. Director of PZ&B  
Bob Banks, Assistant County Attorney  
Jon Mac Gillis, Zoning Director  
Maryann Kwok, Chief Planner  
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  
Sussan Gash, Planner II, Planning  
Allan Ennis, Asst. Dir. Traffic Division  
Jim Choban, Land Development  
Kenny Wilson, Health Department  
Bob Kraus, ERM  
Michael Owens, School Board Rep.  
Donna Adelsperger, Zoning Tech, Zoning  
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.

Mr. Mac Gillis, take roll.

MR. Mac GILLIS: Commissioner Bowman.

COMMISSIONER BOWMAN: (No response)

MR. Mac GILLIS: Commissioner Armitage.

COMMISSIONER ARMITAGE: Present.

MR. Mac GILLIS: Commissioner Davis.

COMMISSIONER DAVIS: Here.

MR. Mac GILLIS: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MR. Mac GILLIS: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MR. Mac GILLIS: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MR. Mac GILLIS: Commissioner Brumfield.

COMMISSIONER KAPLAN: He's here, but --

COMMISSIONER HYMAN: He's here, he'll be back.

MR. Mac GILLIS: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MR. Mac GILLIS: We have a quorum.

CHAIRMAN BARBIERI: All right.

Would everybody please stand and -- 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, 6<sup>th</sup> Floor, 301 North Olive Avenue, West Palm Beach, Florida, to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments, Type II variances and other actions permitted by the Palm Beach County Unified Land Development Code and to hear the recommendations of staff on these matters.

The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing at 301 North Olive Avenue, West Palm Beach, Florida, in the Jane M. Thompson Memorial Chamber, 6<sup>th</sup> Floor, at 9:30 a.m. on Thursday [sic], June 30th, 2008, to take final action on the applications we'll be discussing today. Zoning hearings are quasi-judicial and must be conducted to afford all parties due process. This means that any communication with commissioners which occurs outside of the public hearing must be fully disclosed at the hearing.

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

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

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

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

Staff, do we have proof of publication?

MR. Mac GILLIS: Yes, Mr. Chair.

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

COMMISSIONER KAPLAN: So moved.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, seconded by Commissioner --

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: -- Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0, with Commissioner Brumfield in the room.

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

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: All right.

Disclosures, starting with Commissioner Armitage.

COMMISSIONER ARMITAGE: No disclosures.

CHAIRMAN BARBIERI: Commissioner Davis.

COMMISSIONER DAVIS: Yes, I have spoken with some of the applicants. Which ones? Land Design South and --

MR. BANKS: You need -- okay. You need to say which -- regarding which items.

COMMISSIONER DAVIS: Oh. Oh, God.

COMMISSIONER HYMAN: It was probably Palm Meadows.

COMMISSIONER DAVIS: Yeah, Palm Meadows, No. 7, and -- no, not the church, and Mr. Kilday regarding the Highland Dunes, and I don't know which -- I don't have my agenda up here right now.

MR. Mac GILLIS: It's Item 12, Lazy F.

COMMISSIONER DAVIS: Item 12, and that's all.

VICE CHAIRMAN ANDERSON: Yes. I had a discussion with petitioner on Agenda Item 7 and 13.

CHAIRMAN BARBIERI: All right. And I also talked to the petitioner's representatives on Item 7 and 13.

COMMISSIONER HYMAN: I talked to petitioner's representative, met with them, on Item No. 7.

COMMISSIONER BRUMFIELD: I spoke with the

petitioners of Land Design for Item 7, 13. I also spoke to Mr. Kilday with regard to the -- what is it, the -- it's an item on the consent agenda.

COMMISSIONER KAPLAN: I spoke to the petitioner's or applicant on seven, 13, five, six, 12 and an unnumbered application on a motion to reconsider of a variance that was decided by this Commission a month or two ago.

CHAIRMAN BARBIERI: Okay. Staff.

MR. Mac GILLIS: Okay. Beginning Page 2 of your agenda, the postponed items.

Item 1, DOA/R2007-1597, Pratt Orange MUPD, recommending a -- the applicant is requesting a 30-day postponement to July 3rd, 2008.

CHAIRMAN BARBIERI: All right. Is there anybody here from the public to speak on Item No. 1, DOA/R2007-1597?

(No response)

COMMISSIONER KAPLAN: Not hearing any members of the public, Mr. Chairman, I move for the postponement of DOA/R2007-1597 for -- what was it, 30 days?

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: To July 3, 2008.

COMMISSIONER BRUMFIELD: Second.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, 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. Mac GILLIS: Item 2, Z/DOA/CA2007-1185, Winners Church.

We just received a request this morning that their applicant is going to be requesting a 60-day postponement.

Apparently they're working stuff out with the residents, so that would be August 7, 2008.

CHAIRMAN BARBIERI: All right. I have one card from the applicant confirming that they're wishing to get a 60-day postponement.

Is there anybody else would like to speak on this Item No. 2?

(No response)

COMMISSIONER KAPLAN: I move we postpone Item Z/DOA/CA2007-1185 for 60 days to August 7, 2008.

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, 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. Mac GILLIS: Item 3 of your agenda, Item No. 3, PDD2006-1682, 112<sup>th</sup>/Northlake Office. Request for postponement 60 days to August 7, 2008.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item No. 3, PDD2006-1682?

(No response)

COMMISSIONER KAPLAN: Not hearing any, I move to postpone PDD2006-1682 for 60 days to August 7, 2008.

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, 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. Mac GILLIS: And on your add and delete we've added Item No. 8, found on Page 6 of your agenda, DOA2007-2013, Del Mar Plaza, request for postponement for 30 days to July 3rd, 2008.

CHAIRMAN BARBIERI: Is there anybody here to speak on Item No. 4, 2007-118 -- is that -- I'm sorry, eight.

Item No. 8, DOA2007-2013?

(No response)

COMMISSIONER KAPLAN: Not having any members of the public appear, I'll move to postpone DOA2007-2013 to July 3rd, 2008.

COMMISSIONER BRUMFIELD: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, 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. Mac GILLIS: That'll bring us to Page 4, the beginning of the consent agenda.

We'd ask the applicant to come up to the podium for each item, state their name and whether they agree to the conditions.

Item 4, Z2007-1188, Lewis Property, found on Page 4 through 24.

Staff is recommending approval of the rezoning with the conditional use, subject to seven conditions.

CHAIRMAN BARBIERI: Mr. McGinley.

Sorry. Okay. You're on.

MR. MCGINLEY: Good morning.

CHAIRMAN BARBIERI: Good morning.

MR. MCGINLEY: Kevin McGinley, for the record.

We do have a minor issue with the dedication of right-of-way, but I've been doing this too long to know not to take that up at this forum right now.

We're going to work with staff between now and the BCC.

There's a dedication of right-of-way required, but it may in fact come off the thoroughfare plan map. We're not really sure, so we just want to have some language that if it's not necessary, we don't have to do it. Something



like that. It's only 10 feet of property, but in a very small 0.4 tenths of an acre property it becomes big.

So I just wanted to let the ZC know that there may be some minor amendments. Otherwise, we're good with conditions.

CHAIRMAN BARBIERI: Staff, you okay with this if we forward it?

MR. Mac GILLIS: I'd defer that to Engineering.

MR. CHOBAN: Yes.

CHAIRMAN BARBIERI: Okay. Is there anybody here to speak on Item No. 4, Z2007-1188?  
(No response)

COMMISSIONER HYMAN: Move approval of the official zoning map amendment from Residential High Zoning District to the General Commercial Zoning District with a Conditional Overlay Zone, subject to the conditions as modified.

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. MCGINLEY: Thank you.

MR. Mac GILLIS: Item 5, ZV/ABN/PDD2007-728, Tidal Waves Industrial Park.

Staff is recommending approval, subject -- found on Page 25 through 51, subject to 20 conditions.

There are three motions on this item.

MS. CUETARA: Good morning.

For the record, Michelle Cuetara, representing Kilday and Associations, on behalf of the applicant.

We are in agreement with all the conditions of approval.

COMMISSIONER HYMAN: I just had one question before we go to the vote.

Staff, there were like nine signs with this petition. Is this the one?

There were nine signs, and it sounded like an awful lot of signage to me.

MS. CUETARA: We have frontage on three

streets, so we're requesting -- and we actually have three entrances on each of those streets. So we're asking for a sign for each driveway entrance.

MR. Mac GILLIS: So code would allow each parcel to have a maximum of three signs, so they're -- three?

COMMISSIONER HYMAN: I forgot how big they were. I'm sorry.

How large are those signs again?

MS. CUETARA: We are --

COMMISSIONER HYMAN: I know it's a big site and there are a lot of users, so --

MS. CUETARA: Yeah, what the code allows, which is -- I believe it's the 10-foot, 200 square feet.

COMMISSIONER HYMAN: How many -- how big are those signs?

MS. CUETARA: They would be the 10-foot high, 200 square feet sign area per sign.

We're proposing one fronting on Southern Boulevard and then two others that would be along for this outparcel here (indicating), one at the corner of Wallis and this interior -- interior [sic] driveway that we're proposing. There'd be two others, one at each driveway entrance on Wallis and then three on Tall Pines, one for each driveway.

COMMISSIONER HYMAN: Okay. The other -- only other question I had was -- and this is a general comment.

You know, we have these disclosures of ownership interest that we started using this year, and it doesn't make any sense to use them if we don't find out who owns the companies that are the corporate or non-individual owners of the property.

So like in here, this case is Tidal Wave Investments Corp. It owns 100 percent, but it doesn't tell us who Tidal Wave Investment Corp. is, you know, who owns that company.

Now, we have some companies that are -- that are public companies so you obviously -- you can't list the stockholders, but for something that's privately owned you're supposed to list it; right?

MR. Mac GILLIS: I'd ask Bob.

This is the disclosure forms that they're -- attachment exhibits.

MS. ALTERMAN: If I may, the disclosure requires that they disclose any entity or individual owning five percent or more of the corporation.

COMMISSIONER HYMAN: Right.

MS. ALTERMAN: And according to this, Tidal Wave owns 100 percent of the corporation.

COMMISSIONER HYMAN: Okay. So if a corporation owns a corporation, you're not requiring that the individual -- because the next sentence says, "Affiant must identify individual owners."

To me, individual means person.

MS. ALTERMAN: We'll look at that. I think this is a -- you know, if it's a corporation that owns it 100 percent, I'm not sure where we go with it, but --

COMMISSIONER HYMAN: I don't care, I mean it's --

MS. ALTERMAN: -- we'll look at it.

MR. BANKS: I know for some other -- for some other purposes if there's more than a certain number of owners of the corporation, we don't require -- you know like for a public corporation you wouldn't --

COMMISSIONER HYMAN: No, I said for a public corp. you can't obviously have anything, but when you have a corporation own a corporation, doesn't that defeat the purpose of your disclosure? I mean why bother having it?

MR. BANKS: We'll -- we'll look at the issue and report back.

COMMISSIONER HYMAN: Okay. I'm going to move approval of the resolution approving the Type II zoning variance to allow the reduction in the required parking.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on Item No. 5, ZV/ABN/PDD2007-728?

(No response)

CHAIRMAN BARBIERI: We have a motion on the floor from **Commissioner Hyman**, second by Commissioner Kaplan.

Any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the abandonment of the special exceptions granted under Resolution 1995-0721, 1995-1116, 1996-1950 and 2002-1645.

COMMISSIONER KAPLAN: Second.

MS. CUETARA: Thank you.

CHAIRMAN BARBIERI: You're welcome.

Motion made by **Commissioner Hyman**, second by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

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

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: That'll bring us to Item 5 of your agenda -- Item 6.

Just note that the variance in this application was withdrawn. They don't need it. So the abbreviation will change to DOA/R2008-306, Addison Place MUPD.

Staff is recommending approval, subject to 34 conditions found on Page 64 through 70.

There are two motions on this for a Type II variance and a development order amendment, and there's add and delete conditions. I'm sorry.

CHAIRMAN BARBIERI: Mr. Mac Gillis, I have three cards in opposition so let's pull this from consent --

MR. Mac GILLIS: Okay.

CHAIRMAN BARBIERI: -- and move it to the agenda, regular agenda.

MS. WALTER: Thank you.

MR. Mac GILLIS: Okay. Item 7, ABN/PDD/R2007-2023, Palms Meadow AGR PUD, found on Page 75 through 118.

Staff is recommending approval, subject to 33 conditions.

There are three motions on this item.

There are changes to the conditions and just note the last motion that should read 342 grooms quarters and strike out "in excess of 342."

That's reflected on your add and delete.

CHAIRMAN BARBIERI: Okay. Is there anybody here from the public to speak on ABN/PDD/R2007-2023?

(No response)

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

CHAIRMAN BARBIERI: Is the petitioner -- accept all the conditions?

MS. TIGHE: Yes. Jennifer Tighe, with Land Design South.

I just have one clarification. We just got a condition change this morning on the add and delete, and I spoke with Jon Mac Gillis about this.

It's regarding Landscape Condition No. 1, and it was changed to say approval by the development review officer, and we would like to say, "Simultaneously with the submittal of the first building permit the property owner shall submit a landscape plan for the developable area."

So there's just a change on when it gets submitted, and I've spoken with Mr. Mac Gillis, and I think he's in agreement.

MR. Mac GILLIS: Yes.

MS. TIGHE: Other than that, I agree with all the conditions of approval.

CHAIRMAN BARBIERI: Is the School Board rep here? Would you come up to the podium, please.

I'm sure you anticipated this question.

The petitioner does show a schoolbus entry -- a schoolbus site waiting area on the property.

It's my understanding that the School Board does not send buses into private communities so there's a turnaround there.

I don't want the kids standing on Lyons Road waiting for the bus. Will the School Board allow the bus to go in and make a turn inside the development there by the gate?

MR. OWENS: Yeah, for the record, Michael Owens with the School District.

I believe if -- and I can't remember the site plan right now, but if we have a turning radius for the bus then we've already made allowances for that, so the bus will come in, pick up the children and exit --

CHAIRMAN BARBIERI: Okay. Great.

MR. OWENS: -- via the turnaround.

CHAIRMAN BARBIERI: Okay.

Are there any comments from any of the other commissioners?

(No response)

COMMISSIONER HYMAN: Move approval of a development order abandonment for a Class A conditional use granted under R2002-1483.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the official zoning map amendment from Agricultural Reserve Zoning District to the Agricultural Reserve Residential Planned Unit Development Zoning District.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the requested use to allow for the 342 grooms quarters, subject to all the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: This brings us to Page 6, Item 9, DOA2007-1777, Lake Worth Road and State Road 7, U.S. 441 MUPD, Pages 141 through 162.

There are 43 conditions.

Staff is recommending approval of this development order amendment.

CHAIRMAN BARBIERI: Petitioner

MR. McDONALD: Good morning. Craig McDonald, Corporate Property Services, on behalf of Wendy's International.

We agree to all the conditions of approval.

CHAIRMAN BARBIERI: Okay.

Is there anybody here to speak on Item No. 9, DOA2007-1777?

(No response)

COMMISSIONER HYMAN: Move approval of the development order amendment modification of a condition of approval under Engineering --

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. Mac GILLIS: Item 10, DOA2008-283, Okeechobee Place, Pages 163 through 183.

Staff is recommending approval of this development order affecting signs and site design, subject to 28 conditions.

CHAIRMAN BARBIERI: Good morning.

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

I agree to the conditions as stated.

CHAIRMAN BARBIERI: All right.

Is there anybody here from the public to speak on Item 10, DOA2008-283?

(No response)

COMMISSIONER HYMAN: I move approval of the development order amendment to modify two conditions of approval re: signs and site design, subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. MOSOLF: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: This brings us to Page 7, Item 11, ZV/DOA/R2008-288, Delray Marketplace, found on Pages 184 through 225.

Staff is recommending approval of three motions, subject to 84 conditions.

MS. TUMA: Good morning. Wendy Tuma, with Urban Design Studio.

We are in agreement with all of the conditions of approval.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item No. 11, ZV/DOA/R2008-288?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of a resolution approving a Type II zoning variance to allow an increase in maximum building height and increase in maximum building frontage.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: 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 reconfigure the site plan and modify/delete the conditions of approval re: building and site design, engineering, use limitations and landscape.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: And move approval of the requested use to allow the single tenant over 25,000 square feet --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to all the conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. TUMA: Thank you.



MR. Mac GILLIS: That brings us to Page 8, Item 12, ABN/Z/CA2008-444, Lazy F, Pages 226 through 248.

Staff is recommending approval of the four motions. One's to abandon a prior requested use and waivers, a motion for rezoning from a PUD to RT and a Class A conditional use for a bona fide agricultural use.

CHAIRMAN BARBIERI: You said four motions. There's only --

MR. Mac GILLIS: I'm sorry, three motions.

CHAIRMAN BARBIERI: Okay. Just wanted to make sure I didn't miss one on the add sheet.

All right.

Is -- petitioner, do you agree to all the conditions?

MR. VERDONE: Yes, I do.

CHAIRMAN BARBIERI: All right.

Is there anybody here to speak on Item No. 12, ABN/Z/CA -- I'm sorry.

What's your name, for the record, please?

MR. VERDONE: Joe Verdone, Carlton, Fields, agent for the petitioner.

CHAIRMAN BARBIERI: All right.

Is there anybody here to speak on Item 12, ABN/Z/CA2008-444?

(No response)

COMMISSIONER HYMAN: Move approval of the abandonment of the requested use granted under Resolution R-2006-029 and the waiver of objectives and standards granted under Resolution R-2006-030.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of an official zoning map amendment from Residential Planned Unit Development Zoning District to the Residential Transitional Zoning District.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: And move approval of the Class A conditional use to allow the bona fide agricultural --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to all the

conditions.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. VERDONE: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Okay. That concludes the consent agenda, brings us to Page 9, the regular agenda.

We pulled Item 6, which was DOA/R2008-306, Addison Place MUPD, found on Page 52 through 74.

Would you like a presentation from staff on this item or go to the applicant?

MS. WALTER: Mr. Chairman, if I may, I believe there were two other items that were moved to the consent agenda on the add/delete, Items 13 and 14.

MR. Mac GILLIS: Okay. I apologize.

CHAIRMAN BARBIERI: All right. Let's go to Item 13. We'll come back to six.

MR. Mac GILLIS: Okay. Item 13, DOA2007-1594, Trinity Church International, Pages 249 through 278.

Staff is recommending approval of this development order amendment, subject to 41 conditions, plus and delete conditions.

CHAIRMAN BARBIERI: Good morning.

MS. TIGHE: Good morning. Jennifer Tighe, with Land Design South, representing the applicant, and we agree with the conditions of approval.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on Item 13, DOA2007-1594?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of the development order amendment to reconfigure the site plan, relocate square footage, modify/delete congregate living facilities, add square footage, restart of commencement clock and delete eight conditions of approval re: building and site design, landscape, engineering, sign and use limitations, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: There's a -- on the add/delete sheet there's a --

COMMISSIONER HYMAN: They're conditions as modified.

CHAIRMAN BARBIERI: Did you put that as part of your motion.

COMMISSIONER HYMAN: Yes.

CHAIRMAN BARBIERI: Okay. I'm sorry.

We have a motion by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Next item is 14, ZV2008-629, Palm Beach International Airport, Phase II Parking Structure, Pages 279 through 299.

MS. WALTER: Good morning, Commissioners.

For the record, Collene Walter, with Kilday and Associates, here on behalf of the Department of Airports.

There are actually no conditions imposed on this project, so we are in agreement with no conditions.

COMMISSIONER HYMAN: No conditions.

MS. WALTER: Thank you.

CHAIRMAN BARBIERI: Would you like one?

MS. WALTER: No, thank you.

CHAIRMAN BARBIERI: Okay.

Is there anybody here to speak on Item ZV2008-629?

(No response)

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

to eliminate the perimeter planter requirements for the Phase II parking structure.

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. WALTER: Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

CHAIRMAN BARBIERI: That takes us back to Item 6, I believe.

MR. Mac GILLIS: Yes, and if you'd like a presentation, Doug Robinson will give us a brief --

COMMISSIONER HYMAN: I don't think we need one. We've seen this before.

I did have one question before he starts.

Is there outdoor seating or is there not outdoor seating?

MS. KWOK: There are outdoor seating.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Could you give us a brief --

MS. WALTER: Be happy to, Commissioners.

Good morning. Collene Walter, with Kilday and Associates, here on behalf of Bear on Jog, Limited, the property owner of Addison Place, which is an existing commercial shopping center that's located on the east side of Jog, south of Linton Boulevard.

It's an existing center, has three very popular restaurants in it, the Addison, Cucina and a Cold Stone Creamery, my personal favorite.

There is an existing outdoor seating area that is located on the north side of the building that serves the Addison Restaurant.

Because the outdoor seating is so popular, especially in the winter season, the applicant is in requesting to expand the outdoor seating area for the Addison, as well as to actually propose an outdoor seating area in front of Cold Stone Creamery.

With recent changes to the restaurant provisions in the Unified Land Development Code

outdoor seating actually counts as building square footage.

You have to address it from a traffic concurrency standpoint. It counts towards the overall square footage of your site, and because of that, we are coming back before you today to essentially ask for an increase in the outdoor seating area.

This is the site plan, and the Addison Restaurant is located here at the north end of the center.

There's an existing 495 square foot outdoor seating area generally in this location, and what the property owner is proposing is to expand that outdoor seating.

There also will be outdoor seating in front of the building for people waiting for tables, and then as I mentioned, the Cold Stone Creamery will have some tables here (indicating) in front of their store.

The property owner has been very -- has good connections in the community because a lot of the people in the surrounding area actually are customers here, and he has met with the surrounding communities, including the master association for the Polo Club, the sub-association for Portofino, which is the neighborhood that is directly adjacent to the center, as well as with the Delray Beach Alliance, and there have been no issues identified, and what I would like to do is submit for the record a copy of the letter that he has provided to us.

The only comment that he did receive from the sub-association for Portofino was a request to provide additional buffering along the east side of the patio here (indicating) where that portion faces the Portofino neighborhood.

And you'll see on your add/delete memo that there actually is a proposed condition that would require that a six-foot opaque fence be provided there with landscaping so that it will essentially act as a noise barrier when people are sitting out on the patio to protect the adjacent residents, and that's not a problem.

In fact he probably would be providing a screen there, anyway, to kind of block the view to the parking lot.

CHAIRMAN BARBIERI: Collene, let me interrupt because it appears, though, these three people that want to speak all have issues with outside music, so let me have them come up, talk about this one particular issue that all three of them seem to have.

COMMISSIONER KAPLAN: We need a motion on that letter.

CHAIRMAN BARBIERI: I'm sorry. We need a motion to receive --

COMMISSIONER ARMITAGE: Move to accept.

COMMISSIONER KAPLAN: So moved.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Would the president of the Portofino Homeowners Association, Michelle Berman, please come up to the microphone.

We're going to limit each person that wants to speak to three minutes.

Judy Siegel, you'll be next, and then Stanley Siegel.

MS. BERMAN: Thank you. My name is Michelle Berman, and I am the president of the Portofino Homeowners Association, a subdivision of the Polo Club of Boca Raton.

The board directors of the Portofino Homeowners Association has requested that I testify before you today in opposition of zoning application ZV/DOA/R2008-306.

While the homeowners want to be seen as good neighbors, we strongly object to any variance that will interfere with our peaceful living environment.

The homeowners will accept the proposal to increase the outside seating capacity of the Type II restaurant; however a condition of this approval must prohibit the playing of any music outside. This includes live entertainment, piped or recorded music played through a speaker system to the outside patio area.

We appreciate the opportunity to have met with Richard Castor to discuss and review with him the proposed plans for the expansion of the outside seating area of the Addison Restaurant.

Mr. Castor, after hearing our concerns, has agreed to install a solid fence, and I might add that his letter suggested not six feet, but the maximum height permitted by the ULCD [sic] with sufficient vegetation to buffer the outside patio.

This buffer, hopefully, will mitigate the sound coming from people that are dining in this -- on this outside patio.

I'd like to read a letter from the chief operating officer and general manager of the Polo Club, Mr. Alex Ramandi (ph), and it's addressed to the Palm Beach County Zoning Board.

"I am writing in regards to the Addison Place MUPD application No. ZV/DOA/R2008-306. The Portofino HOA, which is comprised of 81 residential homes, is located directly adjacent to Addison Place and the proposed addition of outside dining. The Polo Club of Boca Raton POA, Inc., the master association for the Portofino HOA, strongly objects to any activities that would affect the peaceful environment that our residents are now enjoying, but not limited to loud music, live entertainment or any similar activities. I would appreciate your cooperation in this matter.

Sincerely, signed, Alex Ramandi, chief operating officer and general manager."

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Judy Siegel, and then Stanley Siegel.

MS. SIEGEL: Good morning. I'm going to speak for my husband and myself.

Our home is located approximately 75 feet from where this seating will occur.

We have spoken to Mr. Castor, and I think we've worked out an agreeable solution to buffer the noise; however, before this -- the Addison Restaurant was there, there was a restaurant, maybe some of you know, Gotham City, and at one time it was a very, very popular restaurant, and they played music very, very loudly.

We measured the distance between our property and where the Addison Restaurant is now. It is 75 feet, and it was a nuisance. It was a disturbance in the past.

Mr. Castor has said he does not foresee this problem here now, and that might be because of the clientele he anticipates there, but we just want to make it that there is no loud outdoor music because it has been a great nuisance in the past. I mean it blares into our home.

Seventy-five feet is not a lot of distance, and we're happy that the restaurant's there, the shops are there. It really enhances our community, but we want to work out a situation where we as homeowners are not jeopardizing our home and the resale value of our home, at the same time make Mr. Castor and his tenant happy.

Thank you.

CHAIRMAN BARBIERI: Mrs. Siegel, would you put your address of record for us, please.

MS. SIEGEL: Yes, 6472 San Michel Way, Delray Beach, Florida 33484.

CHAIRMAN BARBIERI: Thank you very much. Collene, is your client willing to eliminate any outside music there? Is that something that he --

MS. WALTER: Mr. Chairman, he would like the opportunity to continue to have piped-in outside music, background music.

The Unified Land Development Code does state that no music may, you know, can be heard off site. There actually is a code requirement.

If you also would like to propose that as a condition of approval, that will protect the neighbors, and that if for any reason music is heard off site, they do have the ability to call Code Enforcement, although we don't anticipate that that would be happening, but we would like the opportunity to have piped-in music that is, you know, background music for the diners that are outside.

The restaurant outdoor seating is essentially competing with the traffic on Jog Road, so it's nice to have some background music to essentially deaden the traffic noise.

COMMISSIONER HYMAN: I've been to this restaurant. Actually, I was at the opening. I

didn't realize it when I read the materials, but -- and I was there when it was also Gotham City.

So -- and I understand what their outdoor seating area is like.

Since the petitioner has agreed to the maximum height of screening, you know, I think we should impose that.

What is the maximum height?

MS. KWOK: Actually, the -- when the project was first approved almost eight years ago, there is a landscape buffer along the east side of the site, and there is a berm and a wall over eight-foot high, two-foot berm and six-foot high along the east --

COMMISSIONER HYMAN: Of the overall site of the project?

MS. KWOK: -- residential property -- yes.

COMMISSIONER HYMAN: But they're -- they're talking about, I think --

MS. KWOK: Yeah, and then --

COMMISSIONER HYMAN: -- a screen around the outdoor --

MS. SIEGEL: Right.

COMMISSIONER HYMAN: -- eating, dining area.

MS. KWOK: And actually under the current request staff is recommending a condition of approval and is on your add/delete, Page 2.

"Prior to final DRO the site plan shall be amended to indicate a six-foot opaque fence along the east side of the outdoor seating area located on the -- at the north end of the building."

What I suggested is actually to put the fence along the south and the east sides of this outdoor eating area.

COMMISSIONER HYMAN: No, no, the south side is the -- is the restaurant itself.

MS. KWOK: Well, the -- the -- Collene.

MS. WALTER: Commissioner, I think maybe getting to Commissioner Hyman's question.

Because this location would meet the building setback, this fence could be increased to an eight-foot height because it would meet the building setback from the east property line.

So to go to the maximum height buffer that would be permitted there would be an eight-foot high fence, and we would be agreeable to that.

COMMISSIONER HYMAN: Yeah, we could add that.

MS. WALTER: And that meets the setback so it could be permitted.

MS. KWOK: Right.

COMMISSIONER HYMAN: Okay.

MS. KWOK: I'm sorry I got my orientation incorrect.

COMMISSIONER HYMAN: No, that's okay.

MS. KWOK: So it's really the east side, and I have no problem with the eight-foot high fence.

COMMISSIONER HYMAN: And so on the north side of the seating area it would -- would it all



be enclosed like with the fence and trees or --

MS. WALTER: No, the fence would be here (indicating) on the east side. The balance of the patio is enclosed by a vegetative buffer.

COMMISSIONER HYMAN: Okay.

MS. WALTER: And actually I've got -- here's photos of the existing outdoor seating area, and you can see how -- and this is from the outside essentially looking towards the seating area.

COMMISSIONER HYMAN: Right.

MS. WALTER: We prefer to do that with a vegetative buffer just 'cause it's a softer edge.

COMMISSIONER HYMAN: And then petitioner also said that he would orient the -- any outdoor sound system in a westerly direction. I don't know how you exactly do that, but I understand.

It is pretty loud 'cause Jog Road has, what, six lanes, eight lanes, something like that.

MS. WALTER: Correct.

COMMISSIONER HYMAN: So --

MS. WALTER: The music is important to --

COMMISSIONER HYMAN: So long as it's kept low, and so that the sound doesn't filter into the adjoining neighborhood, I don't have a problem with that.

MS. WALTER: So -- and we'd be agreeable to a condition --

COMMISSIONER HYMAN: That it's oriented --

MS. WALTER: -- that essentially parallels code, that essentially says that no music could be heard off site, audible off site.

CHAIRMAN BARBIERI: I -- personally I'd like to see that condition added so that they do have -- the homeowners do have the opportunity to call --

COMMISSIONER HYMAN: Right.

CHAIRMAN BARBIERI: -- Code Enforcement if there's an issue, rather than relying on a code violation or a --

COMMISSIONER HYMAN: And make sure it's also oriented to the west.

MS. WALTER: Oriented to the west.

COMMISSIONER HYMAN: There are no speakers that are going to go -- facing east or even maybe north.

CHAIRMAN BARBIERI: And no live music outside? This is only --

COMMISSIONER HYMAN: I don't -- I don't think you have to do that.

MS. WALTER: Yeah, I -- right now they don't have live music. Whether there's a special party that somebody wants to have Kevin McGinley play guitar, I -- I don't know.

COMMISSIONER HYMAN: I don't have a problem with -- I don't think you should ban that.

CHAIRMAN BARBIERI: But there used to be a guy there, was very good, that played the sax.

COMMISSIONER HYMAN: Ah.

CHAIRMAN BARBIERI: And if you walked outside, you'd be able to hear him from blocks away, but -- so --

UNIDENTIFIED SPEAKER: He was good.

CHAIRMAN BARBIERI: Yeah, he was very good. In fact, we hired him for my daughter's wedding, he was --

COMMISSIONER HYMAN: By the way, I thought the food was great there. I thought the food was really very good.

MS. WALTER: We'd like the ability to have live music, although we don't --

COMMISSIONER HYMAN: I think you should.

MS. WALTER: -- perceive that being a routine situation.

But, again, as long as the music isn't audible off site, they would have to take -- make accommodations to provide additional buffering or baffling for that music.

CHAIRMAN BARBIERI: Mr. Banks looks like he's ready to pontificate here.

Are you ready to say something?

MR. BANKS: No.

CHAIRMAN BARBIERI: Just resting your --

COMMISSIONER HYMAN: I don't have a problem with the live music, so long as the music or whatever sound system is oriented away from the east and away from the north. So it's oriented to the west.

MS. WALTER: Correct. Oriented to the west.

COMMISSIONER HYMAN: So I'm going to move for approval of the development order amendment to add the square footage and modify a condition of approval, building and site design, subject to the conditions as modified.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: And that would include the -- no --

COMMISSIONER HYMAN: All the conditions that we talked about.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: The fence.

CHAIRMAN BARBIERI: Barbara.

MS. ALTERMAN: Yeah. I just -- I just need to advise you that this kind of condition, the noise conditions, especially when they happen at night are very difficult to enforce.

COMMISSIONER HYMAN: We understand.

MS. ALTERMAN: And I just want it on the record because, you know, it happens one night, and Code Enforcement gets called, and maybe they'll go out, and it doesn't happen the next night.

It's really difficult to enforce. Just want you to know that.

CHAIRMAN BARBIERI: Personally I think we should limit it to piped music only because if it's on certain occasions they can have live music out there.

Barbara's right. By the time Code Enforcement is notified it's the next day, and if it happens again two weeks later Code Enforcement gets notified the next day.

It's -- we need to keep it to piped music

only so it's background music for the people that are eating there, and there's no bands, there's no guitar players, there's no accordion players, there's no sax players outside.

I think that condition needs to be added to give the homeowners protection.

I mean the petitioner said they only wanted some background music so that it would kind of drown out the noise from the traffic.

Background music should be piped-in music that's played over a sound system.

MS. WALTER: I just spoke with Mr. Castor, and he's in agreement with that additional limitation.

COMMISSIONER HYMAN: Then I'll add it to my motion.

MS. KWOK: So actually, I -- can I read the conditions into the record?

"Outdoor music shall be in compliance with the nuisance ordinance of the ULDC."

Would that be -- 'cause the Article 5, our nuisance ordinance, actually describe about those -- the noise.

MS. ALTERMAN: Yeah, and it's going to have to comply. You know, if there's a complaint, it's going to have to comply with the code, anyway, but if you want to add that additional condition --

COMMISSIONER HYMAN: I mean I --

MS. ALTERMAN: -- that it has to be in compliance, that's fine. The only question now is whether you want to limit it to no live music outside, and that --

COMMISSIONER HYMAN: Or you could limit it to live music to certain times of the day --

COMMISSIONER KAPLAN: I think you ought to exclude live music.

COMMISSIONER HYMAN: Wait a second. Or you'd limit it to certain times of the day.

I'm sure live music -- I mean, or the music at all late at night -- what time is the restaurant open until?

UNIDENTIFIED SPEAKER: Ten.

COMMISSIONER HYMAN: It's only open 'til 10:00?

MS. WALTER: So maybe the condition could be limited to no live music after 7:00 p.m.

COMMISSIONER HYMAN: You know, that's -- doesn't make a whole lot of sense, I don't think, but --

MS. KWOK: Well, there is a use limitation condition, but it's only -- it's only -- 'cause there are retail business activities in the -- in the center, so there is no hours of operation condition associated with the restaurant use.

CHAIRMAN BARBIERI: So the restaurant could decide to stay open 'til midnight or whatever?

The petitioner's agreed --

MR. Mac GILLIS: No, 'cause they're -- this is residential --

MS. KWOK: Right.

MR. Mac GILLIS: -- against commercial, so there are requirements.

MS. KWOK: It's 11:00 p.m.

MR. Mac GILLIS: It's 11:00 p.m.

CHAIRMAN BARBIERI: Eleven.

MS. KWOK: Right.

COMMISSIONER HYMAN: Well, I think that's fine.

CHAIRMAN BARBIERI: The petitioner's agreed not to have outside -- live music. Why don't we just go with that condition, add that onto your --

MS. KWOK: No live.

CHAIRMAN BARBIERI: No live music outside.

MS. KWOK: Okay.

COMMISSIONER HYMAN: I added that to my motion.

MS. KWOK: Okay.

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

COMMISSIONER HYMAN: Was there a motion on the table?

CHAIRMAN BARBIERI: No.

COMMISSIONER HYMAN: I made the motion, right?

CHAIRMAN BARBIERI: Yes, sir.

Collene.

MR. SIEGEL: My name is Stanley Siegel, and I live at 6472 San Michel Way. My house is located 75 feet from the restaurant.

When the restaurant was Gotham City, the restaurant was open much later than 10:00 p.m., and I personally called the sheriff to come and turn off the noise 15 times. It was just an ongoing thing.

So I'm very concerned with regard to outdoor music or the transmission of indoor music to the outside if there is a saxophone player, accordion inside, and they put it outside, very concerned about that.

COMMISSIONER HYMAN: We already included that in the motion.

MR. SIEGEL: I -- I think that the piped music is -- is a very agreeable thing.

COMMISSIONER HYMAN: We already --

MR. SIEGEL: Okay.

COMMISSIONER HYMAN: We're in the middle of voting on that.

MR. SIEGEL: Okay. Thank you.

COMMISSIONER HYMAN: Okay.

MR. SIEGEL: Thank you.

CHAIRMAN BARBIERI: All right. Do we have a motion on the floor? Yes, we do.

COMMISSIONER HYMAN: Yes.

CHAIRMAN BARBIERI: Who was it was made by? Commissioner --

COMMISSIONER HYMAN: I made the motion.

CHAIRMAN BARBIERI: -- Hyman, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.  
COMMISSIONERS: Aye.  
CHAIRMAN BARBIERI: Opposed.  
 (No response)  
CHAIRMAN BARBIERI: Motion carries, 7-0.  
COMMISSIONER HYMAN: Move approval of the  
 requested use to allow the Type II restaurant --  
COMMISSIONER KAPLAN: Second.  
COMMISSIONER HYMAN: -- subject to the  
 conditions as modified.  
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. WALTER: Thank you very much.

MR. Mac GILLIS: Bring us to Item 15,  
 CA/TDR2007-1190.  
 Staff is recommending approval of three  
 motions found on page -- subject to 16 conditions.  
CHAIRMAN BARBIERI: Do we have a  
 petitioner for Item 15?  
MS. KWOK: Right. Actually, the reason  
 why we leave this item on the regular agenda is  
 because there were letters of opposition.  
 Do you have any cards?  
CHAIRMAN BARBIERI: Yes, we do.  
MS. KWOK: Okay.  
MR. Mac GILLIS: Okay. Do you want --  
MS. KWOK: Do you want --  
MR. Mac GILLIS: -- staff presentation?  
 Douglas.  
CHAIRMAN BARBIERI: No.  
MR. KIER: Two minutes? One? I'll make  
 it one.  
 Good morning. My name is Davie Kier, with  
 Seminole Bay Land Company. We're the planners for  
 this project.  
 It is a 34-unit multi-family apartment  
 concept.  
 The idea here is to create a recreational  
 area in the middle, and we are truly trying to  
 create a community here.  
 We worked with staff a lot on the  
 placement of this.

There was a lot of great debate as to how it should be done, but at the bottom line we decided to circle the recreation area with the units.

Most importantly, each one of these units is designed to be a home.

This is not an apartment complex where you go out and you put your car out in a big parking lot. You have two spaces that are essentially your spaces.

We've added the typical wing wall fence. I think I've shown you before in the back so that we give people a sense of back yard, as well.

So this is a home that's ready to handle your cars, your bikes, your trikes, your fishing equipment, and all within a home site that you can feel is your own versus kind of a row apartment.

We're respecting and preserving as much of the native vegetation on the site. There's a lot of slash pine trees there. We're improving Major Road on portions of it.

We're including decorative lighting, decorative paving, essentially a first class community here.

This incorporates a number of workforce housing units, and, Commissioners, forgive me if I remind you that workforce housing is not subsidized low income housing.

It is just a different type of real estate investment. It is the difference between playing the stock market and buying a CD. It is just that simple.

The owner of these units is not going to be able to even rent, likely, at the lowest rate within the workforce housing requirements, which is, I believe, around \$1100 on this particular unit.

So we were going to have to work with the market just as any other developer would on any other project.

I think at this point I'd be happy to answer any questions.

I've given you a handout which I would ask you to put into the record, which includes a reduction of the site plan with elevations, and then we've also included photos of the surrounding neighborhood to help you get a feel for it.

This is located right within, say, 200 feet of the new Purdy Lane fire station.

Thank you.

COMMISSIONER DAVIS: Motion to receive and file.

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Davis, seconded by Commissioner Armitage.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0. I've got three cards. Two of them wish their comments be read into the record, and the third one wants to speak.

Jan or Jon Beckstrom, trustee, "What guarantee this development is not going to be Section 8 or other government subsidized housing?

I feel this going to increase the traffic congestion which is a problem, as it is possible increasing crime, decrease our property value."

David Beckstrom, 2016 Laurel Lane, "I think this will bring more drug and crime to the area. Too many unit per acre, bring property values down."

And Loretta Gilfus, you wish to speak. Would you please come up.

MS. GILFUS: Would it be possible for me to use their display also?

CHAIRMAN BARBIERI: Sure.

MS. GILFUS: Yes. I am the daughter -- my name is Loretta Gilfus.

CHAIRMAN BARBIERI: There's a hand-held mic there if you want to walk back and forth.

MS. GILFUS: And I live at 16847 Shetland Lane. I'm the manager and daughter of the owner of 2058 Major Drive.

And we have an opposition to this because we are in the very dead end of the street, and this property -- we would have to pass two sides of this property.

We only have eight units on more than an acre of land. We were one of the first ones built on the property. We had to run the city water.

They just ran city sewer. They just put the fire station at the corner of Purdy and Major.

There also is within two blocks of Purdy and Major a major elementary school, Forest Hill Elementary School.

The cars are -- you're backed up down Purdy Lane constantly.

Across the street from Major Drive on Purdy Lane they have approved a 200-site -- townhome site.

So the construction of this will put so much more traffic on Major Drive, and we only have one way in and one way out, and we're already competing with that traffic on Purdy Lane.

Let me show you -- hopefully, I can do this.

This shows Major Drive. The section from here through here is not paved on Major Drive. Our property is down here at the base (indicating).

We also have an ODAC (phon.) right here acrossed from them which is a rehabilitation center that went in about a year and a half ago, which also has apartments, and it's on the non-paved section of road.

So this is all private road, and we wouldn't have no condition that this would be paved.

It would also make another problem because

we'd have people coming to these places visiting, going down our dirt roads, and we have to maintain the shellrock road.

The County does not maintain this section at all.

Oh, the other thing is we're dealing with a major traffic issue here with the school. The children walk. There's no sidewalks here.

The children have to walk all the way through here down past Purdy Lane all the way past 54<sup>th</sup>, which the Beckham (ph) property goes from our property all the way to Purdy Lane, and then there's a canal and the school.

And the traffic -- there is no place for the traffic -- for the school to go to. They already line the sides of Purdy Lane, and they park anywhere they can to pick up their kids.

So I think this will be a major, major concern to add this much more traffic to this road.

COMMISSIONER HYMAN: We need like an aerial or something. Why don't we have a location map for this project?

I mean all -- I didn't realize that when looking at the materials, but these are all really good points that she raises, and we don't have --

MS. GILFUS: I took --

COMMISSIONER HYMAN: -- a concept of that.

MS. GILFUS: -- these photos yesterday, and I have five copies I can give you with a letter that I wrote, and this first photo is on the east -- the northeast of their property going down showing -- this is where our property is on the corner.

You can see it's an entire paved -- non-paved road.

All this is the ODAC and one house that has a roofing company --

COMMISSIONER HYMAN: Can you show us on the plan that he just put up? Where are you?

CHAIRMAN BARBIERI: Pick -- would you pick up the other microphone so we can talk to you. Thank you.

MS. GILFUS: Sure. This is our property here (indicating), and it's eight units total, two-bedroom units.

COMMISSIONER HYMAN: And you get there from Purdy Lane?

MS. GILFUS: We have to come from Purdy Lane all the way down here through here (indicating).

This right here is the rehabilitation center. This is the house with the roofing company, and this is a house with a trucking company (indicating).

This all is rental units. There's rental units in the roads behind here and here. There's a house and a duplex here (indicating), and when this was taken, you don't see the fire station that's right here at the corner.

And this entire area here (indicating) has been approved for 200 townhomes on Purdy Lane.



It's called Bay Pines.

You have the school. You can see the school parking lot here. Their only way in and out is right here by this canal.

So from here to here (indicating) every morning and every afternoon it's backed up with cars.

You have children walking here, going across -- it's very, very difficult to get in and out.

When I try to show an apartment, I won't even make an appointment towards school time because I can't get in and out the road.

Cars back up -- park along our roads because they wait for their children.

The school is Forest Hill Elementary School. There is no place for them to allow parking to add, be added. It's been an older school for years, it's a well-desired school.

You also -- when you go down Purdy Lane, you also do have another elementary school just on the other side of Military Trail between Military and Kirk.

Oh, we're not -- and Purdy Lane also does PalmTran line.

It's not a minor, minor road. It's a major road through Palm Beach County now.

COMMISSIONER HYMAN: And which part of the other road is not paved? Was it part of Major?

MS. GILFUS: It starts about -- the fire department -- when they put the fire station in, they only paved up to right here (indicating). So the entire area is not paved right now across that property.

They stopped --

COMMISSIONER HYMAN: That's a County road?

MS. GILFUS: It's a private road.

COMMISSIONER HYMAN: It's a private road.

MS. GILFUS: Private road there. Yeah, a private road from here all the way around.

COMMISSIONER HYMAN: Private, owned by the adjacent owners to the center of the road?

MS. GILFUS: Yes. A matter of fact is I have -- we have had to many a times grade the road ourselves for the other people's properties so our tenants quit complaining because they will not grade it and put fill in.

COMMISSIONER HYMAN: So at a minimum did you require this petitioner to pave that?

MR. CHOBAN: The road is paved, I believe, all the way up to the things --

MS. GILFUS: I have pictures right here to show where it's paved to.

MR. CHOBAN: He will be required to extend the road. I do not have it on the -- on the conditions. I will add that --

COMMISSIONER HYMAN: You'll add that?

MR. CHOBAN: -- condition that he has to pave.

COMMISSIONER HYMAN: Okay. That's one thing. So you'll get the -- that part of the road paved, but that doesn't relieve the congestion on

Purdy; right?

MS. GILFUS: It's not going to relieve the congestion on Purdy nor on Major Drive.

You also have a fire station that -- it's Station, I believe 33, and it's covering for 36 also right now because it's under reconstruction from mold damage. So we're covering two fire stations out of the one.

COMMISSIONER HYMAN: What -- what's the parallel road to Major Drive, or does Major Drive go --

MS. GILFUS: Major Drive only has one way in and one way out.

COMMISSIONER HYMAN: What's the other road coming back?

MS. GILFUS: This?

COMMISSIONER HYMAN: No, the one on the left --

MS. GILFUS: This is 54<sup>th</sup> Trail, and it is a private driveway to these properties.

COMMISSIONER HYMAN: Really.

MS. GILFUS: We can't even go through there. There's a fence.

COMMISSIONER HYMAN: Did you guys -- did you know that?

MR. CHOBAN: Yes. If you look at the site plan, what the applicant is proposing --

COMMISSIONER HYMAN: See, we didn't have this in our materials. I don't know why. It's really strange.

MS. GILFUS: I actually went to purchase this property about five years ago and asked how many units I could build because we're a little over an acre, and they would not allow me more than six units because of all the construction that's already existing, and that -- and our rents are only 825 a month.

We're well below Section 8 housing, and we're a two-bedroom, one bath unit.

We allow for two parking spaces per apartment. You have four adults in a two-bedroom, that's already putting your parking over.

So two parking spaces per apartment, even in theirs is not feasible. You have visitors coming.

Thirty-four units is going to generate a lot of traffic and a lot of parking.

So they already aren't going to be able to fit the needs of their parking neither, because a lot of families have two or three adults, or if they have a teenager driving, that's three cars, not two cars.

COMMISSIONER HYMAN: Well, with the price of gas, nobody's going to be able to afford another car, anyway, so --

MS. GILFUS: But they only allowed for 77 parking spaces in their parking, and that's a lot of parking, and when they have an overflow, where are those people going to park?

This site's going to be filled from bumper to bumper.

COMMISSIONER HYMAN: Is there guest

parking?

MR. ROBINSON: There are nine guest parking spaces.

COMMISSIONER HYMAN: No?

MR. ROBINSON: Nine guest parking spaces.

COMMISSIONER HYMAN: Nine.

MS. GILFUS: Nine spots for 34 units?

COMMISSIONER HYMAN: Okay.

MR. ROBINSON: That's the code requirement.

COMMISSIONER HYMAN: Well, is there --

MR. ROBINSON: One parking space per four units, one guest parking space per four units.

COMMISSIONER HYMAN: So, Engineering, any comments about Purdy Lane and the traffic and all that? I know they had to have some traffic studies, so --

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

In terms of the traffic, this particular project would generate only about 21 trips in the p.m. peak hour which would not coincide with the peak hour of, of course, the school.

The a.m. peak hour probably would, and it, you know, would be less traffic, it would be less than 20 trips in the a.m. peak hour from this development.

I think the -- overall the -- our traffic standards are met on Purdy Lane.

The daily traffic volume on Purdy Lane is only about 11,000. The capacity's like 15,000. So it's well below the capacity at the present time.

CHAIRMAN BARBIERI: Allan, you said there'd be 20 trips in the morning?

MR. ENNIS: Yeah, less than 20.

CHAIRMAN BARBIERI: Out of -- out of all these units?

MR. ENNIS: Thirty-four units.

CHAIRMAN BARBIERI: It's going to be 20?

MR. ENNIS: Just in the one-hour period, the peak hour. That's how we calculate the traffic.

COMMISSIONER HYMAN: Okay. So you don't see a problem?

MR. ENNIS: Well, there is obviously some preexisting problem with the schools being there, but in terms of our traffic standard, it is met with this project.

It has actually insignificant impact on Purdy Lane according to our traffic standards.

COMMISSIONER HYMAN: It does look like a nice project.

It's unfortunate that you got the information that you got, but, you know, that's why he's going through the process here --

MS. GILFUS: We only found out --

COMMISSIONER HYMAN: -- to get approval for these additional units.

MS. GILFUS: We only found out about this a week ago.

COMMISSIONER HYMAN: Yeah.

MS. GILFUS: And the -- this is Major Drive and Purdy Lane yesterday afternoon with people waiting with their cars, and the children, they all -- most of the people in that area are not -- are what we would consider workforce people, anyhow.

COMMISSIONER HYMAN: You know, I think every -- correct me if I'm wrong, you would know better, but every time you have a school you're going to have car back-up, right, when you have young children 'cause parents are coming to pick up the kids?

MS. GILFUS: But -- and we have an added fire station right there at the corner.

COMMISSIONER HYMAN: Which is a good/bad thing. It's --

MS. GILFUS: It's -- it's good, and it's bad, but at the same time it makes another safety issue for people, and there's not sidewalks, and the road's not paved all the way down.

COMMISSIONER HYMAN: Okay. So let's talk about sidewalks.

There are no sidewalks, and you can't impose them because there's no right-of-way; right?

People own to the center of the road, so you can't impose a sidewalk on that street.

What about on Purdy Lane? Well, you can't do it there, either.

MS. GILFUS: There -- there's sidewalk on Purdy Lane, but you still have no parking, really, for the school and the other traffic, and school functions don't go just in the morning and afternoon.

I have children in elementary school. You have school functions daily with people visiting classrooms for special little shows and things, so --

CHAIRMAN BARBIERI: So we have all these kids in this new development that are walking down a dirt road that's --

MS. GILFUS: Partly dirt, partly paved, no sidewalks.

COMMISSIONER HYMAN: It'll be paved --

CHAIRMAN BARBIERI: It's going to be paved all the way down to that corner where it makes the turn, is that where you're --

MR. CHOBAN: The road is paved. It's a brand new road that was put in, and it is paved to this site.

I thought it was to the entrance; however, I will add that condition that he continue the paving to the entrance, and then from there back to the left.

If you can see that site plan, that part is -- there's just several -- couple homes that are using that site now. So he's not impacting that portion of the site. From Major Drive, from the entrance on the site.

Put that site plan up.

MS. GILFUS: This right here is a house, and this is a house (indicating). He has a

roofing company, and he has a trucking company.

This is ODAC, which is about eight units, and we're eight units. So it's more than just a couple of houses.

MR. CHOBAN: Okay. So there's 15, 15 units, perhaps. That part is -- will remain as a shellrock road since he's not utilizing it.

COMMISSIONER HYMAN: Say that again.

MR. CHOBAN: That part will remain shell, dirt, from that entrance left.

COMMISSIONER HYMAN: Oh, so now you're saying it won't be paved?

MR. CHOBAN: No, no. From the entrance he will have paved access to Purdy Lane.

If you look at the site plan --

COMMISSIONER HYMAN: Let me ask you something. The kids -- can you put -- first of all, this is turned the wrong way for us because we're -- I can only see north up, like a mental problem I have.

Okay. So the kids are going to come out of the entrance. That's the only way they're going to be able to come out.

MR. CHOBAN: And they will turn right.

COMMISSIONER HYMAN: And they're going to turn right. They're going to go down a paved road without -- without --

MR. CHOBAN: That part has just been paved.

COMMISSIONER HYMAN: -- sidewalks.

MR. CHOBAN: That road has been paved.

COMMISSIONER HYMAN: Right. It's too bad they can't get out the other way.

MR. CHOBAN: Actually, the applicant's site plan does show a sidewalk. I was at the site. I don't remember if there is a sidewalk -- is there a sidewalk along Major Drive?

MR. KIER: Do you want me to talk?

MR. CHOBAN: Pardon?

MR. KIER: I was waiting to be recognized.

I didn't want to interrupt.

If I may, we are certainly willing to work with the neighborhood in terms of pedestrian movement through the site.

The lady here has made a number of very, very excellent points with which we do not contend -- or disagree with whatsoever.

However, to say the high density equals crime, no, that's not necessarily proven, any more than the fact that, you know, the number of people go up.

If there's five percent crime, in 100 people there'll be 50 in 1,000 -- it's not a product of higher densities, necessarily.

It can be a product of higher density that is poorly done, eight-story towers with blind stairwells, et cetera.

So from that part, you know, please disassociate yourself on the crime issue.

Most importantly, our lowest rent is going to be around \$1100 versus 800 in the neighborhood.

If you want to take that approach of

income equals criminal --

COMMISSIONER HYMAN: I don't think we're concerned about the dollar amounts, actually --

MR. KIER: Okay. But what I'm saying is --

COMMISSIONER HYMAN: -- we're concerned about how are the children going to go from your project, your community, to the school.

MR. KIER: Okay. And I'll try to stay more focused on what you want to know.

The product -- the project, of course, has a lot of internal circulation. We will come out, we will build the sidewalk up to our property line here (indicating).

We will agree to work with the neighborhood and provide sidewalks here (indicating).

We do not want to end up having to pave the entire of Major Road. We did agree, you know, to get up to our entrance, and on this project we've worked very hard to just have one entrance.

So we will certainly work, plus we can allow access through here (indicating), if necessary, so these people even aren't -- you know, any students aren't on the dirt road.

We don't have a problem with that working through here, and we have sidewalks and crosswalks throughout.

So I think we can -- I know we're going to make the situation better.

On the same note about the school, though, it's not a plan problem. We are not going to solve the parking problem between the school and Purdy Lane and all that, but there is a program solution, and I'm going to step out of this mode for a minute to say, hey, there's a fire station there.

How about a little community participation there. There's probably some extra land there the cars could be moving through and the fire lanes still kept open.

So I think it's a programming solution, a matter of the school, the neighbors, I mean the fire station, to get together, and I bet they can make the entire traffic situation better.

Our students, if they're going to this school, they're not going in the car unless it's raining. They're going to be walking. Their parents are going to be at work trying to pay for this unit.

So I don't think we're going to add to the problem vehicularly, and I think as far as pedestrian-wise, we're providing a lot more safe avenues.

And as I said, we would be willing to work out some sort of -- some sort of sidewalk system that continues back to here (indicating).

COMMISSIONER HYMAN: But why does a sidewalk back to there benefit -- how does that benefit anybody?

Isn't the sidewalk needed from your entrance down to Purdy Lane?

MR. KIER: Well, that is true. That part of it is not there, and one has to question why that was not done during the major road improvements associated with the fire station.

COMMISSIONER HYMAN: Well, let's --

MR. KIER: I'm going to assume probably budget.

We do not want to be held to that. I mean if it was just as simple as we're going to form up a sidewalk and do it, that's fine.

But we don't know whether right-of-way's been given or easements. We don't know what utilities. I mean you would be sending us into a minefield to take on that exercise.

So like I say, we're not opposed to improving the system, but we don't want the responsibility --

COMMISSIONER HYMAN: So how did we get a fire station and a paved road without any kind of sidewalks? Because it wasn't going anywhere at the time, or why do you think?

MR. CHOBAN: Well, maybe because of the -- perhaps the budget -- but I would -- number one, I'd have to look to see if there is right-of-way available for the sidewalk and then whether that road is private or public, because if it is a private road --

COMMISSIONER HYMAN: They're saying it's private.

MR. CHOBAN: -- there would -- he would have a problem then constructing sidewalk across other people's property.

COMMISSIONER HYMAN: No question.

MR. CHOBAN: So those are the two issues that I need to look at.

COMMISSIONER HYMAN: Do you know --

MR. KIER: Forgive me, Commissioner. I can help there.

The road has been dedicated -- Jim, you just clicked something in my mind -- 40-foot right-of-way.

So it could be the right-of-way width that came into play in terms of getting the pavement, the drainage and the utilities in there, but it was dedicated 'cause it was part of the exercise we had to do in revising the survey, and there were dedications on both sides of the road.

So I believe we are public road all the way back to here (indicating).

COMMISSIONER HYMAN: So why can't we get you to do a sidewalk from your entrance down to Purdy Lane?

CHAIRMAN BARBIERI: Rather than putting a sidewalk from your entrance north and around the corner --

COMMISSIONER HYMAN: You don't need that.

CHAIRMAN BARBIERI: -- get that sidewalk put in from your entrance out to Purdy Lane.

MR. KIER: Okay. I have the owner with me today, Siad Mirzadeh, and just talking with him, our big concern still has to do with acquisition.

I mean if the County will work with us and

provide the space, are we --

COMMISSIONER HYMAN: But if it's -- if it's dedicated -- if it's a dedicated public road, like you just said, then that's not going to be an issue, and 40 feet is certainly enough for a little sidewalk.

MR. CHOBAN: Yeah, our residential access street for 40 provides for a sidewalk.

COMMISSIONER HYMAN: Provides for a sidewalk.

MR. MIRZADEH: Siad Mirzadeh.

Well, I don't know if Dave mentioned, but when the students or the kids, the children that live in this neighborhood, leave, they're going on paved sidewalk straight down the road right -- they're going to make a right, and they'll make another right on Purdy, and they'll be at their school.

COMMISSIONER HYMAN: Where's the sidewalk?

MR. MIRZADEH: Down the road.

COMMISSIONER HYMAN: Okay. But what we're saying is how about a sidewalk from your entrance to Purdy so they connect to the sidewalk?

MR. MIRZADEH: Yeah. No, that's going to -- I mean that would be just too much to ask for, for -- I mean that's 1,000 feet of sidewalk, and getting the approval process and going through people's property and trying to acquire -- I mean I don't know if that's something that I should be held responsible for.

CHAIRMAN BARBIERI: Put that -- put that overhead back up a minute, would you?

MR. KIER: This one?

CHAIRMAN BARBIERI: Yes.

MR. KIER: Okay.

CHAIRMAN BARBIERI: You're willing to go from your entrance north and around the corner with a sidewalk.

Instead of building that sidewalk, which doesn't help anybody, especially if you open up the back of your community to let those children from the -- behind you come through the community, then I can't believe it's going to be much more expensive to go from your entranceway up to Purdy Lane.

It looks to be about the same amount of sidewalk.

COMMISSIONER HYMAN: Plus you're asking for bonus, you know, density bonus, TDRs.

I think you need to put the sidewalk in.

MR. KIER: Can you give me 15 seconds?

CHAIRMAN BARBIERI: Yes.

MR. KIER: I think we're not clear on something here.

COMMISSIONER HYMAN: Sure.

MS. GILFUS: I'd like to make a point.

When my parents built the eight units, the city -- the County required us to run the entire length of city water pipes at our expense.

So why shouldn't they have to pave our section of road that's still not going to be paved, too?



COMMISSIONER HYMAN: You mean beyond their entrance to your street?

MS. GILFUS: Yes, because they're going to have traffic that's going to come -- to come see them and turn around, and they're going to come past there, and it's going to be a maintenance issue, and the County doesn't want to maintain that road.

Why am I going to be expending \$900 every couple months to grade that road and put fill in?

COMMISSIONER HYMAN: You know, it sounds like a very fair request, and it's a reasonable request, except that I don't know how we -- and correct me if I'm wrong, but I don't know how we legally require the property owner to do that if that improvement doesn't have any real rational relationship to this project.

I mean if they don't have any impact on that portion of the road, I don't know how we require them --

MS. GILFUS: I also --

COMMISSIONER HYMAN: -- to pave it.

MS. GILFUS: -- would question the only one entrance being a safety issue as we have a problem every once in awhile where our road gets blocked in where there might be an issue with an emergency down the road, and we've had tenants that had to walk most of the street down where something happens on the road, and we've had that -- quite a few in the last five years.

We do have a drug rehab next to us now on the back side of that property.

COMMISSIONER HYMAN: Plus you have that part of the road --

MS. GILFUS: Is all --

COMMISSIONER HYMAN: -- is part of that road that is still probably privately owned on the north side.

MS. GILFUS: Yes, it is.

COMMISSIONER HYMAN: So I don't know how --

MS. GILFUS: It's one -- one person owns that property --

COMMISSIONER HYMAN: So there's no way that we --

MS. GILFUS: -- and that's the drug rehab.

COMMISSIONER HYMAN: -- could require that.

It's a reasonable request, and -- but I don't think we can do it.

MS. GILFUS: I would think that he would get permission. He -- it's the ODAC. He is only one person. You could ask him and make it a requirement because we put a lot of expense.

We just had to pay for the sewers, as well, to go in because they put the fire station.

I mean that was \$40,000 we had to pay to hook up sewers.

COMMISSIONER HYMAN: There wasn't any kind of sharing agreement that was entered into at the time?

MR. CHOBAN: Not that I'm aware of.

CHAIRMAN BARBIERI: All right.  
Petitioner, you --

MR. KIER: Yes. Commissioner, we're fine.  
I had to explain to my client that we're talking about the County road right-of-way so there are no ownership title issues.

He's comfortable with the condition now.

COMMISSIONER HYMAN: I saw you slap him.

MR. KIER: Yeah, sometimes you just have to talk the right language, I think.

Jim -- Mr. Choban, sir, on the road paving that then comes off as a condition, the road is paved up to our entrance. We'll certainly go to our entrance and a certain length beyond or --

MR. CHOBAN: Well, I was --

MR. KIER: What do you think?

MR. CHOBAN: I had thought the same thing; however, the lady that spoke said that there is a small missing gap.

When I went out to the site, I -- it looked like it was paved to your access, but she has requested, and we will add that condition, that if there's any part of the road that's not paved to your entrance, you'll be required to pave it.

MR. KIER: Oh, absolutely.

MR. CHOBAN: And then we will add the sidewalk condition.

MR. KIER: Okay. We'll work with -- would it be your division, Jim, in the sidewalks and all? We may have to look at some different widths, whatever, but we'll certainly make that happen.

I believe that covers us on our issues here.

Is there anything else I can answer for you?

CHAIRMAN BARBIERI: At the back end of your property then you will make a pedestrian access so the kids can cut through?

MR. KIER: Yes, we'll make pedestrian access so they can -- we will provide pedestrian access so that they can walk through. They won't be cutting through. Absolutely.

And we'll make that, you know, not a three-foot path, but a reasonable access for that --

MR. D. BECKSTROM: Excuse me. I'd like to interrupt on this.

I'm David Beckstrom.

I'm the owner of some of this property that they're going to be building on. Can I change this and show you?

CHAIRMAN BARBIERI: Pick up the microphone.

MR. D. BECKSTROM: My name is David Beckstrom, and I'm with Purdy Pine Properties.

This is my property here (indicating), okay, and they're planning on building this here, and --

COMMISSIONER HYMAN: Which one's your property?

MR. D. BECKSTROM: -- and they're planning their kids to go to school down this way.

The kids are going to come down onto my property as they're doing -- as they are now from this -- this complex here (indicating). They actually climb over my fence and come down my property almost every day.

So now if they're going to have all their kids and everything living in here, how are they going to make them go down this street and not onto our property over to the school?

COMMISSIONER HYMAN: Well, I think there's a fence or something around the property.

MR. D. BECKSTROM: There -- there's a fence -- there's a fence there now that we put up, but they climb over it.

COMMISSIONER HYMAN: Why don't you give them access across your property? Isn't that a road?

MR. D. BECKSTROM: No, this is private. This is a private road, privately owned, and we don't want --

COMMISSIONER HYMAN: So?

MS. BECKSTROM: -- the children in here playing around, anyway.

CHAIRMAN BARBIERI: You don't have any children that live on that street?

MR. D. BECKSTROM: We have some children, but we don't need more children climbing over our fence.

They're more than welcome to walk around, but they climb over the fence constantly, wrecking the fence.

And this is my brother Jon, as well.

MR. J. BECKSTROM: May I interrupt?

CHAIRMAN BARBIERI: What's your name, please?

MR. J. BECKSTROM: Jon Beckstrom.

I would like to say that if we did get a, you know, give them access across our fence, who's to say that the residents there won't come down our road and park at the end and --

COMMISSIONER HYMAN: We're not saying vehicular access. We're talking about pedestrian.

MR. J. BECKSTROM: Oh, no, no, no. They would -- they would park on our property and then walk through.

COMMISSIONER HYMAN: Park on your property where?

MR. J. BECKSTROM: If you're saying that to give them access right here at the end of the -- at the end of our private drive here (indicating), okay, I -- we've had this problem in the past before, is they would park back here, right, climb the fence, rather than go down this dirt road and get their cars, you know, dirty.

We've had that a number of times.

COMMISSIONER HYMAN: Who are you talking about?

MR. J. BECKSTROM: The residents that would live here.

COMMISSIONER HYMAN: They -- they drive --

MR. J. BECKSTROM: They've done that in the past.

COMMISSIONER HYMAN: -- their car to the end of their street and park?

MR. J. BECKSTROM: No. They drive down our road, our private drive --

COMMISSIONER HYMAN: How do they get there? How do they get through your gate?

MR. J. BECKSTROM: There is no -- it's not a gated community.

COMMISSIONER HYMAN: But I --

MR. J. BECKSTROM: It's -- there's a fence that runs all along here back to the -- the canal here (indicating).

Now, we've had in the past residents from here park -- drive here and climb the fence, all right --

CHAIRMAN BARBIERI: All right. We'll -- we can't force you to allow children to walk down the street to get to school, so that's another issue.

What kind of buffering do we have between the new development and this private community that doesn't want children to walk down the street?

What kind of buffer do we have to keep our kids from their kids.

MR. ROBINSON: There's a five-foot compatibility buffer because the properties are adjacent, are the same intensity.

They're residential multi-family, HR-8 future land use so there is a compatible buffer. There's a five-foot compatible buffer --

COMMISSIONER HYMAN: They have those units --

MR. ROBINSON: -- between the two properties because they are essentially compatible.

CHAIRMAN BARBIERI: Well, I'm not in favor of buffering off these children. If they find an easier way to get to school, God bless them.

VICE CHAIRMAN ANDERSON: I have a question.

The property owns to the middle of Major Drive, but they don't have any ownership in the drive on the other side, that private road? They don't go to the middle of that road?

MR. CHOBAN: Survey indicates that there's an easement that's set aside for Major Drive from this project's entrance back to the west.

VICE CHAIRMAN ANDERSON: Well, I understand Major. I'm talking about the other road that's not named on here, that private road.

So they -- they don't have -- the gentleman said there's a fence going all the way down on the right-hand side of that road. So I guess they own all of that road, that this project doesn't have any ownership on that other private road; is that correct?

MR. CHOBAN: Is this the north-south road?

CHAIRMAN BARBIERI: The one that's --

VICE CHAIRMAN ANDERSON: The one to the

left -- the west.

CHAIRMAN BARBIERI: The one to the west of Major.

COMMISSIONER HYMAN: The private drive.

CHAIRMAN BARBIERI: The one the gentleman was just talking about.

MR. CHOBAN: Oh, the one that was --

COMMISSIONER HYMAN: The other road. No, the other road, the other --

CHAIRMAN BARBIERI: Thank you, Bunny. That one there that road that the court reporter's pointing to.

COMMISSIONER HYMAN: That one's open to Purdy Lane and just has a fence at the end?

MR. D. BECKSTROM: This is open to Purdy Lane. It's a private access.

CHAIRMAN BARBIERI: And it has a fence down the east side of it; correct?

MR. D. BECKSTROM: This is a private access here, and this is fenced off completely all the way down and around.

VICE CHAIRMAN ANDERSON: Well, what I was getting at, that fence that's on the right side of that private road, that fence is on your property; is that correct?

MR. D. BECKSTROM: Yes, sir.

VICE CHAIRMAN ANDERSON: So that fence will remain?

MR. D. BECKSTROM: Yes.

VICE CHAIRMAN ANDERSON: Okay. Thank you.

MR. D. BECKSTROM: But another thing is I'm saying other residents that even live in here and here (indicating) park on our property in our parking lot and climb over the fence to visit people that live here (indicating).

CHAIRMAN BARBIERI: We can't -- we can't do anything about that.

MR. D. BECKSTROM: And then what's -- what's not to say that the people that live here end up parking over here (indicating) just to come over there on, you know, to their -- to their development on this side?

What are they going to build here? They going to build a concrete wall or what?

MS. ALTERMAN: No.

COMMISSIONER HYMAN: No, they just said they're not.

VICE CHAIRMAN ANDERSON: No, I mean you --

MR. D. BECKSTROM: So it's going to be open for -- for -- for the people who live here to go onto our property?

VICE CHAIRMAN ANDERSON: Correct, and if you wanted that road to be a private road, we can't do anything here to stop it.

I mean you can -- you could gate off your road so those people can't drive into your road, but we don't have the power to stop people from driving -- you have the power to stop people to drive on your road. We don't have that power.

MS. GILFUS: Excuse me. Before you encourage that, they have our water meter fenced in their property, so we have to have access on

that road when we have to turn off our water for any emergencies or anything.

COMMISSIONER HYMAN: Yeah, I think you guys need to get together and talk about these neighborhood problems, and we need to deal with this project.

You know, I --

MR. D. BECKSTROM: I mean that's a lot of units --

COMMISSIONER HYMAN: There's a lot of history here that, you know, we don't have the benefit of.

CHAIRMAN BARBIERI: All right. Let's --

MR. D. BECKSTROM: That's a lot of people in that small -- small lot there, you know, 40 -- I mean that's just crazy, I think.

CHAIRMAN BARBIERI: All right. So the petitioner's agreed we're going to put a sidewalk in from the entrance south to Purdy Lane.

MR. KIER: Yeah.

CHAIRMAN BARBIERI: You're going to put an entrance at the back end of the property on your -- on your western -- on your northern -- pedestrian entrance on your northern end so the children can -- from behind you can go through, and you will connect your sidewalks, your interior sidewalks to that pedestrian entrance so that they have a sidewalk all the way through your community?

Wherever your interior sidewalks are at you'll connect it all together?

MR. KIER: Yes, sir.

CHAIRMAN BARBIERI: Okay. Any commissioners have any comments?

(No response)

CHAIRMAN BARBIERI: Staff, do you have anything else?

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: And I guess when the other neighbors come in adjacent to this property, they'll be required to complete the paving of that road; right?

CHAIRMAN BARBIERI: Barbara, did you have anything you wanted to add so we can move on here? Are you --

MS. ALTERMAN: I'm just trying to -- it's -- I -- my problem is it's very unclear about what's paved, what's not paved, what right-of-way there exists, what doesn't exist.

So, you know, I hate to have the petitioner commit to something that they can't do at this point.

CHAIRMAN BARBIERI: Did you say during your survey process you determined that that entire roadway has been dedicated to the County all the way down to the corner?

MR. KIER: The right-of-way has been dedicated. The road tapers approximately about -- where our property starts, is that where the taper begins, or a little short of there it tapers from two lanes down to one, and it just stops, and I believe the approximate --

CHAIRMAN BARBIERI: Okay. So at least up to -- up to your entrance there's a -- you believe there's a dedication.

MR. KIER: I know there are. We had to correct the survey. The first survey I got I looked at and I said -- I looked at the road and this wasn't right, so we checked all those right-of-ways, and when we checked to see what our dedications were -- were required to the centerline, we also checked the other side to see if it was really even a sufficient right-of-way because if there wasn't, we were going to say why are we giving up half.

So I'm very definite on this issue, and it was researched, you know, potentially for the benefit of our client.

COMMISSIONER HYMAN: Is there a sidewalk from Major Lane to the school along Purdy?

MR. KIER: I don't believe there is.

MS. GILFUS: Yes, there is.

MR. KIER: But I don't know.

COMMISSIONER HYMAN: There is?

MS. GILFUS: There is. There is. They actually -- it used to be asphalt, and they just repaved it into cement --

COMMISSIONER HYMAN: So this sidewalk --

MS. GILFUS: -- with the addition of the fire station, yes, there is.

COMMISSIONER HYMAN: Thank you. So this sidewalk that you're going to be building needs to connect into that sidewalk.

MR. KIER: Right, and we will do a nice connection, too. It's not going to be that -- you're going to be pleased with the sidewalk, how it's done.

MS. GILFUS: The other thing is everything else around there is already built out, so there will -- the other owners won't be coming forth saying we're going to pave our road because everything's already built on the other sides of those roads.

COMMISSIONER HYMAN: Oh, those uses that you just referred to on the north and the east side, you know --

MS. GILFUS: They're --

COMMISSIONER HYMAN: -- the contractors --

MS. GILFUS: They're already built, yes, the homes --

COMMISSIONER HYMAN: But they could be built into something else and -- I mean those are big pieces of property that someone might acquire and come in and do just what this person is doing. So --

MR. KIER: That is correct.

CHAIRMAN BARBIERI: All right. Ready for a motion on this.

COMMISSIONER HYMAN: These are all good points you raised. Thank you.

MS. KWOK: I just wanted to read that conditions into the record.

"The property owner shall provide pedestrian access along the north property line to

allow pedestrian access throughout the site. Prior to final DRO approval of the site plan the plan shall be revised to show this access point."

COMMISSIONER HYMAN: What about the sidewalks?

MR. CHOBAN: Sidewalk I will add as a condition of approval, as well as the -- any missing pavement for Major Drive to this entrance.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: I'm going to -- are we ready for a motion?

I'm going to move approval of the Class A conditional use to allow the transfer of development rights for more than two units to the acre.

COMMISSIONER DAVIS: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0 -- where's Commissioner Armitage? Oh, I'm sorry, hiding back there.

COMMISSIONER DAVIS: He's hiding.

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: I move approval of the -- to allow the transfer of development rights for 11 units, to designate this application as the receiving area, subject to all the conditions as modified.

COMMISSIONER DAVIS: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: And I move approval to allow the reduced cost of \$1 per unit for the transfer of development rights, subject to the conditions.

CHAIRMAN BARBIERI: Motion made by

**Commissioner Hyman**, seconded by Commissioner --

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: -- 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: Can we -- can we give him back these colored drawings for the County Commission? Also --



MR. Mac GILLIS: As long as we just keep one copy for our file.

MS. KWOK: You can leave it there, and we can collect after that.

COMMISSIONER HYMAN: And also, I -- I don't know.

Does anybody use -- I mean this is a tremendous amount of work, but does anybody use the code on this board? Has anybody ever opened the book?

COMMISSIONER DAVIS: Yes.

VICE CHAIRMAN ANDERSON: Yeah, to -- to replace --

COMMISSIONER HYMAN: You do? You use this? Well, you never got it before --

COMMISSIONER DAVIS: The ULDC?

COMMISSIONER HYMAN: Yeah.

COMMISSIONER DAVIS: I already have one.

COMMISSIONER HYMAN: I know.

COMMISSIONER DAVIS: It weighs, you know, 10,000 pounds.

COMMISSIONER HYMAN: Okay. So what I -- I'm not sure we need this.

MR. Mac GILLIS: Okay.

COMMISSIONER HYMAN: If we have a specific --

MR. Mac GILLIS: We'll take them back.

COMMISSIONER HYMAN: -- question, we certainly can ask staff and --

MS. KWOK: Right.

COMMISSIONER HYMAN: Yeah, you're done.

MR. KIER: Thank you.

COMMISSIONER HYMAN: And save the trees.

MR. Mac GILLIS: Sure. We can also -- we have generally now we don't print -- probably only one percent of what we used to do 'cause all that's on the Web, plus we do CD-ROMs --

COMMISSIONER HYMAN: Yeah.

MR. Mac GILLIS: -- for anybody who wants them, so --

COMMISSIONER HYMAN: You know, if we have a question --

MR. Mac GILLIS: We'll pick them up.

COMMISSIONER HYMAN: -- we need to go to you. We're not going to be able to pick it out of the code.

So can I give you back mine and maybe you can use it.

MR. Mac GILLIS: Yeah, we'll pick them all up.

COMMISSIONER HYMAN: Maybe you can use it.

CHAIRMAN BARBIERI: If you have a CD-ROM, I wouldn't mind having one so we can do a search when we're trying to find something.

MS. KWOK: Sure. We'll get you a copy of that.

CHAIRMAN BARBIERI: Okay. That'd be great.

COMMISSIONER HYMAN: That would be better for all of us.

MS. KWOK: Sure.

CHAIRMAN BARBIERI: All right. Is there anything else?

MR. Mac GILLIS: No.

CHAIRMAN BARBIERI: Okay. We're adjourned.

VICE CHAIRMAN ANDERSON: We're out of here.

(Whereupon, the meeting was concluded at 10:30 a.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA )

COUNTY OF PALM BEACH )

I, Sophie M. Springer, Notary Public,  
State of Florida at Large,

DO HEREBY CERTIFY that the above-entitled  
and numbered cause was heard as hereinabove set  
out; that I was authorized to and did report the  
proceedings and evidence adduced and offered in  
said hearing and that the foregoing and annexed  
pages, numbered 4 through 50, 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 16th day of June, 2008.

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Sophie M. Springer, Notary Public