

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, August 2, 2007
9:02 a.m. - 2:20 p.m.
Jane M. Thompson Memorial Chambers
301 North Olive Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

Frank Barbieri, Chairman

Don Dufresne, Commissioner

Allen Kaplan, Commissioner

Sherry L. Hyman, Commissioner

Kelley Armitage, Commissioner

Richard Bowman, Commissioner

Bob Banks, Assistant County Attorney

Jon Mac Gillis, Zoning Director

Maryann Kwok, Chief Planner, Zoning

Wendy Hernandez, Acting Principal Planner, Zoning

Ora Owensby, Senior Planner, Zoning

Carrie Rechenmacher, Senior Planner, Zoning

Anthony Wint, Planner II, Zoning

Doug Robinson, Planner II, Zoning

Donna Adelsperger, Zoning Tech

Bryan Davis, Planning Department

Isaac Hoyos, Planning Department

Susan Gash, Planning Department

Ken Rogers, Director, Land Development Division

Jim Choban, Land Development

Allan Ennis, Asst. Director Traffic Division

Kenny Wilson, Health Department

Bob Kraus, ERM

Michael Owens, School Board Rep.

Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

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

Staff, would you call the roll call, please.

MR. Mac GILLIS: Commissioner Bowman.

COMMISSIONER BOWMAN: Here.

MR. Mac GILLIS: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MR. Mac GILLIS: Commissioner Barbieri.

CHAIRMAN BARBIERI: Present.

MR. Mac GILLIS: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MR. Mac GILLIS: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Here.

MR. Mac GILLIS: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MR. Mac GILLIS: We have a quorum.

CHAIRMAN BARBIERI: Okay. Would everyone please stand for the opening prayer and the Pledge of Allegiance.

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

CHAIRMAN BARBIERI: The Zoning Commission of Palm Beach County has convened at 9:00 a.m. in the Jane M. Thompson Memorial Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach, Florida to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments, Type II Variances and other actions permitted by the Palm Beach County Unified Land Development Code and to hear the recommendations of staff on these matters.

The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing at 301 North Olive Avenue, West Palm Beach, Florida, in the Jane M. Thompson Memorial Chamber, 6th Floor, at 9:30 a.m. on Thursday, August 23rd, 2007, to take final action on the applications listed below.

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

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

Public comment continues to be encouraged, and all relevant information should be presented

to the Commission in order that a fair and appropriate decision can be made.

Staff, do we have proof of publication?

MR. Mac GILLIS: Yes, we do.

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

COMMISSIONER KAPLAN: So moved.

COMMISSIONER DUFRESNE: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

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

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: Commissioners, do you have any disclosures?

COMMISSIONER KAPLAN: Yes, Mr. Chair. I spoke to petitioner's agent on Item 24, Z/CA2006-1818.

CHAIRMAN BARBIERI: Commissioner Dufresne?

COMMISSIONER DUFRESNE: Mr. Chairman, I had discussions with petitioner's representative in the same matter, Item 24, as well as Item 26.

And I was hoping that maybe we can get some clarification on Item 27, if that's Manny Sarria. Jorge Sarria is a client of my firm's, although I've not worked on this matter, but I wanted to make that disclosure, and I'll recuse myself.

COMMISSIONER HYMAN: I spoke with the petitioner's agent on Item No. 24, the Ledis rezoning, and a very, very brief discussion with someone else, and I think it was on Item 26.

CHAIRMAN BARBIERI: And I also spoke with the petitioner on Item 24 and Item 26.

COMMISSIONER ARMITAGE: No disclosure.

COMMISSIONER BOWMAN: No disclosure.

CHAIRMAN BARBIERI: Okay. Thank you.

CHAIRMAN BARBIERI: Staff, consent agenda, I guess, or postponements first.

MR. Mac GILLIS: Postponements begin on Page 2 of your agenda.

Item No. 1, PDD2006-960, a postponement

for 30 days 'til September 6th.

Item No. 2, Hagen Ranch Beach [sic] MUPD, PDD/2006-1675, 30-day postponement to September 6th.

Item No. 3, PDD2007-055, Southern/Sansbury's MUPD, postponed for 30 days, September 6th.

Found on your add and delete, Item 21, ZV2007-725, Kahlert Self-Service Storage.

And Item 29 on your add and delete, Conditional Use A2007-2005 [sic], Lake Harbor Quarry, all postponed to the days indicated in your agenda.

We need a motion.

COMMISSIONER HYMAN: So moved.

COMMISSIONER DUFRESNE: Second.

CHAIRMAN BARBIERI: Is that a motion on all of them? You want them all?

MR. Mac GILLIS: Yes.

CHAIRMAN BARBIERI: Okay. There's a motion to postpone those items.

Do we have anybody here to speak on Items 1, 2, 3, 4, 5, 21 -- and what was the other one, Jon?

MR. Mac GILLIS: Twenty-nine.

CHAIRMAN BARBIERI: Twenty-nine.

Is anybody here to speak on those agenda items?

COMMISSIONER HYMAN: There's just one, two three and 21 and 29.

CHAIRMAN BARBIERI: I'm sorry. Yes, one, two, three, 21 and 29.

All right. We have a motion to -- to postpone 30 days to September 6th, 2007. It was made by Commissioner Kaplan, second by Commissioner Dufresne.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: That brings us to the consent agenda on Page 3. We can go through them one by one.

We'd ask the applicant to come to the podium to state their name and agree to the conditions.

First item is Item 4, PDD/TDR2006-1554, In

the Pines North, found on Pages 4 through 31.

There are 29 conditions found on Page 22 through 31. There are two motions in this item.

MR. MILLER: Good morning, Commissioners.

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

We're in agreement with the conditions.

CHAIRMAN BARBIERI: Okay. Is there anybody here from the public to speak on agenda Item No. 4?

(No response)

COMMISSIONER HYMAN: Going to move approval of the official zoning map amendment from Agricultural Residential zoning to Residential Planned Unit Development 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, 6-0.

COMMISSIONER HYMAN: And move to recommend approval of the transfer of development rights for 11 units and designate this as an application as the receiving area, subject to all the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by **Commissioner Hyman**, second by Commissioner -- I'm sorry. Motion made by Commissioner Kaplan --

COMMISSIONER HYMAN: Hyman.

CHAIRMAN BARBIERI: 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, 6-0.

MR. MILLER: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Just want to make a correction. The applicant brought it to my attention.

The item 29 that was on the postponed

item, that was postponed for 60 days.

CHAIRMAN BARBIERI: Why don't we take another motion --

COMMISSIONER HYMAN: I'll correct my -- I'll amend my motion.

COMMISSIONER DUFRESNE: And I'll second.

COMMISSIONER KAPLAN: Second the amended.

CHAIRMAN BARBIERI: Okay.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: That brings us to Item 5, ZV2007-727, the Lawrence Variance, found on Pages 32 through 37.

There's one motion on this. If the applicant could -- I don't believe there's any staff-recommended conditions on this item.

MR. VANNEST: Hi. I'm Dan Vannest, with Surge Solutions Group, acting as the agent for Timothy Lawrence.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Anybody here to speak on this?

CHAIRMAN BARBIERI: Is anybody here to speak on agenda Item No. 5?

(No response)

COMMISSIONER HYMAN: Okay. Have they agreed to all the conditions?

CHAIRMAN BARBIERI: You agree to all the conditions?

MR. VANNEST: Yes. Yes, we do.

COMMISSIONER HYMAN: Okay. I'm going to move to adopt a resolution approving a Type II zoning variance to allow the reduction of the side setback.

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, 6-0.

MR. Mac GILLIS: That brings us to Page 4

of the agenda, Item No. 6, Z2007-336, West County Jail Expansion, Pages 38 through 54 of your backup material.

There are conditions on Page 52 through 54. There's one motion, and there's add and delete conditions on the add and delete sheet.

CHAIRMAN BARBIERI: Okay.

MS. WALTER: Good morning, Commissioners.

Collene Walter, with Kilday & Associates, here on behalf of Palm Beach County Facilities Development and Operations.

CHAIRMAN BARBIERI: Do you agree to all the conditions as amended?

MS. WALTER: We do agree to all the conditions as amended.

We did receive a late confirmation from the Palm Beach County Engineering Department that Engineering Condition No. 2 could also be deleted.

It did not make it onto the add/delete memo, so I'd like to just confirm that with Palm Beach County Engineering, and I have the e-mail confirmation if they need it for reference.

CHAIRMAN BARBIERI: Mr. Choban.

MR. CHOBAN: I believe Mr. Ennis reviewed that request.

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

I agree that Condition 2 can be deleted.

CHAIRMAN BARBIERI: Okay. Thank you.

Is anybody here from the public to speak on Item No. 6?

(No response)

COMMISSIONER HYMAN: Going to move approval of the official zoning map amendment from the Agricultural Production Zoning District to the Public Ownership Zoning District, subject to --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- all the -- were they voluntary commitments?

MS. KWOK: Yes, they are.

COMMISSIONER HYMAN: As amended.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MS. WALTER: Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Next item is seven,

Z/CA2006-1901, Glenwood Townhouses, found on Pages 55 through 80.

There's 25 conditions found on Pages 70 through 80.

There are two motions on this item.

COMMISSIONER HYMAN: I had one concern about this. I don't know if I want to pull it for a minute or not.

But this was one where the rec facility was divided in half by the entrance road. Can we just pull this for right now and just come back to it as the first item on the regular agenda for two minutes?

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Okay.

MR. Mac GILLIS: Next item is Item 8, DOA2007-181, Temple Shaariei Shalom Expansion, Pages 81 through 113.

There are 66 conditions on Page 93 through 113.

There is one motion on this item.

COMMISSIONER HYMAN: Petitioner.

MS. BRINKMAN: Good morning. Joanie Brinkman, with Kilday & Associates, representing the applicant, Temple Shaariei Shalom.

We're in agreement with all the conditions.

COMMISSIONER HYMAN: I had a question on this, too.

Why -- there were PREM conditions, and there -- and there was the -- so it's Item Number -- on Page 104, 105 and so forth for PREM.

Also, there was, I think, a school disclosure.

Why would any of those apply?

MS. BRINKMAN: This was a consolidated resolution that covered the entire PUD.

COMMISSIONER HYMAN: Oh.

MS. BRINKMAN: The subject of this application is only the civic pod.

COMMISSIONER HYMAN: Okay. All right. So those must have been satisfied already, anyway. Okay.

CHAIRMAN BARBIERI: Rabbi Fratello, would you come up to the microphone, please.

RABBI FRATELLO: Yes, sir.

CHAIRMAN BARBIERI: Morning.

RABBI FRATELLO: Morning.

CHAIRMAN BARBIERI: Would you like to --

RABBI FRATELLO: No, I'm -- I'm here just to speak in support of the amendment, unless

there's anybody -- and I can hold my comments unless there's anybody wishes to speak against it.

CHAIRMAN BARBIERI: Okay. Great.

Is there anybody else here from the public to speak on agenda Item No. 8?

(No response)

COMMISSIONER HYMAN: I'll move approval of a development order amendment to reconfigure the site plan, add square footage and modify the conditions of approval, as modified.

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: Subject to the conditions as modified.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

RABBI FRATELLO: Thank you.

MR. Mac GILLIS: This brings us to Page 5 of the agenda, Item No. 9, DOA2007-050, Peninsula Bank at Loggers Run, Pages 114, 139 of your backup material.

There are 47 conditions found on Page 129 through 139.

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

CHAIRMAN BARBIERI: Staff.

MS. KWOK: The -- what we want to add is a -- is not on your add/delete memo -- is a last minute change to a condition along Ponderosa Drive.

The applicant has agreed to provide a six-foot high hedge along the east property line of the project.

CHAIRMAN BARBIERI: Okay.

MS. COTTRELL: Good morning. I'm Anna Cottrell and the agent for this application.

We agree to all the conditions.

CHAIRMAN BARBIERI: Okay. Is there anybody here to speak on agenda Item No. 9?

(No response)

CHAIRMAN BARBIERI: All right. The -- just for the record, I am the President of Loggers Run Homeowners Association, and I have no

financial interest in this petition one way or the other.

If there's no one from the public who wishes to speak, we're ready for a motion.

COMMISSIONER HYMAN: I'm going to move approval of DOA2007-050, the development order amendment to add the financial institution, reconfigure the site plan and modify the conditions of approval, subject to the conditions as modified.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: Next item is 10, DOA2007-527, Okeelanta Co-Generation Facility, Pages 140 through 162, conditions found on Page 153 to 162.

There are 17 conditions with one motion.

CHAIRMAN BARBIERI: Good morning.

MR. KILDAY: Thank you. Kieran Kilday, Kilday & Associates, representing the applicant.

All the conditions are acceptable with one exception. On Page 154, Condition E.3, requires platting.

We have met with the County Engineer. They have indicated that as long as we submit a letter, which we did yesterday, that it is only a lease, platting would not be required, and they would delete that condition.

MR. CHOBAN: The platting condition can be deleted.

MR. ROGERS: And just for the record, that's Condition -- Engineering Condition No. 1.

CHAIRMAN BARBIERI: Is there any member of the public here to speak on Agenda Item No. 10?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of DOA2007-527 for the development order amendment to add the land area and reconfigure the site plan --

COMMISSIONER KAPLAN: Second.

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

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. KILDAY: Thank you.

MR. Mac GILLIS: Next item is 11, Z/2007-532, Indiantown Road Fire Station 14, Pages 163, 175 of your backup.

Conditions of approval, there are seven, Pages 173 through 175.

There's one motion on this item.

MS. BORKOWSKI: Good morning. Melanie Borkowski, with Palm Beach County Facilities Development and Operations. I'm the agent, and we're agreeable to the voluntary commitments.

CHAIRMAN BARBIERI: Okay. Is there anybody here from the public to speak on Item No. 11?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of 2007-532, to recommend approval of official zoning map amendment from the Agricultural Residential to the Public Ownership Zoning District, subject to the voluntary commitments.

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, 6-0.

MR. Mac GILLIS: That brings us to Page 6

of the agenda, Item No. 12, DOA2007-333, Temple Medical, Pages 176 through 198 of your backup.

There are 27 conditions found on Pages 188 through 198.

There is one motion on this item.

MR. MILLER: Good morning. Bradley Miller, Miller Land Planning Consultants, representing the applicant.

We're in agreement with the conditions.

CHAIRMAN BARBIERI: Okay. Thank you.

Any member of the public here to speak on Item 12?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of DOA2007-333 to recommend approval of the development order amendment to modify/delete a condition of approval, subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. MILLER: Thank you.

MR. Mac GILLIS: Item 13, ZV2006-1851, Johnson Variance, Pages 199 through 211.

Staff is recommending approval.

There's no conditions and the one motion.

CHAIRMAN BARBIERI: Do we have a petitioner here?

MS. GLASS: Carol Glass, with staff.

The applicant was going to be out of town.

Her handicapped father that they're building this for, they had provided consent that he would be here. I don't know if he's had difficulty getting here.

UNIDENTIFIED SPEAKER: He's here.

CHAIRMAN BARBIERI: He's here?

MS. GLASS: Mr. Baugh?

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

Would you state your name for the record, please?

MR. BAUGH: Richard Baugh.

CHAIRMAN BARBIERI: Have you read the

staff report?

MR. BAUGH: No.

CHAIRMAN BARBIERI: Why don't -- why don't you take a few minutes to read what staff has --

MR. BAUGH: There's no conditions on it.

COMMISSIONER HYMAN: Oh, I know. Go ahead.

CHAIRMAN BARBIERI: Just want to make sure you're aware --

COMMISSIONER HYMAN: But were the representations made --

CHAIRMAN BARBIERI: Make sure you're aware of what we're doing here today.

MR. BAUGH: I'm aware of what you're doing. I'm not mentally handicapped.

CHAIRMAN BARBIERI: I didn't mean to suggest you were. I'm sorry. All right.

If you're -- if you're aware of what we're doing and --

MR. BAUGH: Yeah.

CHAIRMAN BARBIERI: Okay. Is there anybody here from the public to speak on agenda Item No. 13?

COMMISSIONER HYMAN: Well, actually, you know, there were two conditions.

There is a development order -- shall be valid for a period of one year, and they must secure a building permit. It's on Page 211; right?

MR. Mac GILLIS: You're correct.

COMMISSIONER HYMAN: So did you --

MR. Mac GILLIS: It's incorrect on the agenda.

COMMISSIONER HYMAN: Have you seen those conditions?

MR. BAUGH: No.

COMMISSIONER HYMAN: Okay. So you need to take a minute and --

MR. BAUGH: What are they again?

COMMISSIONER HYMAN: Somebody show him.

CHAIRMAN BARBIERI: Would a staff member --

MR. BAUGH: That I have a building permit?

Obviously.

COMMISSIONER HYMAN: Take a minute and look at it and see.

MR. BAUGH: The two conditions are agreed.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: It's a good thing. Okay.

I'm going to move approval of the 2006-1851 for resolution approving the Type II zoning variance to allow the proposed accessory dwelling to encroach into the rear setback and allow an accessory structure to occupy more than 25 percent of the distance between the property lines, subject to the conditions.

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: You got it?

MR. BAUGH: Thank you.

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

Kaplan.

Any discussion?

(No response)

COMMISSIONER HYMAN: Good luck.

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: Next item is 14, ZV2007-733, Palace Skateway, Pages 212 through 224 of your backup.

There are seven conditions found on Page 224, and there's one motion on this item.

MR. SCOTT: Good morning. Russell Scott, with Urban Design Studio, representing the applicant, and we are in agreement with all the conditions of approval.

CHAIRMAN BARBIERI: Okay. Is there any member of the public here to speak on Item 14?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of 2007-733 for a resolution approving a Type II zoning variance to reduce the required number of parking spaces, to allow 100 percent encroachment of utility easement within the landscape buffer, to allow the reduction of a right-of-way buffer for Lantana Road, to allow the reduction of a right-of-way buffer for Old Congress Road and to allow the reduction of an incompatibility buffer, subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. SCOTT: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Next item -- we're on

Page 7 of the agenda, Item No. 15, ZV2007-891, Cypress Point MUPD, Pages 225 through 234.

CHAIRMAN BARBIERI: Good morning again.

MS. WALTER: Good morning, Commissioners, again. Collene Walter, with Kilday & Associates, here on behalf of the applicant.

We have read the staff report, and we are generally in agreement with the condition, but there is a -- some revised verbiage that we discussed with the project manager this morning, and if you'll allow, I'll actually read it into the record.

We would request that Condition No. 1 be amended to say:

"The development order for this particular variance shall lapse August 2nd, 2008, one year from the approval date, or if the related rezoning application is approved, the variance will be tied to and remain valid for the life of the rezoning development order."

This is a variance that is part and parcel with a rezoning application, and with the new process, the variances, once approved with the development order, run with the life of the development order.

COMMISSIONER HYMAN: Can you identify the rezoning application more definitively, just so that --

MS. WALTER: It's a rezoning to the MUPD zoning district for Cypress Point MUPD.

COMMISSIONER HYMAN: Filed contemporaneously or something like that --

MS. WALTER: Correct.

COMMISSIONER HYMAN: -- with this. Okay.

CHAIRMAN BARBIERI: Staff.

MR. Mac GILLIS: We agree with it.

CHAIRMAN BARBIERI: Okay. Is there any member of the public here to speak to Item 15?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of 2007-891 for a resolution approving a Type II zoning variance to allow a reduction in the minimum lot width, subject to the condition as modified.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MS. WALTER: Thank you very much.

MR. Mac GILLIS: That brings us to Item

16, ZV2007-889, the Glades Replacement Hospital, Pages 235 through 241.

There are three conditions found on Page 241.

There's one motion on this item.

MS. WALTER: Good morning, Commissioners.

Collene Walter, with Kilday & Associates, here on behalf of the Healthcare District of Palm Beach County.

We have read the staff report and the conditions of approval, are in agreement with all of the proposed conditions.

For the record, we also have a letter from the Florida Department of Environmental Protection supporting the variance request that I would like to just submit for the record.

COMMISSIONER HYMAN: Move for approval.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: We have a motion

to --

COMMISSIONER HYMAN: Accept.

CHAIRMAN BARBIERI: -- to accept the

letter, a second -- made by Commissioner Hyman, second by Commissioner Kaplan.

Any discussion on that motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries.

Is there any member of the public here to speak on Item 16?

(No response)

COMMISSIONER HYMAN: Move approval of 2007-889 to adopt a resolution approving the Type II zoning variance to waive the platting requirements for a Planned Development District, subject to the conditions.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Motion made by

Commissioner Hyman, seconded by Commissioner Kaplan.

Are there any other commissioners here today?

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries.

MS. WALTER: Thank you very much.

MR. Mac GILLIS: We also had a request

late in the morning to add Item 30 to the consent agenda, Z2007-522, Rosso Paving, found on Page 476 through 498.

There are nine conditions.

CHAIRMAN BARBIERI: Yes, sir.

MR. McGINLEY: Good morning. Kevin McGinley, representing the property owner.

We agree to the conditions, including the add and delete that you received, I think, this morning.

CHAIRMAN BARBIERI: All right. Is there -- staff, you have something? Nothing from staff?

MR. ROBINSON: Yes, this -- there was an add and delete, condition deleted, and we're in agreement.

CHAIRMAN BARBIERI: Okay. Is anybody here from the public to speak on Item 30?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of 2007-522, recommend approval of an official zoning map amendment from Agricultural Residential, Residential Estate and Residential Transition Zoning Districts to the Light Industrial Zoning District, subject to the conditions as modified.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All right. 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, 6-0.

MR. McGINLEY: Thank you.

MR. Mac GILLIS: This brings us to Page 7, Item B, the corrective resolutions.

Item 17, we just need a motion to correct Exhibit D on the variance request.

COMMISSIONER HYMAN: Well, I'm going to move approval to correct Exhibit D of the variance request.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Is there any member of the public to speak on 17?

(No response)

CHAIRMAN BARBIERI: All in favor of the

motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: Brings us to Item No. 18, ZV2006-1925, Public Storage.

Just needs to be a correction to the resolution in reference to a permit number.

CHAIRMAN BARBIERI: Is anybody here to speak on 18?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of 2006-1925 to correct the incorrect permit number.

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, 6-0.

MR. Mac GILLIS: That brings us to Page 8, the regular agenda, and, Commissioners, we've had a request this morning that Item 25, the Philadelphia Church of Nazarene, if that could be reordered, I guess after Item 7 that was pulled from the consent.

There's several -- many people in the audience for this item.

CHAIRMAN BARBIERI: All right. Do we have a motion to reorder the agenda to move it behind No. 7? It'd be No. 2 on the agenda.

COMMISSIONER DUFRESNE: So moved.

CHAIRMAN BARBIERI: Motion made by
Commissioner Dufresne.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: Seconded by
Commissioner Hyman.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries.

CHAIRMAN BARBIERI: Petitioner for No. 7.

COMMISSIONER HYMAN: Okay. For No. 7,
staff, I -- see how the -- on the site plan the
entranceway is right in between the pool area and
the tot lot, which I thought was unusual, 'cause
you know people are going to be going back and
forth.

If kids are by the pool, they're going to
be -- want to be by the tot lot, and that's right
by the entrance, and that's just -- I don't think
that's a good design.

No offense. You're a great designer,
but --

MR. MILLER: I can -- in this instance I
can say there was another designer, but --

COMMISSIONER HYMAN: Okay. Not the --

MR. MILLER: -- I was still involved.

COMMISSIONER HYMAN: Okay.

MR. MILLER: And maybe I can give some
explanation to --

COMMISSIONER HYMAN: Okay.

MS. WALTER: -- to our plan.

For the record, Bradley Miller, Miller
Land Planning Consultants.

We've gone through several different
renditions on this property, and a lot of it has
been driven by the access point itself.

You can -- you can see that one of the
options that we looked at -- if you took the plan
and just flipped it upside down, we looked at that
with the access being closer to Military Trail.

The concern through Engineering, as well
as ourselves, was this whole intersection with
Military Trail, the Old Military Trail right-of-
way coming up, and in fact at the beginning the
Engineering Division suggested that we look at the
potential abandonment of this -- this whole area
of Old Military Trail.

We met with the adjacent property owner of the commercial site here, and they objected to the abandonment. So we are -- we're stuck with keeping that in place.

The other concept was to try to get this -- our entrance as far away from this intersection as possible so that's what leads us to this portion of the property.

As far as the rec areas go, we did look at that. We have more of an active area here (indicating). We have more of a passive area on this side, passive with tot lot, and that actually ties in with our bus stop location here (indicating) with our roundabout.

So we felt that that was the design where the children would be on this side for the bus location. This would be more active.

We also have other areas around the property of open space for the rec.

COMMISSIONER HYMAN: You know, I just don't like it, and I don't think that's proper.

I mean I don't know why the -- I can't redesign the property, but I don't know why the entrance then isn't in the lower left corner so that you have the entire rec area as one, and you just have the entrance coming off the -- I don't know, the south side of the property.

I'm sure it has to do with curves of the road and all those other engineering things.

MR. MILLER: On the south side there's a canal right here (indicating) and a bridge crossing. So we were trying to keep some separation from that bridge crossing, as well.

COMMISSIONER DUFRESNE: Brad, what about the tot lot being swapped with the upper corner open space where you get the kids away from the entrance, right where your finger is.

MR. MILLER: Up here?

COMMISSIONER DUFRESNE: No.

MR. MILLER: Here?

COMMISSIONER DUFRESNE: The curve, right there.

COMMISSIONER HYMAN: I just -- you may want to look at that. I just think that --

MR. MILLER: I -- yeah, I don't see a problem doing that.

COMMISSIONER HYMAN: I don't know what you do with that other area then, but I just don't think putting anything there that would encourage people to walk across the entryway of the community is wise. So -- or even, you know, playing up there like --

MR. MILLER: I think area-wise, I think we can do that where if you want us to look at relocating that --

COMMISSIONER HYMAN: Can you -- can you take a postponement just to re-look at this design and bring it back to us, put you on the --

MR. MILLER: We could. I don't think the residential market's banging down our door at the moment.

COMMISSIONER HYMAN: Yeah, I don't think

so, either, so I'm going to -- I'm going to move to postpone this item.

MR. MILLER: We'll take a look at that.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: All right. There's a motion to postpone by **Commissioner Hyman**.

COMMISSIONER DUFRESNE: Second.

CHAIRMAN BARBIERI: Seconded by Commissioner Dufresne.

Is there any member of the public here to speak on this item?

(No response)

CHAIRMAN BARBIERI: All right.

Is there any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries.

Postponed for 30 days to --

COMMISSIONER HYMAN: September meeting.

MR. Mac GILLIS: September 6th.

CHAIRMAN BARBIERI: -- September 6th,

2007.

MR. Mac GILLIS: That will bring us to Item 25 in the agenda, the Philadelphia Church of Nazarene, on Pages 344 through 369.

Anthony Wint is the project manager, he'll give you a brief presentation.

MR. WINT: Good morning, Commissioners. Anthony Wint, Planner II, for the record.

Proposed is the rezoning of 4.76 acres of land from Agricultural Residential Zoning District to the Residential Single Family Zoning District and a Class A conditional use to allow for a place of worship and daycare facility.

Staff is recommending approval, subject to 28 conditions.

There were nine letters opposing this project.

The applicant will locate proximity of the proposed -- of these -- these folks who oppose the development when she does her PowerPoint.

If there are any other further questions, I can turn it over to the applicant, and she can elaborate.

CHAIRMAN BARBIERI: All right.

Applicant, petitioner.

MS. GLAS-CASTRO: Good morning.

CHAIRMAN BARBIERI: Good morning.

MS. GLAS-CASTRO: I'm Kim Glas-Castro, with Ruden, McClosky, here on behalf on Philadelphia Church of Nazarene.

Thank you for reordering the agenda on behalf of the pastor and the entire congregation who have come this morning.

As staff had mentioned, this is a four and a half-acre, 4.76-acre piece of property on Haverhill Road north of Community Drive.

The request is to rezone from AR to RS with Class A conditional use approval for a church and a daycare.

The proposal is a 618-seat house of worship and a 98-child daycare facility.

It represents 0.18 FAR on the property.

The property would -- the church facility would be built in two phases. The first phase is approximately 29,000 square feet, includes the sanctuary, daycare, Sunday School and choir rooms.

Phase II is a little less than 9,000 square feet and includes a multi-purpose fellowship hall, kitchen and more Sunday School rooms.

Of the 206 parking spaces, 79 are grass parking.

When I offered courtesy notices to the neighbors, including the surrounding homeowners associations of Cypress Lakes, Pine Ridge and Horseshoe Circle, I only heard from one neighbor -- let me go back to the aerial view -- and that was a neighbor here in Horseshoe Circle.

Due to Mr. Field's comments, which were very good, we did tailor the conditions of approval. We've acknowledged the need for a buffer wall within the landscape perimeter and have restricted lighting to 20 feet in height and to dim the lighting, you know, after hours and to use an off-duty officer to help direct traffic.

When staff mentioned that they had received some letters opposing the project, at the time I went in on Monday, we had five letters of support and six opposing.

I tried to reach those neighbors, which let me -- four of them are over here off of Sabal Pine Circle, and two are back behind in Cypress Lakes. I reached three of them.

One of them was concerned that the area was too crowded. He didn't see any -- want to see any development at all in this area.

Two others lived over here (indicating) off of Sabal Palm -- Sabal Pine. They are concerned with traffic in the area.

They asked if a traffic signal could be put at their entrance to their condo community, which then I spoke with Mr. Allan Ennis to see what the traffic counts were in this area, and I believe he's here today, but that a traffic signal would not be warranted.

We agree with all the conditions of approval, including those that are on the add/delete sheet.

To go back to the architecture for you, the bottom would be the front view that -- from Haverhill. This is the covered drive-in area, the main door. This is the northern property that would be adjacent facing the St. Paul's Church. This would be the daycare entrance.

This is the south elevation which would face the Horseshoe Circle residents and the western elevations facing Cypress Lakes.

This is Phase II with the expansion for the fellowship hall and the Sunday School rooms.

The pastor is here if you'd like to ask any questions of him, but we do agree with staff's conditions of approval.

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

(No response)

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I just have one question.

On the outdoor speakers, which is always I guess a concern, it says no outdoor speakers or public address system shall be permitted during temporary sales, special events, picnics and holiday services only. I mean you could have a picnic every day.

Do you need to have any outdoor speakers?

MS. GLAS-CASTRO: No.

COMMISSIONER HYMAN: So can we just eliminate that or -- or restrict it so that there's no outdoor speaker or public address systems?

MR. CHOBAN: Just put no outdoor speakers.

MR. WINT: Sure.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Petitioner, are you okay with that?

MS. GLAS-CASTRO: (Shakes head in the affirmative.)

COMMISSIONER HYMAN: Okay. With that, I'm going to move approval of the official zoning map amendment from Agricultural Residential Zoning District to the Single Family Residential Zoning District.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion on that motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: I'm going to move approval of the Class A conditional use to allow the place of worship and a daycare, general, subject to conditions as modified.

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, 6-0.

COMMISSIONER HYMAN: Okay.

MS. GLAS-CASTRO: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: That'll bring us to Item 19 on the agenda, Z/CA2006-022, Colonial Lakes, Pages 246 through 271 of your backup material.

Just before I turn it over to Anthony, the project manager, staff -- I would like to provide you with a letter.

Zoning staff's been working with Greenacres on this item. I've been -- several meetings and correspondence with Tom Lanahan, the director of planning and engineering. The -- he'll be here to speak this morning.

They do have concerns with this proposal going forward as is. It's not consistent with their City vision of how this lot would be developed as far as they're looking for more commercial uses on the front part facing Lake Worth Road.

They're also concerned with building heights and access onto the unimproved street that's adjacent to this parcel and also the proposed architectural style of the buildings.

I've indicated in the letter I provided to him there is currently no joint agreement between the City of Greenacres and the County in order to enforce their vision for this parcel.

This proposal before us has had several redesigns in order to address some of the City's concerns, as well as bringing it into compliance with the Zoning Codes and good planning and zoning practices, and staff feels, based on that, that we can support this project, and, unfortunately, some of their concerns from the City cannot be addressed at this time.

I'll turn it over to Anthony.

CHAIRMAN BARBIERI: Before you do that, ladies and gentlemen, for those of you that were here for the last petition on the church, feel free if you'd like to leave. You're not disrupting us. Just be quiet if you leave -- you're welcome to stay, but if you'd like to

leave, you're welcome to do that.

Thank you.

MR. WINT: Anthony Wint again. Good morning, Commissioners.

As Jon Mac Gillis stated, we have met with Tom Lanahan, who's director of planning and engineering for the City of Greenacres. We met with him on April 12th, and we discussed the issues with him that he was concerned with, and we relayed those issues to the applicant.

We met with the applicant and owner on April 23rd and also on May 15th. They agreed to revise the site plan, which they came in with a site plan for the July 11th, 2007, DRO meeting.

It was approved by all the members on the panel, DRO panel, and it was certified for July 12th, 2007.

Immediately we received a letter from the City of Greenacres which was, again, addressed by Jon Mac Gillis, and we also gave a copy of that letter to the applicant, and she is prepared to address the concerns of Mr. Lanahan, as well as I know that Mr. Lanahan also wants to get a chance to give his opinion.

So if there are no questions for staff, I would like to turn it over to the applicant.

CHAIRMAN BARBIERI: Okay.

MS. GLAS-CASTRO: Good morning. Kim Glas-Castro, with Ruden McClosky, here on behalf of the applicant.

This is a 9.84-acre infill parcel located on Lake Worth Road west of Haverhill. You can see by this map the surrounding land use pattern with commercial along Lake Worth Road frontage, HR-8, eight units per acre, to the south and to our west, medium density residential to our east.

This is the subject property. You can see some trees, several trees, and this was one of the planning considerations.

While there's not a native vegetative community, there are significant trees, and so it did result in a 2.74-acre tree preserve on the site plan.

To show you the surrounding area, we have commercial, pawn shops and just really kind of a mix of commercial uses along the Lake Worth Road strip corridor, the Lake Worth Village Mobile Home Park to our west and to our south and single family residential to our east along West View Street.

This is an artist rendition of the site plan. It consists of six identical buildings. You'll notice the tree preserve.

We have the recreation center here (indicating). It was asked to be located in this area because this -- the dry retention area during dry periods, as well as the tree preserve area, make a clustered open space that can all be used for leisure and recreation activities. So that was a major factor in our planning considerations.

Also, in our infill determination from Planning Division they asked us to restrict access

onto West View Street to promote the compatibility of the project, so our single entrance on Lake Worth Road creates a very linear project that was a design challenge, but you see that we've accomplished some common open spaces and amenities.

This is an artist's perspective of the architecture. You see at grade parking underneath each of the structures, as well as surface parking lots to accommodate the required parking by the parking ratio.

There's two levels of residential units above the parking in each of the structures.

The recreation amenity, including tot lots and gazebos, in addition to the pool and open areas, roundabout with fountain. This is looking south through the project.

The site plan had been certified in February to go to the April hearings. Then Mr. Lanahan from the City of Greenacres invited us to his office and shared his concerns with us, and that was before his formal letter of concern, and we appreciate him meeting with us in advance.

When we took a look at the plan, as well as hearing staff's concerns about compatibility with the neighborhood, we did some adjustments to the proposed project.

At this time at the February site plan the buildings were four stories, three stories of residential above at grade parking.

So what we did was we took a look at each of the buildings, reduced a level, eliminated a story so it's just two levels of residential above parking and enlarged the footprint to accommodate the units.

We also took a look at the turning radius to accommodate the City of Greenacres' larger fire truck, and we added two emergency access points for fire -- any emergency access vehicles.

This was the resulting site plan.

We met with the neighbors in anticipation of April hearings, specifically those along West View which are our closest neighbors, and of those 58 signed a petition that support the project, which I'd like to enter into the record.

COMMISSIONER HYMAN: Move to accept.

COMMISSIONER KAPLAN: Motion to accept.

CHAIRMAN BARBIERI: Motion made by

Commissioner Hyman, second by Commissioner Kaplan.

Discussion.

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MS. GLAS-CASTRO: Our neighbors asked for a wall within the landscape buffer, and they also specifically mentioned that they prefer this to be residential. They do not want commercial in proximity to their residences.

Considering Greenacres' concerns, we did

try to especially address the fire/safety issues that they brought up, even though this was certified for technical compliance with all Palm Beach County codes, including the fire codes.

The City has a vision for Lake Worth Road corridor as a commercial corridor. This property has a residential land use and zoning. This is the effective land use, and we are asserting those property rights to pursue a residential project.

The height has been decreased to increase the compatibility of the project with the surrounding neighborhood. Fire access, truck navigation concerns, have been readdressed.

A single entrance is maintained on Lake Worth Road, not only due to the Planning Division's comments, but because of the neighbors' desire for there not to be access onto their West View Street, their -- what they consider their private drive.

Comments about West View being substandard, the project engineers looked at it, felt that the City's fire trucks would be fine on the grading of West View Street, but that could be further evaluated.

The City has asked for vehicular and pedestrian connection to West View; however, the neighbors do not want this. And the City had commented on the architectural style. There is no prevalent theme for this area, and we feel it's in keeping with a common Mediterranean theme for the entire County.

This shows the property adjacent to the City of Greenacres, so how it would fit into their City limits, their boundaries.

At this time I'd like to ask Lee Worsham from Ruden McClosky to come up and address the City issues.

MR. WORSHAM: Good morning, Mr. Chairman, members of the Commission. I'm Lee Worsham, glad to be here.

The reason that I'm here is because of the commercial issue. I believe that the applicant, in working with the staff and in working with the City, has really addressed all of the issues except for the commercial concern of the City of Greenacres.

I'm going to talk a little bit about the timing of the project. Our client's been in this -- in this process --

CHAIRMAN BARBIERI: Excuse me.
Commissioner Dufresne.

COMMISSIONER DUFRESNE: Can you explain to me what the City's interest is in this property if it's not within their jurisdiction? Are they planning to annex it or -- why should we be concerned with the City's concerns if this is not within the municipal limits of the City of Greenacres?

MR. WORSHAM: That's the argument I was about to make, as a matter of fact.

It's in the City's planned annexation area. There is no joint planning agreement.

CHAIRMAN BARBIERI: Why don't we do this, before -- why don't we get the City up here. Since you're going to respond to the City's comments, why don't we have the City comment, and then you can respond. Let's do it that way instead.

MR. WORSHAM: Sounds like a good idea. Thank you.

CHAIRMAN BARBIERI: Mr. Lanahan, would you come up, please.

Would you state your name for the record and your position.

MR. LANAHAN: Certainly. Good morning. My name is Tom Lanahan. I'm planning and engineering director for the City of Greenacres.

On July 16th, 2007, the Greenacres City Council directed me to present to you the City's objections to this proposed development which is adjacent to the City of Greenacres within our future annexation area and actually almost within the center of the City.

Our boundaries along Lake Worth Road go just west of Jog Road and up to Military Trail, and this is in the eastern third or so of that area. So the City has territory west, north, east and south of this parcel.

So that's our interest in it. We're adjacent to it, and it is in our future annexation area and in kind of the center of the City.

I do have a detailed letter that I provided to the director of the Zoning Division that he responded to that I think they just handed out to you. So if I could have my letter put in the record, also, that would be -- that would be --

COMMISSIONER KAPLAN: So moved, Mr. Chairman.

MR. LANAHAN: Thank you.

COMMISSIONER DUFRESNE: Second.

MR. LANAHAN: I don't -- should I give it to -- thank you.

CHAIRMAN BARBIERI: There's a motion made by Commissioner Kaplan, second by Commissioner Dufresne.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. LANAHAN: And if I could, I'd like to just give a brief overview of our objections. Actually --

COMMISSIONER DUFRESNE: Actually, I think I understand those.

MR. LANAHAN: -- Kim has done some of that for me already, but --

COMMISSIONER DUFRESNE: I'd like to know what your annexation plans are, why we are now taking our time to review something that's not within your City limits.

I think the developer or the owner of the property has already been delayed long enough, and I don't want to waste our time here. I just want to get to the bottom line, is what is your annexation plan.

MR. LANAHAN: The City's future annexation boundary runs east to Military Trail. This is in our Comp Plan -- east to Military Trail, south to Lantana Road and north to Southern Boulevard.

We pursue in most cases voluntary annexation of parcels that are contiguous to us, and that's how most of our annexation has been done.

We have, like I said, territory west, north, east and south of this parcel. It is a piece that in the City's long-range plan we would like to annex into the City at some point.

Naturally --

COMMISSIONER DUFRESNE: Five years, 10 years?

MR. LANAHAN: -- the rest -- the rest of our interest in it is we're -- we have adjacent jurisdiction to it. We have as much standing as any adjoining property owner does.

COMMISSIONER DUFRESNE: Oh, no, I'm not arguing that.

MR. LANAHAN: Okay.

COMMISSIONER DUFRESNE: I understand that.

MR. LANAHAN: Okay.

COMMISSIONER DUFRESNE: I just think that if you're going to annex it, annex it, but don't hold us up for five or 10 years or --

MR. LANAHAN: We cannot force this parcel to annex.

COMMISSIONER DUFRESNE: -- you know, I think --

MR. LANAHAN: So we actually had discussion October 19th, 2004, with the architect for this development, explained what we would like to do in the area, talked to them about their property.

We've actually had discussions with the prior owner, Mr. McLean, dating back to 1999 or 2000 on this piece. So we've been actively looking at this property and interacting with different people that were looking at the parcel for development.

COMMISSIONER DUFRESNE: Thank you.

MR. LANAHAN: Did you want me to --

CHAIRMAN BARBIERI: Yeah, go ahead.

MR. LANAHAN: -- to go on? Okay. Thank you.

Just a brief -- I'll be brief. Some of this is going to be a little bit repetitious, but overview of our objections, inconsistencies with the City's vision and Comp Plan for the Lake Worth Road Corridor. This is the heart of our commercial area.

Our Comp Plan's pretty restrictive about commercial elsewhere in the City, but it does allow and support commercial activity along Lake Worth Road and in infill parcels along there.

The overall height of the building measured to the peak of the roof, as our Code does, is 42 feet. The City's maximum is 35 feet.

COMMISSIONER HYMAN: Okay. Can you modify your comments to address the changes --

MR. LANAHAN: I am.

COMMISSIONER HYMAN: -- that they've already made, 'cause --

MR. LANAHAN: I am.

COMMISSIONER HYMAN: -- didn't they reduce their height?

MR. LANAHAN: They did reduce the height from, I think, 49 feet overall to 42 feet overall.

COMMISSIONER HYMAN: Okay.

MR. LANAHAN: So there's a little discrepancy in the letter that you got from Mr. Mac Gillis. The County, I think, measures halfway up the peak, so -- but ours is to the top of the peak.

And then the density's over 14 units an acre, and our maximum is 10 units an acre; therefore, it's not compatible with the surroundings.

We have some concern about -- we certainly appreciate the two access points being added on West View.

Let me just touch on the fire issue for a second. We're currently in negotiations with Palm Beach County Fire/Rescue to do common dispatching, closest unit response.

Being that this property is surrounded by the City on most of its sides, we anticipate that we're going to be the agency answering the fire calls in here so that explains the fire interest.

Normally on property in County jurisdiction I would not be in front of you talking about Greenacres fire access, but because of this pending agreement, we're probably going to have to take the calls in there, so.

We appreciate those access points being added, and I certainly would hope that West View get looked at carefully to make sure that it's going to be able to handle that. It's my understanding it's not a County-maintained roadway, or at least not for permanent maintenance, so there's some concern there.

And they did try and address our fire apparatus circulation in the site. Our -- this is very technical, but our large truck is not articulated. The drawing that they provided has a truck as articulated, has a hinge in it, so I just ask that that, maybe before BCC, could be looked at, make sure that that's going to fit.

And then on the architecture I think that the point that we're -- the City's trying to make is that the building itself is not harmonious with itself. The ground floor has a dramatically different appearance than the upper two floors.

We don't object to the Mediterranean style, per se. I think I would agree that there's no prevailing style on Lake Worth Road, but we do ask that the building be consistent with itself.

COMMISSIONER HYMAN: Well, can we look at that because I -- I can't -- Kim, I can't tell from your drawings what these buildings look like.

UNIDENTIFIED SPEAKER: It'll be better on the PowerPoint.

COMMISSIONER HYMAN: Better on the what? I saw that. I can't tell what those buildings look like from that drawing. Why are they Mediterranean looking? Because of the roofs? What makes those Mediterranean?

MR. BALLESTEROS: Christian Ballesteros. I'm from CBR Group, the architects of the project.

You are correct on what you're saying. There is no precise Mediterranean style to the building. It has some inclination towards it, and the fact that Mr. Lanahan is commenting on it is the clear story at the bottom which has been done to allow for the parking.

Now, the fact that the first floor is cleared, we could go back to architectural history and see that the Mediterranean style within the context of historical buildings in Italy do have this practice, if we're going to analyze the architecture so precise, but it only has an inclination.

COMMISSIONER HYMAN: I don't think it's the clear story that concerns -- or that concerns me. It's the fact that there's a total void of any kind of architectural treatment above it.

It's just a building. It looks like just a building, and then the, you know, the barrel tile or pseudo-barrel tile roof.

So -- but I don't see any kind of architectural treatments whatsoever, and, you know, without any foundation landscaping, I mean it looks really barren.

I mean I -- I can understand Greenacres and any neighbors' concerns with regards to the appearance of the project.

It may be it's a function of economics, 'cause I'm certain that you could have designed it differently, but if they are going to get approval for any kind of increase in density, then we look to -- we use the term, exemplary. We, you know, we look to see that the project is a little bit better than most, and I don't know how you can categorize this as that.

MR. BALLESTEROS: The concern is truly not the neighbors, per se. It's more the Greenacres City that has brought up this comment, and we concentrate the exemplary design more on the site plan, urban design, to provide the most recreational area possible and centralize, as the staff did suggest we do and for the enjoyment of the whole project.

You may have a positive comment regarding the buildings where perhaps more landscaping towards the base may be included or perhaps additional details on the elevation, taking in account the project economics, as you mentioned, which is one of the bearing things on design nowadays, particularly in the market that we are

placing ourselves today.

COMMISSIONER HYMAN: I just think that there needs to be some additional work done on this project, and I'd like to see you take the next month to work with Greenacres and address, really address, their concerns and see if you can come up with something that is more compatible and -- with their vision.

I think it's important. I think it's -- I think Greenacres -- may not have always agreed with Greenacres, but I think it's important that, you know, to address their concerns and do something to make the project better so that you're --

MR. BALLESTEROS: We think --

COMMISSIONER HYMAN: -- entitled to get those additional units.

MR. BALLESTEROS: We think those concerns that you're asking us to work with Greenacres about, are you referring also to the commercial portion on Lake Worth Road, 'cause that would truly change the whole project around --

COMMISSIONER HYMAN: No, I --

MR. BALLESTEROS: -- and that's the reason why we are here to present this to you.

COMMISSIONER HYMAN: I don't have a -- I don't have a problem with -- I don't know about my fellow commissioners. I mean I don't have a problem with the residential.

I always like to see affordable residential above commercial nowadays any time 'cause we have so little affordable housing, and you are going to be providing workforce housing, which is so critical, but that doesn't mean that the housing should look like that.

Again, I am sure you're capable of making it better and making it look better for the neighborhood as well as the people who are going to live there.

MR. WORSHAM: Commissioner, could we request then simply approval, subject to the condition that we go back and work with the Village on the architectural --

MS. GLAS-CASTRO: No, with architectural staff.

MR. WORSHAM: Architectural staff. I'm sorry.

COMMISSIONER HYMAN: Yeah. No, I don't -- I -- you know, we don't typically do that. I wouldn't support that, but I don't know what the rest of the Commission would.

COMMISSIONER DUFRESNE: And I would support that, except that I would like some more definitive parameters from Greenacres as to what they're looking for so that this doesn't get dragged out any longer.

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

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

CHAIRMAN BARBIERI: I've got cards.

COMMISSIONER HYMAN: Oh, you have cards. Sorry.

CHAIRMAN BARBIERI: Jerry McLean.
Jerry -- submitted a card. I'm sorry, Jenny,
maybe, McLearn (ph).

Who submitted a card on Item 19? Is
anybody here that wants to speak on 19, other than
the City of Greenacres?

MR. McLEAN: Good morning.

CHAIRMAN BARBIERI: Morning.

MR. McLEAN: I live on West View. I have
two homes over there.

CHAIRMAN BARBIERI: What's your name,
please?

MR. McLEAN: Jerry McLean, excuse me.

CHAIRMAN BARBIERI: Thank you.

MR. McLEAN: Jerry McLean, and I would
prefer that it stays residential than commercial,
and if there's any changes that you people want to
add into it, that'd be perfect.

The people that live on West View, some of
them are for it, and others are more concerned
about a wall that'll prevent the people living in
this project from using our street to get in and
out and park vehicles there.

CHAIRMAN BARBIERI: Okay. Thank you.

MR. McLEAN: Okay.

CHAIRMAN BARBIERI: Petitioner, I have
similar concerns to **Commissioner Hyman's** concerns.
Since this is affordable housing, I don't
know how to say this, I just want to -- I don't
want to short change these people that are going
to live here.

I know that it's difficult when you have
these infill properties to make them look as nice
as they would if you didn't have to infill, if you
were out in an area where there was brand new
development, but this is very sparse.

I mean the buildings look like a project.

They look -- and there's going to be kids. I
mean the report says there's going to be at least
26 kids that live here. They're going to be
riding their bikes and playing here.

And I appreciate the fact you have the tot
lot, but it just doesn't look like a nice place
for kids to live. I mean it's not pretty. You
need to put landscaping.

You need to fix up the buildings so that
these kids can be proud of the place they live and
the people that live there that are people that
don't have a lot of income, anyway, are proud of
the place they live.

So I'd like you to see some -- see you do
something with the landscaping.

The other concern I have is, you know,
there -- the chances are there's going to be
children on bicycles here, and I can't tell from
the site plan. Is there a way for these kids to
get from their -- it looks like they walk out
their door, and they're in the middle of a parking
lot, and then they have to figure out a way to get
through all the cars, and there's -- how many
units, there's 100 and some units here with cars
coming in and out.

Is there a way for these kids to get down to that park area without having to go out in the middle of these parking lots in the middle of the street to ride their tricycles and bicycles?

MS. GLAS-CASTRO: Yeah, there are sidewalks throughout, and what this does not show is the paver crossings going across to the recreation amenities.

CHAIRMAN BARBIERI: Okay. How about the --

MS. GLAS-CASTRO: But it's all connected with --

CHAIRMAN BARBIERI: The staff report says on the January plan there was a bus shelter, but I don't see it on anything you've shown here.

Where -- where is the bus shelter?

MS. GLAS-CASTRO: Yeah, it's not shown on the artist's rendition of the --

CHAIRMAN BARBIERI: All right. So I would support a motion by **Commissioner Hyman** to postpone this and have you come back with some other design.

COMMISSIONER HYMAN: And, staff, let's try to put them, you know, close up on, you know, top of the agenda so that they don't have to sit here again the whole time, but I'd like to --

COMMISSIONER DUFRESNE: I'll second that.

CHAIRMAN BARBIERI: Engineering.

COMMISSIONER HYMAN: -- make a motion to postpone --

CHAIRMAN BARBIERI: One second.

COMMISSIONER HYMAN: -- to the next meeting.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Engineering.

MR. ROGERS: Mr. Chairman, one of the visuals that the applicant submitted showed something that was not on the site plan which causes us concern.

MS. GLAS-CASTRO: Yeah, there is no gate.

That's an artist mistake.

COMMISSIONER DUFRESNE: Okay.

COMMISSIONER HYMAN: You have something against gates?

COMMISSIONER DUFRESNE: I did have -- well, no, but --

MR. ROGERS: Well, that close to the road where there is no possibility of a turnaround and someone would have to back out onto Lake Worth Road, that causes us a great deal of concern, yes.

CHAIRMAN BARBIERI: All right.

MR. ROGERS: But we don't have a problem with gates when they're properly designed.

COMMISSIONER HYMAN: Okay. There's a motion.

CHAIRMAN BARBIERI: Petitioner, you have something else you wanted to --

MR. WORSHAM: Yes, sir. I -- we all know what Greenacres' agenda is here, basically commercial, and I know you have an architectural staff that's capable of coordinating with Greenacres and expressing the County's concerns.

This is really the County's project. Obviously, Greenacres has been knowledgeable about this project. We already heard that they've -- they started talking about the owners and architects back as far as eight years ago.

There was plenty of time for a joint planning agreement. Our client's been involved with the project for two years. It took a number of months to work out the landscaping and the native vegetation and tree preservation, and then about a year after that to work out the affordable housing, workforce housing issues.

Now that those are -- those are worked out, here comes Greenacres saying, wait a minute, we're just now aware of this, we want to talk, we want to -- we want to slow it down.

I just don't think it's appropriate to bring Greenacres in. You have a staff. Let your staff do their work, and then we can come back with your staff's comments, but I think Greenacres appropriately is too little, too late.

CHAIRMAN BARBIERI: Unless I misread this Commission, I don't think anybody's directing you to go back and turn it into commercial.

I think what you've been directed to do is change the way this thing looks and keep it residential --

COMMISSIONER HYMAN: Regardless of what Greenacres said.

COMMISSIONER KAPLAN: The City of Greenacres is not the issue before this Commission. It's the presentation and the view that we see that is objectionable. That is not in any way related to the City of Greenacres.

It's the apparent opinion of this Commission, so far that I've heard from the Commissioners, that we're not happy with the particular design and layout.

That's nothing to do with the City of Greenacres. So let's not get confused. Don't bring them into it at this particular juncture. That's not the issue before us.

COMMISSIONER HYMAN: Well, in all fairness, I mean he did listen to what I was saying, and what I said before was that I thought he should go back and talk to Greenacres.

I mean I think we should afford Greenacres the same consideration we'd give any neighbor of property, and I think Greenacres is hearing that we don't support making this commercial, but if there are other concerns that can be addressed that they have, yeah, I think you should talk with them just like you would any other neighbor.

But the concerns we have I think stand on their own, Lee. I think that the appearance of the project -- we understand, hopefully, the financial, you know, constraints, but do something to enhance it to entitle it to the increase in density.

If you can address these types of concerns that Greenacres has, that's fine. I don't think any of us are going to support denying this based

upon the fact that you wanted commercial.

I can't speak for everyone else, but that's the feeling I'm getting.

CHAIRMAN BARBIERI: In follow up to **Commissioner Hyman**, I do think, petitioner, you should work with staff and Greenacres as to the design of this project, the way it looks, because he brought that up. He didn't like the way it looked, either, so he -- I don't think there's anything wrong, as Sherry said, with you working with him as any other neighbor to make sure that it's compatible with their neighborhood.

So if you would bring them in at least with respect to the design element when you come back and change the facade of these buildings and the landscaping so that you get their input on that, also.

COMMISSIONER HYMAN: Okay. I think there's a motion on the floor.

MR. LANAHAN: I think if, you know, the applicant and County staff are amenable, you know, I imagine they're going to need to have a meeting with the County architectural review staff. I'm happy to be there, too. We can kind of, you know, not put them in a ball bouncing back and forth between two different places scenario. We could all kind of meet together and --

COMMISSIONER HYMAN: Well, we're not --

MR. LANAHAN: -- try to get a little more comfortable, but --

COMMISSIONER HYMAN: I don't think I want to dictate and do that and --

MR. LANAHAN: I just wanted to let you know I'm --

COMMISSIONER HYMAN: -- and invite you to --

MR. LANAHAN: I'm happy to do that, so --

COMMISSIONER HYMAN: But I think they should talk with you. I don't know that you have to be involved in their meetings, but I trust that they'll do the right thing.

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

If there's nobody else here from the public, we'll take a vote on that motion.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries.

Postponed to September 6th; correct?

MR. Mac GILLIS: Correct

MR. Mac GILLIS: Next item is Item 20,

CA/TDR2006-1555, Vivendi, Pages 272 through 290 of your backup material.

Anthony -- or Douglas will present this item. Sorry.

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

This application was last heard before you on May 3rd, 2007, where it was postponed for 60 days due to concerns and issues from Zoning staff, Commissioners and public comments.

The main concerns from the staff and Zoning Commission was the site design and layout, and the other issues raised by the public were that the quality design of a development in a neighboring municipality which had incomplete interiors, security gates, outside lighting, mold infestations in some units and just overall lack of completion in this development.

The applicant redesigned the site layout and has been changed so that the buildings are interior with the parking and road around the exterior of the buildings. The buildings are also pushed further in from the property lines, giving more spacious separation from the adjacent property lines to further mitigate any height compatibility.

The shortest distance is approximately 54 feet at the south property line and the furthest, which is 80 feet, which is on the east and the west property lines.

At the time of publication staff received four letters from the public and two from -- four letters from the public, two for and two in opposition.

The letters in opposition include traffic concerns, overcrowding, street overcrowding, density and the City of Lake Worth concerns due to electricity and the preservation of oaks on this property.

Staff is recommending approval, based on conditions found in Exhibit C.

COMMISSIONER HYMAN: Is this the same owner?

MS. GLAS-CASTRO: Yes. Oh, of the last one? No.

COMMISSIONER HYMAN: Just the same team.

MS. GLAS-CASTRO: Same architect, same me, yeah.

COMMISSIONER HYMAN: Do you have an elevation drawing of this?

And I do appreciate the fact that you put the road on the exterior. I think that's much better. Much, much better.

Well, I think just by the fact that, you know, you've done, you know, the elevation includes recesses and, you know, you have the different colors, and you do have foundation plantings.

I mean this is much better as far as I'm concerned. I don't know why these kinds of changes can't be used in that other project.

So, you know, I think that, you know, this

is a much better look, and I think the fact that they put the road now on the exterior addressed all of your concerns, Mr. Chair, so now the kids can go run around in the middle of the property. Okay.

CHAIRMAN BARBIERI: Go ahead.

MS. GLAS-CASTRO: I'm Kim Glas-Castro, with Ruden, McClosky. Good morning.

Since we were here last time, we've been working with the staff to revise the site plan to address compatibility concerns.

This was the site plan that you had seen in May, and as you can see, we took the buildings, at your suggestion, internalized them around the recreation area so to cluster them more in the center and create more space between the existing residences and these homes.

COMMISSIONER HYMAN: The white is part -- is the white building also?

MS. GLAS-CASTRO: It's the roof.

COMMISSIONER HYMAN: So it's a flat roof --

MS. GLAS-CASTRO: And it's the balcony and roof, right, 'cause you can see some balcony elements on the third story, also.

Here you can see some of the flat --

COMMISSIONER HYMAN: How long is each building?

MS. GLAS-CASTRO: How long -- he's looking at that.

While there's three stories, it's a flat on the ground floor and then two-story townhomes above. The maximum height is 32 feet five inches, which is consistent with the 35-foot max of the single family residential area surrounding it.

This remains 48 units. Of these, 17 will be deed restricted to workforce housing income levels.

A hundred and seven -- 107 feet? Seventy? It's 170 feet.

COMMISSIONER HYMAN: I mean did you consider breaking these buildings up a little bit just so that they're not so massive?

MS. GLAS-CASTRO: The -- the property's only three and a half acres to begin with, so there wasn't a lot that could be accomplished.

We have looked at several different designs.

COMMISSIONER HYMAN: So your bonus -- your density bonus is how many?

Like if you were to -- if you were to lose one unit in each building so that --

MS. GLAS-CASTRO: The density bonus is 20 units altogether, and 17 will be deed restricted.

COMMISSIONER HYMAN: My only concern -- staff, do you have any concern for that, the fact that the buildings are so long, and so you have your -- basically two walls?

MR. Mac GILLIS: Because of the -- like you noticed on the prospective drawings, there's so much movement in the buildings --

COMMISSIONER HYMAN: There is movement,

and I think the buildings look --

MR. Mac GILLIS: I think with the balconies and just the setbacks of the buildings --

COMMISSIONER HYMAN: That view concerns me a little bit.

MR. Mac GILLIS: If these were flat buildings like you indicated in that first -- the previous petition, I think staff would have serious objections, but I think because of the movement, the roof line, recesses and projections, I mean I think it breaks down with the landscaping and stuff that's going to -- I don't think you'll have that impact that you're seeing on the drawing, I think it'll --

MS. KWOK: And then the other thing is like, you know, there are four buildings. I think they can use different colors like, you know, maybe two buildings have different colors than the other two, so --

COMMISSIONER HYMAN: I wouldn't mix it up too much. I think the architect, you know, you're still staying within the same hues and -- but, okay.

CHAIRMAN BARBIERI: I appreciate you changing it. I think you did a great job of changing it from what you had before. It's much more family friendly.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Is there anybody -- yeah, there's anybody.

We have a dozen and a half cards, people that want to speak.

I'm going to call you in the order that the cards were given to me. If you would please come up to the podiums when your names are called. We're going to limit you to three minutes, and if somebody said what you said right before you say it, would you please just say you agree, rather than repeating it, so we can get through the -- through the agenda today.

The first person I call, will you come up to the agenda [sic] on your right, and the other person, would you come up to the agenda [sic] on your left.

Janett Garcia, the podium on the right -- I'm sorry, podium on the right, and Peter Mercer, the podium on your left. Peter.

MR. ROBINSON: Peter doesn't wish to speak. He just opposes the project.

CHAIRMAN BARBIERI: Okay. Jennifer Eunice, would you please then come up to the other podium.

Ms. Garcia, would you state your name for the record, please.

MS. GARCIA: Janett Garcia.

CHAIRMAN BARBIERI: Okay. Go ahead.

MS. GARCIA: I actually live right across the street from where they're going to build these units.

All the units around it are one-story homes, single family one-story homes. These being

three stories, will be able to see right in our back yards where our children will be playing on Mathis Street.

Also, there -- if you see on there, they -- they just have little gates that will be separating from this unit to -- or these units to our houses. People can cross however they please.

If they don't have enough room for parking, they're going to be -- you know, they can park on our street, as well. It just causes a lot of misunderstanding -- or we don't want that much traffic through our street.

Also, another thing, you're going to be hearing from some -- another community that they have built, and from what my understanding, they're -- this builder has not met up to the standards that should be met, and I don't want people living in our community going through the same things that they're going to be going through.

I don't agree with it, and I don't want them into our area of living.

And that's it.

CHAIRMAN BARBIERI: Okay. Thank you. Would Donna Wong please come up to that podium.

Yes, ma'am, go ahead.

MS. EUNICE: Oh, okay. I had a --

CHAIRMAN BARBIERI: State your name, please.

MS. EUNICE: Oh. Jennifer Eunice.

CHAIRMAN BARBIERI: Okay. Go ahead.

MS. EUNICE: I had a photo slide of some of the insufficiencies of Estancia, but it is not compatible with your system, but my dad has a presentation. He has some of the photos on paper and on a PowerPoint, so those will be visual to you when he gets up to speak.

CHAIRMAN BARBIERI: Okay.

MS. EUNICE: And that's it. Thank you.

CHAIRMAN BARBIERI: You're welcome. Cheryl Beers, would you please go to that podium.

Yes, ma'am. Go ahead.

MS. WONG: Hi. Good morning. My name is Donna Wong. I live at 116 Talia Circle. That's in the Estancia project.

That project was developed by one -- at least one of the to be developers of this upcoming project, and I'll just read from what I prepared just to get through this quickly.

I know that you've heard several horror stories from my neighbors, which you'll continue to hear today from myself and others.

I bought my home in 2005 and still have unfinished and missing baseboards, protruding nails in my staircase, improper finished windows, unfinished repairs on walls in both upstairs and downstairs, ineffectiveness of screens, both on windows and sliding glass doors. This will let in up to eight-inch lizards into my house.

When I showed this to Mr. Bibas, who is

one of the persons here, I understand, with this project, he said -- his comment was, "This is Florida. Learn to live with it."

I didn't know we were building for lizards, and I certainly wasn't paying almost 250,000 for my house to live with lizards, as I'm deathly afraid of them.

One of the -- one of my other main problems in my house is the -- my sliding glass door also leaks when it rains into my house. It comes in the inside. I've asked him to address this. He says there's nothing he can do, and I also have to learn to live with that.

When my breaker in my master bedroom kept tripping and I asked him to have his electrician take a look at this, they disconnected the GFI sensor unit that went to my master bedroom. That's leaving me with a fire hazard house to live in.

This was reinspected and confirmed by the City of Palm Springs just recently.

I ask that you not just only look at the building that's there. It's all well and good. Estancia looks like a real nice project itself, but it's the workmanship that's being used to work in our buildings and the type of workers and the -- and the conscious, or lack thereof, of the owners or construction companies that goes into this.

I'll skip over some of this 'cause I know Cheryl is going to cover this.

Mr. Bibas and his associates has also built the development without a pedestrian gate, and when this was finally installed a couple of weeks ago -- a couple of months ago, we were asked to pay \$50 for a gate key. We were never issued with one, but we are now asked to pay \$50 just so we can enter our project.

We're also asked to pay \$50 for a pool key, which, by the way, in two years we have no pool furniture, and \$100 for a second key.

This is the kind of person we're dealing with, and we are asking that Council do not approved for these kind of people. It's really not just about what you see there, it's about the horrors that we have to live with after we pay our hard-earned monies for -- to have these people develop for us to live into.

I thank you for your time.

CHAIRMAN BARBIERI: Thank you.

COMMISSIONER HYMAN: Can I hear from the petitioner? I want to know if those allegations are true.

And, staff, we don't have any disclosure sheets, so we don't know who the developer is for this project or the one before.

MR. REMBAUM: I could address that if the Chair would like.

My name's Jeff Rembaum, with Ruden, McClosky. I am, for those of you that don't know me, a community association lawyer and was looking into several of those issues.

I'm here today on behalf of Vivendi Homes, LLC, which is the developer for this project that's currently before you as Item No. 20.

The other developer entity, which I really need to point out and focus on, is comprised of different individuals. It is Estancia Palm Springs, LLC.

There's one person in common to both LLCs, to both developers, but there's a reason why the same development team is not putting Vivendi Homes together, and it would be improper for me to go into specific reasons as to why that is the case, and, certainly, I am sympathetic to the concerns that the residents of Estancia have, but, nevertheless, there is a proper forum for those concerns, and that is not here.

I don't want to suggest that they use the Court system, but that is an avenue. The City of Palm Springs is an avenue. The Estancia project received all of its COs from the Palm Springs government. That's where their concerns need to be addressed, not here when we're talking about TDRs.

The manager, from my understanding, had -- there have been issues in Estancia, and from my understanding, as explained to me from Mr. Bibas, the manager has been on site addressing specific concerns over and over again, and I can hear laughter in the background, and I would appreciate that not be the case 'cause that's simply not what I've been told.

I've been told they're taking these concerns very seriously and are working on resolving them, but I have to come back to the fact that Estancia is in Palm Springs. It is a different legal entity, and that entity is comprised of different individuals.

There's absolutely no basis for bringing any other project in. That's as if I'm bringing a project into Palm Beach County and the City of Greenacres is objecting. There's absolutely no standing. It's an improper venue.

COMMISSIONER HYMAN: Well, okay.

Just one second 'cause we're looking at the disclosures that were not in our materials.

I mean there's a reason for the disclosures to be part of our applications, and I commend the Board of County Commissioners for requiring this.

So Mr. Bibas is 100 percent owner of -- he says of Vivendi Homes, LLC.

And, listen, I understand -- Jeff, you know I understand that you form a different LLC for every development, and so technically -- truthfully, you could say you have a different owner for every single project 'cause that's what we as developer people do.

MR. REMBAUM: That's not what I was trying to say.

COMMISSIONER HYMAN: But --

MR. REMBAUM: It's the different individuals --

COMMISSIONER HYMAN: But where --

MR. REMBAUM: -- in that entity.

COMMISSIONER HYMAN: The concern we have is that, you know, are the principals the same in each of these projects.

MR. REMBAUM: One principal is the same, and one is not, and there lies the critical difference.

I'd like to tell you more about that story. Obviously, I can't, but you have to read between the lines when I tell you these two folks are not --

COMMISSIONER HYMAN: So Mr. Bibas --

MR. REMBAUM: -- developing this project together.

COMMISSIONER HYMAN: So Mr. Bibas was a principal in these other projects that we've heard about?

MR. REMBAUM: You've only heard about one other project --

COMMISSIONER HYMAN: Estancia?

MR. REMBAUM: -- which is Estancia Homes in a different municipality and --

COMMISSIONER HYMAN: And he's the principal?

MR. REMBAUM: And he was one of the -- one of the principals, not necessarily the controlling principal.

COMMISSIONER BOWMAN: What percentage did he have in that project? Could you tell us what percentage he owned in the other LLC?

MR. REMBAUM: No, sir, I cannot.

MS. WONG: Can I say something?

MR. REMBAUM: But I --

MS. WONG: Mr. Bibas was the engineer on the contract. That was what I met him as. That was what he -- he -- he -- that was all his credentials.

He was the engineer on the contract; therefore, I would think all these faults that we're going through would have been addressed by Mr. Bibas for us not to be going through them.

MR. REMBAUM: Mr. Bibas is not an engineer, just for the record.

MS. WONG: Well, that's what he said.

COMMISSIONER DUFRESNE: I would say that we don't have a responsibility when you're asking for bonus densities, and one of the -- in my opinion, one of our shortfalls of our workforce housing initiative is that it doesn't specify minimum square footage. It doesn't specify -- so valuation and what someone may get for their money is open for interpretation as to what a developer seeks to how they want to define a particular unit.

A unit in a project could be 80 percent or 75 percent of your average unit, and there's nothing there to close that gap.

So when we hear -- and this is, I would say also, is very rare that we have a group of homeowners that comes before us chasing a developer or -- and/or a principal of a

development to -- and yeah, and this is not the first time they've been here.

COMMISSIONER HYMAN: Well, I think that --

COMMISSIONER DUFRESNE: I think this is a concern of ours.

COMMISSIONER HYMAN: That's right, and I think what it -- the information and the testimony that's presented goes to the credibility of the applicant, and I think that is relevant for us to address when we're, you know, looking at the project, because the applicant's making representations, and if we're hearing testimony that these types of representations are false in other projects, you know, can we say then that we can't rely upon these representations for this particular project?

So it looks all fair and good, but maybe that's just the surface, so we're going to -- you know, we take these types of concerns very seriously. We thank you for coming.

CHAIRMAN BARBIERI: Thank you.

We'll go -- we'll go back to the public, then Ms. Kerr, is that you?

MS. BEERS: I'm -- I'm -- my name is Cheryl Beers --

CHAIRMAN BARBIERI: Okay. Just --

MS. BEERS: -- and I am also a resident -- resident and an owner at Estancia Palm Springs.

CHAIRMAN BARBIERI: Okay. Ms. Kerr, would you please come up to the other microphone.

Go ahead.

MS. BEERS: Okay. Thank you.

I just would like to say that what Donna Wong had stated, you know, she's been involved a little longer than I have. I've been there for about a year now.

But coming into it I was very appalled at the way things were handled by Mr. Bibas and the HOA that's involved, HRT Realty.

Their response to us as homeowners is very lacking. In fact, most of the homeowners do not get any response from HRT Realty. I am lucky in that they at least answer my e-mails. I don't get anything accomplished, but they respond to my e-mails.

We are living in a community where there is absolutely no outdoor lighting now. The lighting has been improper since I've been there, and now I -- when I was outside talking to Donna the other night, there was absolutely not one light on in our community. It was totally pitch black.

They've recently closed our gate, which that took them two and a half years to get that done, and it still wasn't done properly because right after closing we still had problems with it.

A lot of people do not have access. They weren't giving -- given a remote and now are expected to buy one.

So the fees that they are charging us right now are very excessive for what we are getting. Last year in September right before

hurricane season they cancelled our wind insurance and sent us a notice at the end of August saying we would not have any wind insurance, that we were responsible to get our own.

Well, try and get wind insurance on a house that's a townhome with a connected roof, and, you know, it's literally, you know, unaffordable to normal people.

We're all working people in there. You know, the fees that they're charging us, the, you know, the attitude that they're giving us. Mr. Bibas said to me one day, and I'll quote, "What do you expect for \$250,000?"

So \$250,000 to a working person is a lot of money, and, you know, I think it's improper for him to treat somebody like that.

And to think that they're working on a project that is going to -- is supposed to be built for working people and might be for, you know, people with lower incomes and that they could possibly treat them the way that they have treated us.

COMMISSIONER HYMAN: Why didn't you guys speak up for the last project, Colonial Lakes?

MS. BEERS: Which -- wasn't aware. We weren't aware that they are involved in that one.

So -- and in answer to, you know, the man that was just speaking for the -- Vivendi, we have gone to Palm Springs. We've worked with Bette Rowe, and we've worked with Carl, and, you know, we have addressed it.

They sent out an electrical inspector in April who went through 16 of our units in one day and found Code violations in every single unit.

We have one homeowner who literally gets shocks every time he washes his dishes in his kitchen sink.

When I moved into my home, the breaker on my hot water tank blew every single day. It took me from August to October to get them to send somebody out to address it, and then the electrician that came out was in my garage for 20 minutes on his own, then came out and said, "Well, I can't find anything wrong with it." And, amazingly, it didn't blow the breaker anymore.

So, you know, I won't take any more time right now, but, you know, there are some real serious issues at Estancia Palm Springs that need to be addressed, and it just seems that the Village of Palm Springs has not been able to help us move this along. That's why we're here.

CHAIRMAN BARBIERI: All right. Thank you very much.

MS. BEERS: Thank you.

MS. KERR: I'm Kamisha Kerr (ph), I live at 417 Talia Circle. I only moved in six months ago. This is my first house.

A week after moving in I had a mold remediation company come out and tell me that they had to work on my house, wouldn't tell me why. Then I found out that there was mold in the dining area, the foyer bathroom and the garage. I had to

pay to have that fixed.

I worked with them for six months. No one -- first they said they were going to fix it. They were going to move me into an apartment. They never came out.

I have three children.

There's electrical issues. There's cars parked on the street because they don't have enough guest parking spaces for the number of units that they built.

There's no lighting. The gates now lock, but then you don't have any way to get out if you're walking or to get back in 'cause I don't have a remote. The remote they provided doesn't work for the garage nor for the entrance.

And Donna and Cheryl covered a lot of it.

The A/C in the units, it's much cooler upstairs and hotter downstairs, it's usually the reverse.

I mean there's a lot of issues, no patio, no pool furniture. They're charging excessive fees for the homeowners association. It just goes on and on and on, and I don't think they should build anymore.

CHAIRMAN BARBIERI: Kim -- Kim, come up. Would you please come up, Kim.

I'm not sure that -- what our jurisdiction is here, but I think I've made it clear in the dozen or so years I've been on the Zoning Commission, that I look at the safety of the kids in the community and young families, and I am extremely concerned that we have a project with all these children living in these large buildings, listening to these people with electrical problems, no lighting at night where there's going to be little kids outside.

I have extreme concerns about this, and I don't know -- I'd like to know from the County Attorney what authority we have, but if we can take into consideration Mr. Vivendi's past and the fact that he's building this one --

COMMISSIONER HYMAN: No, Mr. Bibas.

CHAIRMAN BARBIERI: Or Mr. Bibas or whatever his name is, and Vivendi, I'm concerned about allowing another project to go forward until these others -- this other situation is rectified.

COMMISSIONER DUFRESNE: And the other thing is it's not just this project. We've got a surrounding single family neighborhood to be concerned about, also.

COMMISSIONER HYMAN: Well --

CHAIRMAN BARBIERI: Mr. Banks.

MR. BANKS: You need to focus on this project. You know, they're applying in the County. They'll be subject to the County's, you know, building rules, the County's requirements regarding the creation of the homeowners association or condo association.

The information that they've provided really doesn't address this application and the criteria that you're -- that you apply under this Code.

If you can show me how it does, then you could consider it, but I don't -- when I look at the criteria you'd apply, I don't see how the information from that surrounding neighborhood fits in.

CHAIRMAN BARBIERI: Well, as Commissioner Hyman said, the --

MR. BANKS: Not the surrounding neighborhood --

CHAIRMAN BARBIERI: Right.

MR. BANKS: -- but this other project.

CHAIRMAN BARBIERI: If there's conditions of approval that the petitioner's agreeing to and the fact that he's not been able to live up to conditions of approval, apparently, on other projects, I mean I certainly think that that should cause us concern here with respect to whether or not he'll be able to do what he's supposed to do.

MR. BANKS: But ultimately when you base your decision, you need to base it on the criteria that are contained in the Code.

COMMISSIONER HYMAN: We will.

MR. BANKS: Okay.

CHAIRMAN BARBIERI: Okay. All right.

COMMISSIONER HYMAN: Can I ask a question?

On the site plan -- not the site plan, on this aerial that we're looking at, Kim, what's on the left side? What types of buildings are those to the left of the subject property?

MS. GLAS-CASTRO: Those are triplexes and duplexes --

COMMISSIONER HYMAN: What story?

MS. GLAS-CASTRO: -- and quadriplexes.

One and two, primarily ones.

COMMISSIONER HYMAN: And wrapping around the south part?

MS. GLAS-CASTRO: South, those are single family estates on the south.

COMMISSIONER HYMAN: Primarily one story?

MS. GLAS-CASTRO: One and two, uh-huh.

COMMISSIONER HYMAN: And on the east side I assume it's the same?

MS. GLAS-CASTRO: Single family, primarily one stories.

COMMISSIONER HYMAN: Okay. Primarily one story.

I'd also -- I'd like to hear from the petitioner himself, Mr. Bibas, not Jeff, just to see how he addresses some of the credibility concerns that have been raised.

MR. REMBAUM: He's not here.

COMMISSIONER HYMAN: What's this gentleman's name?

MR. REMBAUM: He's the architect.

COMMISSIONER HYMAN: Oh, what's his name?

MR. BALLESTEROS: I'm Christian Ballesteros, CBR Group, architects.

COMMISSIONER HYMAN: Oh, okay.

MS. BALLESTEROS: And I would like -- Christian Ballesteros, CBR Group, architects.

MR. REMBAUM: And I would like to point

out he was not involved with the Estancia project. The Estancia project is a different team. It is comprised of a different entity, and I need to re-emphasize --

COMMISSIONER HYMAN: Except, Jeff --

MR. REMBAUM: --that issue because it's --

COMMISSIONER HYMAN: But he -- Mister -- they're talking about having talked with Mr. Bibas, and I would just handed a disclosure that says he's the 100 percent owner of Vivendi, LLC.

MR. REMBAUM: Right, correct, but he was not the 100 percent owner of Estancia where all these people --

COMMISSIONER HYMAN: But he was the principal.

MR. REMBAUM: No, that is not my understanding in terms of he was not the -- he had how much, 30? He had 40 percent in Estancia.

COMMISSIONER HYMAN: Well, let me say this. Okay.

MR. REMBAUM: He was not the controlling -- the member who had the control of the LLC.

COMMISSIONER HYMAN: The managing member?

MR. REMBAUM: Yeah.

COMMISSIONER BOWMAN: There was another member that had more than 40 percent of that LLC?

MR. REMBAUM: More than how much?

COMMISSIONER BOWMAN: More than 40 percent? There was another single member with more than 40 percent --

MR. REMBAUM: Yes, sir.

COMMISSIONER BOWMAN: -- of that LLC?

MR. REMBAUM: Yes, sir. Yes, sir. And there's -- there could be a business dispute in regard to that project so I really can't go into a whole lot of comment on it.

Suffice it to say, you have a different development team on Vivendi. You've heard from the County -- the Assistant County Attorney on what you can consider, and we'd ask that you really take into account the extenuating circumstances of how the Estancia development team is not the Vivendi development team, and that whatever you do today, to please, you know, express the --

COMMISSIONER HYMAN: Was Colonial a different development team, also?

MS. GLAS-CASTRO: Yes.

COMMISSIONER HYMAN: Different from this one?

MS. GLAS-CASTRO: Yes.

COMMISSIONER HYMAN: Totally different?

MS. GLAS-CASTRO: Totally different.

COMMISSIONER HYMAN: Did you ever get a disclosure form on our petition just before this one, Colonial? 'Cause we didn't have a disclosure on that one, either.

MR. Mac GILLIS: I think that one was in the system for so long, we should have got one from the applicant.

I think that pre-dated the disclosure

things even going into effect, but we were retroactively getting them all, even the ones that were in the system prior to the disclosure being motioned by the Board, so.

COMMISSIONER HYMAN: We need to make sure we get it for next time.

Let's hear from the rest of the public.

CHAIRMAN BARBIERI: Okay. I'm sorry. Go ahead. Are you --

MS. KERR: Yeah, I was through.

CHAIRMAN BARBIERI: Angela -- Angeles, sorry, would you come up, please, and, Jeff Rembaum, would you please come up to the other --

COMMISSIONER HYMAN: That's Jeff.

CHAIRMAN BARBIERI: Okay.

MS. NAVARRETE: My name is Angeles Navarrete. I live in Talia, and I'm having the problems -- I'm the one having the problems in the kitchen with the water. When I washing the dishes, it shock me.

They sent two persons to fix the problem, and they didn't. Well, it still -- I have the problem, and they said -- the last time they send somebody, they tell me to unplug the garbage disposal, then it's not possible because I need it.

Then I have -- I have a leaking in my windows. I have in my bedroom -- my bedroom, it's cracked, and what else -- the garage is not finish. One wall, they supposed to be finished.

The alarm, they supposed to give it to us.

They don't give us, and they say, well, you just have to get the box and what else, everything is installed, you know, the wires.

Then I call a company, and we don't have -- we don't have those.

We don't have the access for UPS, you know, and they come, because they close the gates.

We have the problem with the key and everything because it's a lot of money. I think it's not fair to pay \$50 plus. The second key is \$100.

That's all. We having a lot of problems in the house, and I think it's not fair for them -- for us to -- if they don't fix our community, it's -- I don't think they good for building in other places. They have to fix whatever to be.

CHAIRMAN BARBIERI: Okay. Thank you.

MS. NAVARRETE: That's all. Thank you.

CHAIRMAN BARBIERI: You're welcome.
Jeff.

MR. REMBAUM: Thank you, sir.

I'd just ask -- you already heard primarily my comments. There's no sense in saying them again, but I would ask the following three things.

First, that we focus on this project today because there are other avenues of redress for these residents of a different project in a different city.

Number two, that we focus -- that the Board focuses on what it legally can consider in

making this determination.

And, number three, that if a denial results this morning, that you provide a specific basis on the record for the reasons for the denial so that we can continue forward.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

David Eunice, would you please come up to one podium, and Susan Eunice, the other one.

State your name and address, please.

MR. EUNICE: My name is David -- David Eunice. I live at 629 South Woodward Avenue in Deland, Florida. I also have a house at 31 Miller Road here in Lake Worth -- or Palm Springs. It is a Palm Springs residence.

I have this that I would like to pass out to the members of the Board, and I've given her one --

CHAIRMAN BARBIERI: All right. Why don't you continue so you don't lose your time.

MR. EUNICE: Okay. Well, as you look at the pictures that they present, it is true that they make a lovely artist's rendition, but this Board -- in answering the attorney's comment, this Board has to take a leap of faith from the pictures that they show to the reality of the project that is going to be completed.

In other words, when you're looking at these pictures, you're thinking that's exactly what you're going to get. You're going to get this quality of work.

The evidence I have presented here in this brochure proves that Oliver Bibas is not the kind of contractor-developer you want developing, I believe, in Palm Beach County.

Oliver Bibas told me as answering Jeff's answer to the venue, when Oliver Bibas was going to move his fence by extortion, he attempted to extort my property from me.

Now, that's a serious allegation, a serious allegation. He tried to extort my property by moving his fence into the middle of my road.

I went to the Village to the proper venue, to Carl Omberger (ph), the Village manager, who gave me a letter stating that the City would object. The City has not objected in four years.

The City did, because I went to meetings like this, passed a resolution in '05, 2005, and that resolution, number 42, said that the fence was to go back to its original place.

That's been more than two years ago, ladies and gentlemen. This is what going to the City of Palm Springs does. Nothing.

They tell you, oh, yeah, we feel sorry for you.

I'm sorry, ladies and gentlemen, I'm trying to be nice, but I want to ask you, why not approve this -- let the contractor tell you why with his own buildings, practices and ethics, because Bibas has illustrated, and I've shown you in these pictures, has illustrated a lack of

concern for public health, safety and welfare. You've heard that from the people here.

He's shown and demonstrated a willingness to use inferior quality building materials, methods and procedures.

He's also proven his willingness to use methods of questionable legality for his benefit, and then he says the correct way is to go to Court or to go to the City where it is, as this attorney points out.

Ladies and gentlemen I've been going --
CHAIRMAN BARBIERI: Mr. Eunice, you have to kind of summarize here for us.

MR. EUNICE: Summary. I'm asking you to look at this seriously and follow up with the State Attorney's Office.

This man -- somebody has to listen to my claim that he tried to extort my property from me.

He has not done what he's said he's going to do.

He's not helping these people that live there.

Ladies and gentlemen, I appreciate your reading this. My time's growing short.

I can't speak loudly enough, strongly enough or firmly enough.

Show the pictures real quick with my remaining time.

CHAIRMAN BARBIERI: You're -- you're out of time.

MR. EUNICE: Oh, I'm out of time? Well --

CHAIRMAN BARBIERI: Yes.

MS. EUNICE: I'll use it on my time.

CHAIRMAN BARBIERI: Okay. We'll let Mrs. Eunice take over. Okay.

MR. EUNICE: Okay. Thank you.

COMMISSIONER ARMITAGE: Move to accept.

CHAIRMAN BARBIERI: We have a motion by Commissioner Armitage to accept.

COMMISSIONER DUFRESNE: Second.

CHAIRMAN BARBIERI: Seconded by Commissioner Dufresne.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

Yes, ma'am, go ahead. Your name and address?

MS. SUSAN EUNICE: Good morning. Susan Eunice, 629 South Woodward Avenue in Deland.

I'm going to go ahead and let my daughter show you the pictures on my time.

CHAIRMAN BARBIERI: Okay.

MS. SUSAN EUNICE: Go ahead, Jennifer.

COMMISSIONER HYMAN: We need to lower these lights so we can see them.

MS. SUSAN EUNICE: Estancia Palm Springs surrounds our property. We have 0.70 acres there, a single family house and a duplex.

And you're seeing pictures here of what Bibas considers a wall that divides his development and our property.

My husband numerous times has complained

to the Village of Palm Springs, and as you can see, even today we went -- yesterday we went to the property, and it has these bags stacked up unevenly, and I guess they consider that good workmanship. We don't.

Basically, my husband and I are here today hoping that all of you will please, please do something to help all of us, including the people who live there at Estancia Palm Springs.

These are actual pictures of inside the Estancia Palm Springs development.

I thank you.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: As much as I'd like to hear from the applicant, and I am going to ask that he appear the next time, for the next hearing, because I do think that some of this does go towards his credibility.

I just want to be put on the record that I am going to evaluate this project, and we can only evaluate this project based upon the -- what this project shows us, and as much as we in our hearts, you know, would like to help all of you who are having problems with Estancia, we can't. I mean we have no jurisdiction over Palm Springs.

And so we just hope that you will find whatever means are available to you to follow up and get your concerns addressed because we -- I know we all feel terrible, having heard, you know, your testimony, but we don't have the authority to help you with regards to those concerns. We do have to look at this project.

Now, we've heard what you've said, and we will evaluate Mr. Bibas' credibility once he does appear before us, but we hope that you can, you know, find some redress for your concerns wherever.

CHAIRMAN BARBIERI: Come up to the -- you need to come up to the podium if you're going to say something. You have to be on the --

COMMISSIONER HYMAN: Sure.

MR. EUNICE: Can we be notified when he's presenting his alleged credibility and present our own rebuttal to his credibility?

COMMISSIONER HYMAN: Well, I'm going to be -- based on some concerns that I have, okay, and I don't know what the Commission's position is, but based upon some concerns that I have with regards to the size of the buildings which I mentioned before hearing all of this, I'm going to ask to postpone this item 'til the next meeting.

I'm also going to ask that the principal, Mr. Bibas, appear at that meeting so we can hear from him directly with regards to the project.

The next meeting is on September, what, 6th?

CHAIRMAN BARBIERI: Sixth.

COMMISSIONER HYMAN: There, September 6th, same time, you know, same place.

MR. EUNICE: Well, I drive 400 miles to come here. This is how important this is.

COMMISSIONER HYMAN: I know. We've seen

you before. You were here for a piece of property --

MR. EUNICE: Right.

COMMISSIONER HYMAN: -- off of Military Trail; right?

MR. EUNICE: And the basis of my objection to the other property was based on what I've experienced with Bibas, and that Boatman project, I'm afraid, is going to end up --

COMMISSIONER HYMAN: Is that him also?

MR. EUNICE: No. No, that's -- it's a different one, same -- same kind, you know, different car, same motor, and that's what we've got with him.

COMMISSIONER HYMAN: Okay.

MR. EUNICE: The same crappy motor in a -- in a different vehicle.

COMMISSIONER HYMAN: Okay. All right. Thank you.

CHAIRMAN BARBIERI: The following people do not want to speak, but they oppose, and that would be Darla and Lionel Paulena, Jackson Riche.

Susanna Vondeck says, "I spoke at the last meeting regarding problems with Estancia Palm Springs development which was built by Oliver Bibas."

Peter Mercer said he didn't want to speak, "In regards to Estancia Palm Springs we are living in defective built homes due to faulty design, Code violations, missing critical material, improper site preparation, mold and unsafe structures, all due to Vivendi Homes."

And Allison Francis doesn't want to speak, and she said, "David Eunice has presented my thoughts and feelings about this issue. Since our last meeting nothing has changed."

Is there anybody else from the public that wishes to speak today that did not turn in a card?

MS. GARCIA: Can I say one more thing?

CHAIRMAN BARBIERI: State your name again, please.

MS. GARCIA: Janett Garcia, and I live on Mathis Street.

I just want to say after hearing all these testimonies me as just starting out a family, I mean would you want them to be moving into your -- I mean not the people, but the people who are building, into your neighborhood?

It's a big concern to me, and I just want to state again that, you know, this is the neighborhood that I'm going to be raising my family, my kids and for that to be put into my neighborhood.

CHAIRMAN BARBIERI: Okay. Thank you.

Did you want to speak, ma'am? Come up to the podium, please.

COMMISSIONER HYMAN: Is there anybody else?

CHAIRMAN BARBIERI: Is there anybody else who wants to speak?

(No response)

CHAIRMAN BARBIERI: All right. After this

lady we'll close the public portion.

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

MS. FRANCIS: Good morning. I'm Allison Francis, 621 Talia Circle.

I oppose, and I didn't want to speak, but I feel like I had to defend my community.

It's not about their workmanship. I'm sure they're great people. It's about the health of our community and the people who live in it.

Forget about our problems that we have to address through attorneys, but the problem here is will they affect someone else.

Your job is to try and prevent that, and we're here saying that we live in this environment, and we're just asking -- forget about Estancia, a different municipality, I wrote that, just the workmanship. Your job is to protect the health of our community, our economy and give us a safe place to live.

So I'm asking you to consider those. Forget about what -- our personal feelings. Let's speak about what's reality here, our health, and we're proving that this person is not capable of being that person. I'm sure the rest of these guys are just innocent, but they just happened to partner with him.

So we need to speak up and let it be heard. My house is the first two pictures on there. I have a four-year old. I'm not saying for you to take me, don't feel sorry. I'm going the route I need to go, but I'm trying to protect another family from doing this, you know, the health, that's the only concern about it, the well-being of our community.

Forget Estancia. Think about what you're going to allow them to do and let them build again, and that's my concern.

CHAIRMAN BARBIERI: Thank you. All right.

COMMISSIONER HYMAN: Okay. I --

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Okay. I think we just, you know, there are some concerns we have with regards to the project, you know, someone mentioned about the height differential. They are surrounded predominantly by one-story buildings. This is three story.

The project looks much better on the outside, certainly, than it was before, and I certainly think the road around the perimeter is much better than having gone through the center. So I think they certainly address those concerns.

But I think the width of these buildings, they are so huge, and when you look at that one slide before where you get somewhat of a tunnel effect down the center of the project, that one, doesn't that concern anybody?

I mean I just think that it could have been broken up so that you don't have this type of tunnel effect.

You were -- my fellow commissioner here was maybe joking, saying, you know, it was going

to echo -- the kids yelling are going to echo off the buildings. Well, I don't think there's any question. That's exactly what's going to happen.

So I'd like to make a motion to postpone this 30 days to the next meeting, September 6th.

I want them to -- in the meantime, see if you can address the concerns for the size of these buildings, and I'd also like the petitioner to be here himself so that he can make the representations on behalf of his own petition.

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

COMMISSIONER DUFRESNE: Second.

CHAIRMAN BARBIERI: Second by Commissioner Dufresne.

COMMISSIONER DUFRESNE: And I would also like the petitioner to be prepared to tell us why we should be selling him TDRs for a dollar versus 50,000.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: All right.

Is there any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

And the court reporter would like a break so we're going to break until five after 11:00.

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

CHAIRMAN BARBIERI: All right. Everybody please take your seats. We'll get started.

MR. Mac GILLIS: Next item is 22, ZV2007-328, Glades Stor-All.

This item was postponed at the July 5th Zoning Commission meeting to allow staff and the applicant to work out issues with the sign face and height.

Wendy Hernandez will present this.

MS. HERNANDEZ: Wendy Hernandez.

Again, this project was before you on July 5th. In order to address Commissioner and staff concerns the applicant met with staff on July 26th discussing possible solutions for the existing non-conforming sign.

The meeting ended in which the applicant was going to go back to the owner to discuss those solutions.

The applicant is proposing to utilize an existing non-conforming on-site freestanding sign and convert it to an off-site sign.

In order to do this he's requesting three variances; one, to increase the distance from the point of ingress; two, to increase the height; and three, to increase the sign area.

We put together just a quick PowerPoint presentation.

The slide before you is the aerial shot showing the location. The star is the actual location of the Glades Stor-All site. The site to the south is the Piccadilly Square in which the -- they will utilize the -- or proposing to utilize the existing non-conforming sign.

Next slide.

The request, again, is to increase the location of off-site directional sign from 50 feet to 105 feet from the point of ingress, to increase the allowed sign area from 24 square feet to 72 square feet and to increase the height from eight feet to 25 feet.

The site plan proposed, and the star is the location of the existing sign.

Next slide.

This is a blow-up picture of a survey location with the existing sign location, and there is a permit that was recently approved in '07 with a Piccadilly sign location for their sign.

This is a picture of the existing sign.

Next slide.

This is what the applicant is proposing to do.

Next slide.

This is a picture of the building permit, the existing -- the proposed sign for Piccadilly Square. It's hard to see, but they included a picture with its location in its proposed location.

I tried to blow it up -- blow it up a little bit showing the Piccadilly sign location.

This is a possible solution, putting a sign for the Glades Stor-All, off-site sign.

The next slide.

Another possible. That's the location of the Piccadilly sign. If they didn't want to relocate it, they could put it in its location but at the correct height and area.

So staff is still recommending denial. Again, the applicant hasn't proposed anything different from what they're requesting. So the seven criteria staff feels they have failed to meet.

CHAIRMAN BARBIERI: Mr. Perry.

MR. PERRY: Good morning. Marty Perry, for the record, representing Glades Stor-All, and Bradley Miller also is with me this morning.

We had a fairly extensive discussion of this at last month's meeting.

There are two members of the Board present this morning that were not there at that meeting,

and my question would be the Board's preference as to whether we should have Bradley go through a quick presentation or let me pick up where we left before, which essentially was there was support for approval of the variance, and the motion that was made was for us to go back and check to see whether or not we had the ability from the standpoint of reducing the size and shape of the sign, which is a vested sign in that location, or -- and also to meet with staff.

I can tell you very frankly, and there was -- there were a couple of members of the Board that were very supportive of just approving the variance.

Frankly, it had been approved previously a few years ago, and time had run out due to delay in processing and had been diligently processed, but delay in the process resulted in the variance expiring, and that got us back here again, and this is kind of déjà vu.

And I -- it's up to you. Do you want me to go through a presentation for the benefit of the two Board members that weren't here?

CHAIRMAN BARBIERI: Marty, I think you probably should. I think that both of them need to know because --

MR. PERRY: Well, let me --

CHAIRMAN BARBIERI: -- it took us some time to get to the point where the point was made that the big sign that's there --

MR. PERRY: Right.

CHAIRMAN BARBIERI: -- you have no jurisdiction to remove it, so --

MR. PERRY: It's -- it's --

CHAIRMAN BARBIERI: -- if you put a new sign somewhere else, that one is going to stay, anyway, so if we can get you to reduce that one, we're better off than putting a new sign because if Dunkin' Donuts doesn't go in there, then International Jewelry Exchange is going to go in.

MR. PERRY: That's --

CHAIRMAN BARBIERI: Somebody's going to go in there.

MR. PERRY: That's exactly right. I mean it's a vested sign, and it's not going anywhere. It's going to stay.

So all you end up with is potential of a proliferation of signs, and this is an -- it's an old shopping center --

COMMISSIONER HYMAN: From my standpoint, I was one of the people who were -- I was not here, but I'm very familiar with this project. We've had numerous petitions that have come before us.

So I mean -- and I know what the entrance looks like, and I know -- so I don't think from my --

MR. PERRY: And to be very frank with you and just -- I mean, if we could go back, Wendy, if you don't mind putting your exhibit back up there that showed the new proposed entrance sign and the --

COMMISSIONER HYMAN: That's the sign;

right?

MR. PERRY: No, keep coming back. Show the -- the new -- that's --

COMMISSIONER HYMAN: Right.

MR. PERRY: You had another one that's a little bit better.

Show the one that where your proposed alternative -- okay. That's the one I want to show you.

COMMISSIONER HYMAN: That's the proposal from staff?

MR. PERRY: This is one proposal from staff, and the problem, as you can see, is that all this ends up doing is just an additional sign. There's enough confusion down there, anyway.

The difficulty is if you -- you had one other photograph that showed the same location where the sign currently is but with the reduced -- if you reduce it down, nobody's going to see it.

COMMISSIONER HYMAN: I know. I -- listen --

MR. PERRY: You know, so my argument is the same as last time. You know, the sign's there. The sign's not going away, you know, it just -- it's not going to change anything.

COMMISSIONER HYMAN: Marty, you don't have to convince me. I mean that -- that may be Code, but that doesn't work, especially not on Glades where that's setback. You can't see it.

But you -- I guess the developer of the shopping center, and I know this is a different parcel in the back, but the developer of the shopping center is coming in to redo the sign for the shopping center?

MS. HERNANDEZ: Correct.

COMMISSIONER HYMAN: And nobody can convince the developer to -- you don't have any easement rights --

MR. PERRY: No.

COMMISSIONER HYMAN: -- or anything like that --

MR. PERRY: None.

COMMISSIONER HYMAN: -- for that sign?

MR. PERRY: Our only rights --

COMMISSIONER HYMAN: Have you tried?

MR. PERRY: -- are as -- our only rights are as to this particular location.

COMMISSIONER HYMAN: How did you get the easement rights on this sign that you're proposing to refab?

MR. PERRY: They were -- they were reserved by the person, the company that we bought our lot from had obtained a right to use this sign, and those were assigned to us.

COMMISSIONER HYMAN: So -- and that person wasn't the original developer?

MR. PERRY: That's correct.

COMMISSIONER HYMAN: It's too bad, but -- how high is that sign?

MR. PERRY: It's 25 feet.

COMMISSIONER DUFRESNE: Mr. Chair?

CHAIRMAN BARBIERI: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Marty, didn't we have a discussion about getting rid of the entrance --

MR. PERRY: Yes, and we -- and Bradley can show you that.

You're talking about the colors and everything, is that what you mean?

COMMISSIONER DUFRESNE: Well, just that we're going to put a solid arrow there or something --

MR. PERRY: Right. Bradley will show you. We've got some options that you can take a look at.

MR. MILLER: For the record, Bradley Miller, Miller Land Planning.

This is a sign that was permitted in, and -- and this is what we're proposing to do that you saw last time.

We've taken a look at that to just take out the word "entrance" and use an arrow, which actually in the Code almost has, except for Stor-All, there's another business logo across the top. It's -- it's essentially that design.

And then just -- you wanted to look at some other different options of colors, and we would obviously tie it together.

The Stor-All, that's their corporate logo of the colors and the text style, so we're trying to match up with those.

COMMISSIONER HYMAN: Well, did anybody ask you if we gave approval for the sign, did anybody ask you just to chop off some of the height of the sign?

MR. MILLER: That was brought up last time.

MR. PERRY: Yes, that was -- that was the reason that we're back here today, is to explore that, and the answer was no, we're not in a position to reduce the size of the sign.

I mean the sign is a vested sign, and they're not going to give up their right. If we don't use it, then they're going to put, as Mr. Barbieri suggested earlier, International Jewelry or some other tenant will go on that sign, you know. That's the problem we run into.

COMMISSIONER HYMAN: What do they do -- wait a second.

If the storage people have the rights to that sign, then how would somebody else end up with that sign?

MR. PERRY: Well, it'd be --

COMMISSIONER HYMAN: They're not going to give up their rights to that sign entirely.

MR. PERRY: If you don't allow us to use it, then --

COMMISSIONER HYMAN: But if we allow you to use it and just reduce the height --

MR. PERRY: But that's the problem, is the --

COMMISSIONER HYMAN: I know they don't want to do that.

MR. PERRY: -- the ability to reduce --

COMMISSIONER HYMAN: I know they don't want to do that, and I know that the best argument, which is always the one you're going to make, is that we don't want to do that and we don't have to do that because we're vested.

But what I'm saying is that if we go ahead and approve the sign at a reduced height, why would Stor-All give up that sign, okay, and go someplace else.

MR. BANKS: The Code says a non-conforming sign may not be enlarged, structurally altered or moved unless the entire sign is brought into compliance with this section.

COMMISSIONER HYMAN: Okay. So --

MR. BANKS: So it either has to stay that height, or it has to come down to be a conforming sign.

MR. MILLER: I also think that the next sentence is important, too, that it does allow to replace the sign face, which is really all that we're proposing to do.

COMMISSIONER HYMAN: So we're beaten by our own Code.

MR. Mac GILLIS: I think through the variance process, though. I mean my interpretation as the Director would be that you could approve that, that provision's in there so somebody coming through the building permit process doesn't come in and try to alter the -- the sign without complying with the Code, which there's a 20 percent maximum renovation attached to the sign when it's non-conforming.

Anything greater than 20 but less than 30 is a variance that you would come -- they would come here. Anything over that, it's totally discouraged. It's to remove the sign and come into compliance with the new sign Code.

So you, I --

COMMISSIONER DUFRESNE: But the new sign Code ends up with a sign that's unusable because of the location of this at the end of the island in the parking lot.

COMMISSIONER HYMAN: Well --

MR. Mac GILLIS: Once again, I think I made this clear several meetings before, the Board of County Commissioners adopted a Zoning Code, an entire re-write of the sign Code in 2003.

Part of the provisions they want in there was an amortization program which the Zoning staff, after going out and trying to find a consultant, came back and told them it would -- just the cost of doing that. So we convinced the Board through normal attrition these signs were going to come down.

So the Zoning staff is going to be coming back here most times, and especially a case like this, where we clearly see another point on site where this sign should be going. In that island where the existing sign is there should be a tree in there.

So if you bring the site up to Code,

eventually you're going to get rid of all these non-conforming signs and bring in the landscape and stuff back up to Code on the site.

So it's not only the sign, it's --

COMMISSIONER DUFRESNE: But aren't they -- aren't they under the 20 percent threshold right now with just --

MS. HERNANDEZ: No.

COMMISSIONER DUFRESNE: -- having to replace the sign face?

MS. HERNANDEZ: The Code allows you to replace the sign, but based on what -- the numbers they have given us, they would be well over the 20 percent threshold.

COMMISSIONER HYMAN: Well --

MR. Mac GILLIS: So the sign's valued at \$2400 currently, the assessed value of that sign through the permitting process, so --

MR. PERRY: The problem is, is that -- that's a number that was given just for permitting purposes. That has nothing to do with the value of the sign, and we object to that condition.

That sign cost about \$18,000, if I remember correctly, or 18 or 24,000 to build. Couldn't build that sign for \$2400 under any period of time.

You know, this is another issue where, you know, we're on the horns of a dilemma. You know, I mean we can't meet any of what they're requiring.

COMMISSIONER HYMAN: Well --

MR. PERRY: That's why we're asking for the variance.

COMMISSIONER HYMAN: And, Bob, I don't -- I don't think that we are restricted from imposing a shorter sign. If we -- if we want to be more restrictive than the Code, we can be more restrictive than the Code.

I think that you're right, Jon, that, you know, this is for the purpose of petitioners. They can't come in and enlarge or alter a non-conforming sign, but if a non-conforming sign comes in, okay, and we approve it, okay, as petitioner's asking, but we condition it on it being shorter, I don't see why we can't do that; right?

COMMISSIONER BOWMAN: Mr. Chair.

CHAIRMAN BARBIERI: Commissioner Bowman.

COMMISSIONER HYMAN: Bob, right? Bob? You know, we do it all the time. We condition --
MR. BANKS: Well, ultimately the Zoning -- I offered my opinion.

Ultimately, the Zoning Director interprets the Code.

COMMISSIONER HYMAN: Ah. Back -- so we are in agreement, at least. That's the last time we ask you a question.

MR. PERRY: Let me offer a comment, if you don't mind, in response to your question to Bob, and that is you're -- what you're proposing is less restrictive, not more restrictive.

MR. BANKS: Right.

MR. PERRY: You know, the -- what they're saying is that you need to bring it down to eight feet, and you're saying, oh, no, we can be less restrictive than --

COMMISSIONER HYMAN: Right. Well --

MR. PERRY: And the difference there, you know, just for -- is how do you now define as you get each one of these, you know, what's -- what's the standard here?

COMMISSIONER HYMAN: So what height, 'cause right now it's at what, 25?

MR. Mac GILLIS: Twenty-five.

COMMISSIONER HYMAN: Okay. I understand Glades is big and there's lots going on in that entranceway, but 25 is too high.

At what height would the sign still be clearly visible and yet not obnoxious?

MS. HERNANDEZ: The current Code restricts it to eight feet. I know the proposed Piccadilly Square is proposed at 15 feet in height.

So if you wanted to be consistent --

COMMISSIONER HYMAN: Fifteen. And I was thinking 12 to 15.

MR. PERRY: But the problem --

CHAIRMAN BARBIERI: Hold on a second. Commissioner Bowman wants to make a comment.

COMMISSIONER BOWMAN: My comment is that it seems that the owner of the sign is going to keep the sign and reface it, and the sign's going to stay its size and its face if we don't approve it, and if we don't approve it, we're going to have two signs instead of one.

So it seems to me the situation is that there's a sign there that's going to stay there. It's going to stay there that size and that height, and if we don't approve that, there's going to be two signs there, and I think that these people have been through the process for an extremely long time.

They had it approved, and at no fault of their own, from the previous meeting, time lapsed, and they're having to come back to them, and I just think that the sign's going to stay there.

I know if I owned the sign, it would stay there and I'd reface it, and I'd rent it out to somebody else and go in a different direction.

COMMISSIONER HYMAN: Okay. But I -- and I understand that and under maybe certain situations that's certainly true, but, Marty, if we say you can have that sign, but you just have to lob off part of the base and make it shorter, are you telling me that rent-all is going to give up on that sign entirely and have it leased to somebody else?

MR. PERRY: Let me explain what --

COMMISSIONER HYMAN: I can't believe it.

MR. PERRY: Let me explain why that's a problem, Sherry, okay, and it's a very simple explanation.

Get your line of sight thing in there. Fifteen feet is the new monument sign the County's already approved for the entrance there, at the

entrance to the project, not that location.

COMMISSIONER HYMAN: So you think that will block --

MR. PERRY: Okay. That's 15 feet.

Now, you're talking line of sight here.

This other sign, you saw the other picture there where the other sign is behind it a little bit to the right.

That 15-foot sign goes up there, now, how low can I get that 25-foot sign and still have it be visible?

COMMISSIONER HYMAN: You tell me.

MR. PERRY: I think -- I think you got a real line of sight problem.

COMMISSIONER HYMAN: How about 18 feet?

MR. PERRY: You got 15. I'm going to see the top three feet of the sign if I'm far enough back.

COMMISSIONER HYMAN: How wide is the sign?

MR. MILLER: Six feet.

COMMISSIONER KAPLAN: Well, it seems to me, Mr. Chairman, that we're batting around something, and I agree with Commissioner Bowman.

It's been there. The Code, according to our Assistant County Attorney, says it cannot be modified under the circumstances, then I think at this point let's leave it there, let them reface the sign surface.

After all these years that it's been there, I don't think it's our function to change this sign to replace it with two signs. It doesn't make sense, and I will support the applicant's petition.

MR. PERRY: Just one more comment.

We need to get rid of -- we -- if Condition No. 2 remains, approving this leaves us with nothing because we can't meet Condition No. 2.

Condition No. 2 puts an unrealistic cost on it, and we're done. And Condition No. 2, in our opinion, really doesn't apply, anyway.

And last time I thought one of the motions was to eliminate Condition No. 2.

COMMISSIONER HYMAN: Where's Condition No. 2?

MS. HERNANDEZ: Condition No. 2 previously at our old hearing restricted the cost of renovation to 20 percent.

That has been revised. The current Condition No. 2 reads that they will update the master sign program for both Glades Stor-All and Piccadilly Square showing the sign that they are proposing.

We do have a Condition No. 3 saying that if this sign were to be damaged in some way where it were to come down, that they wouldn't be able to rebuild it in its current configuration. We do have that condition on there.

COMMISSIONER HYMAN: Is that where we are now? Isn't that where we are now? It was damaged, and here we are and going to reimpose --

MS. KWOK: No, it's structurally damaged.

MS. HERNANDEZ: Structurally damaged. If the whole pole were to come down in a hurricane and -- or a tornado or some natural disaster --

COMMISSIONER DUFRESNE: Well, in keeping with what you would like to accomplish, I think I could support that, but -- I mean we're talking about total destruction, not of the sign face and the bulbs, but if the pole comes down --

MR. MILLER: Can I -- can I take a look at the condition since it's not in the staff report?

COMMISSIONER HYMAN: Yeah.

MS. HERNANDEZ: It is in the staff report.

COMMISSIONER HYMAN: Where? What page?

MS. KWOK: Page 306.

MS. HERNANDEZ: Page 306.

COMMISSIONER HYMAN: Well, you know, I'm going to go along with my fellow commissioners whose opinions I trust in this, but I'm still not totally convinced, Marty, that if this sign was lower, 'cause we haven't seen any line of sight drawings, that this sign was lower consistent with the Piccadilly sign, that it would be blocked entirely and people couldn't see it. Maybe you're right?

MR. PERRY: We didn't show you our presentation, Sherry, but if I had Bradley go through it -- you need to understand that, as you can see here, there's parking all along the front on Glades Road --

COMMISSIONER HYMAN: I know.

MR. PERRY: -- here, you know, and then just that you've got -- you've got too much going on there, and with that 15-foot sign, which is a big sign there --

COMMISSIONER HYMAN: I know, but 15 --

MR. PERRY: -- anyone traveling west --

COMMISSIONER HYMAN: -- feet's still --

MR. PERRY: Anyone traveling west is going to have a problem.

COMMISSIONER HYMAN: Well, has -- is the Commission satisfied that if the sign was 15 feet in the location that it is now, that you couldn't see it past the Piccadilly sign?

MS. KWOK: Actually, can I add onto something because this -- actually, there is really hardly any landscaping, you know, along the Glades Road frontage.

So there -- actually, the site -- you can actually see the parking lot. I believe there's only a shrub or some shrubs along the Glades Road frontage.

So actually you can -- even reduce down to 15 feet, you would be able to pick up that sign.

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

MS. HERNANDEZ: Just to let you know there were five people for the variance and 19 in opposition. Several didn't have any comments. Some were with regards to traffic because of the Glades Stor-All. That doesn't have anything to do with the variance.

But others aren't happy with the look of

the sign. They don't want to see the sign. The signs are too large and too many signs.

COMMISSIONER HYMAN: It's the whole -- that whole entrance is a disaster, I think, and putting the sign attached to the Piccadilly sign does not help matters.

Putting an eight-foot sign back in there probably isn't very visible.

MR. MILLER: Actually, the slide that I have up there, there's another Code provision that says that you can't -- you have to have a 50-foot separation between freestanding signs.

COMMISSIONER HYMAN: Right.

MR. MILLER: So the -- what staff proposed with the smaller sign in front of it can't be done by Code, either.

MS. HERNANDEZ: Right, but understand, your sign is not a freestanding sign. Your sign is an off-site sign. That's what you're proposing, not a freestanding sign.

MR. MILLER: I think it calls it out as a freestanding sign in the Code, as well, in that section.

MS. HERNANDEZ: It's an off-site premise sign.

MR. MILLER: But I don't think that's an option anyway.

COMMISSIONER HYMAN: Well, my preference would have been give you the sign, Marty --

MR. PERRY: I think you've been very clear on your preference.

COMMISSIONER HYMAN: And reduce the height because I think that's less obnoxious. I think it would be visible. I think you'd still use it. You wouldn't give it up, even though they are threatening you. You certainly wouldn't give it up.

MR. PERRY: If I could address --

COMMISSIONER HYMAN: It's better than no sign.

MR. PERRY: No, I appreciate that.

If I could address the conditions, which frankly, the new conditions we didn't see until just now.

Condition No. 2, the second portion of it requires that the final site plan for Piccadilly Square shall reflect the sign as an off-site directional sign.

We don't have -- we have no control over doing a final site plan for Piccadilly Square. We don't own Piccadilly Square. So that condition we can't comply with.

COMMISSIONER HYMAN: Yeah, I agree.

MR. PERRY: And --

MR. MILLER: No. 3 is the Code --

COMMISSIONER HYMAN: I mean you could note the site plan --

MR. PERRY: No. 3 -- No. 3 is a Code requirement, anyway.

COMMISSIONER DUFRESNE: So you're okay with that?

MS. HERNANDEZ: No. The applicant has

every right to go in, because it's their proposed off-premise sign, to do an administrative amendment to show the detail of it and make a note. They do have every right to do that.

MR. PERRY: But that's not what this says. This says should the existing sign be damaged, okay, beyond the thresholds of Article 1 -- okay. Okay.

MR. MILLER: Wendy, are you talking about Condition 2?

MS. HERNANDEZ: Condition 2, Marty has said that he didn't have the authority to go on the Piccadilly Square site plan, which is incorrect.

He would have the ability to do an administrative amendment to note the location and that the proposed sign is an off-site sign. He does have that authority.

MR. MILLER: I think --

COMMISSIONER HYMAN: The site plan already shows that sign.

COMMISSIONER DUFRESNE: Yeah.

MS. HERNANDEZ: Right, but the notation that it's --

MR. Mac GILLIS: But we have to have the variance reflected on it.

This approval here today, every time you grant a variance, the site -- controlling site plan has to be updated for the purposes of the building techs knowing a variance was granted because otherwise they're going to apply the old non-conforming status to this permit.

So it's a -- it's an administrative procedure that we condition everyone to do.

COMMISSIONER HYMAN: Okay.

MR. PERRY: As long as we don't need a consent form from the owner -- and the reason I say that --

COMMISSIONER HYMAN: I know.

MR. PERRY: -- is that we approached the owner, and essentially, and in the owner's exact words -- we had a woman from our client approach the owner, and his response was, "We don't deal with women."

COMMISSIONER HYMAN: Excuse me?

MR. PERRY: Well, you know, we -- we don't want to have to get the consent of the owner in order --

COMMISSIONER HYMAN: Who is this owner?

MR. PERRY: -- to do that administrative amendment.

COMMISSIONER HYMAN: I want his name.

MR. PERRY: Be happy to get that for you.

CHAIRMAN BARBIERI: Marty --

MR. Mac GILLIS: They already had the consent in order to apply for this variance, so this is -- the consent --

COMMISSIONER HYMAN: You wouldn't require another consent?

MR. Mac GILLIS: No, because this is just administrative --

COMMISSIONER HYMAN: You just --

MR. Mac GILLIS: -- complying with a condition of approval that's tied to the development order for the variance that's here before you today.

MR. PERRY: That being the case, then that's fine. We'll agree to the conditions.

COMMISSIONER DUFRESNE: All of them?

CHAIRMAN BARBIERI: Marty, I want to ask a question.

There's some confusion among some of us up here as to whether or not you have the authority to lower the height of that sign.

MR. PERRY: The answer is no.

COMMISSIONER HYMAN: How could that be?

COMMISSIONER DUFRESNE: As the owner? Are you asking him as the owner or as the owner's representative?

CHAIRMAN BARBIERI: Who owns the sign?

MR. PERRY: The sign is owned by the shopping center.

CHAIRMAN BARBIERI: But you have the right to use it.

MR. PERRY: We have the right to use it.

CHAIRMAN BARBIERI: And your right to use it doesn't include the right to make any modifications to it?

MR. PERRY: No.

MS. KWOK: Wendy's looking up into that private contract between Piccadilly Square owner and the store, applicant, to find out whether they have the right to structurally renovate the sign to comply with Code.

MS. HERNANDEZ: Yes. This was a subject of conversation between Bradley Miller and myself, and he was going to go back and talk to his attorney about the actual language.

There was language in here that talks about if there was renovation done, that it would be at the sole cost of the seller, which is the Glades Stor-All.

So I don't know if he went and discussed that with Marty Perry.

MR. PERRY: That's -- that's for repair work.

CHAIRMAN BARBIERI: Well, last month I thought one of you told us that you had an easement, and that's why you couldn't increase to a smaller sign, because you only had enough of an easement to put a pole, and -- and so if you have an easement to put a sign in this one area, why -- I don't understand why, if you've got an easement to put a sign in that one area, that you can't bring the height down as long as you don't go beyond the easement rights that you have with respect to the footprint of that sign.

COMMISSIONER HYMAN: I agree.

MS. HERNANDEZ: Can I -- can I read the -- what it says on -- it says O.R. book and page, 11849, Page 952, "The seller for itself, its successor and assigns hereby reserves all right, title and interest in and to the sign in perpetuity. This agreement and the provisions

hereof shall be deemed a covenant running with the land. The seller shall have the right in its sole discretion to place any advertising or lettering on the sign, to remove and replace the existing lettering and the advertising in its sole discretion, to reconstruct, redesign, replace and maintain the sign at its own expense, so long as all the foregoing is done in accordance with all applicable building and Zoning Codes and regulations."

COMMISSIONER HYMAN: So that answers the question. The seller, being Stor-All, owns the sign. They can do whatever they want to.

COMMISSIONER DUFRESNE: No, I don't agree with your interpretation. They can only do what they want in accordance with the Code --

COMMISSIONER HYMAN: Right.

COMMISSIONER DUFRESNE: -- which requires the variance.

COMMISSIONER HYMAN: Okay.

COMMISSIONER DUFRESNE: But that -- because you have to do with the Code doesn't mean the landlord's going to consent to it, unless you comply with the Code. That's why they're asking for the variance.

COMMISSIONER HYMAN: Okay.

COMMISSIONER DUFRESNE: Otherwise you're back down to the Code --

COMMISSIONER HYMAN: Okay. But the point is -- the point is the question we asked was can they lower the sign, and the answer is, yeah, they could lower the sign 'cause, Marty, your guy owns the sign.

MR. PERRY: My advice is, is that, no, he can't reduce the size of the sign.

COMMISSIONER HYMAN: But the document says that he owns the sign. Is he here?

MR. PERRY: No, he's not here, and I didn't hear that that was -- what she said, that he owns the sign. Who was the seller in that agreement?

COMMISSIONER HYMAN: Stor-All, you said, right?

MS. HERNANDEZ: Piccadilly -- well, let me see.

COMMISSIONER HYMAN: Unless the -- unless the seller is Piccadilly.

MR. PERRY: Seller is not Piccadilly. The seller in that agreement is Piccadilly. Stor-All is not Piccadilly.

COMMISSIONER HYMAN: No, I understand that.

Who's the seller?

MS. HERNANDEZ: Seller, Piccadilly Square; purchaser, Survine Corporation (ph).

COMMISSIONER HYMAN: Okay. Then what Marty's saying is right because the seller has the rights to the sign, and that's the developer -- that's the shopping center owner. Okay.

CHAIRMAN BARBIERI: So make the sign as un-ugly as possible since that shopping center is a total abortion already. Just try and do

something to make it not so -- I mean it's like signs everywhere, different colors, different architectural design on every one of the buildings that's there. It's just a horror.

You know, to get into the parking lot you have to make U-turns and right turns and -- just try and do something with the sign to make it look --

COMMISSIONER HYMAN: And let me just say this.

COMMISSIONER DUFRESNE: I certainly want that arrow on the sign.

COMMISSIONER HYMAN: He wants the arrow. I don't care.

To me, I think it's -- this isn't you, Marty, 'cause -- but I think it's obnoxious for an applicant to try to force a variance by threatening, the way it's been done, but if you don't do this, this is going to happen, leaving us -- leaving us apparently with no option but to approve it, 'cause I think there are always options.

And the applicant obviously hasn't given you any flexibility to come up with any alternatives so it's unfortunate. I think it's unfortunate. That's all.

CHAIRMAN BARBIERI: Do we have a motion?

COMMISSIONER BOWMAN: I'll make the motion to approve Glades Stor-All, ZV2007-328.

COMMISSIONER DUFRESNE: In this application, Marty, we don't have the updated sign elevations with the arrows. Can we have those included, please?

COMMISSIONER HYMAN: Subject to the conditions.

CHAIRMAN BARBIERI: Subject to the conditions?

COMMISSIONER BOWMAN: Subject to the conditions.

Are you in agreement with Condition 2 at this time?

MR. PERRY: Yes.

CHAIRMAN BARBIERI: A motion was made by Commissioner Bowman.

COMMISSIONER ARMITAGE: Second.

CHAIRMAN BARBIERI: Second by Commissioner Armitage.

Is there any further discussion?

Commissioner Dufresne.

MR. MILLER: We'll provide staff with our -- is there a preference?

COMMISSIONER DUFRESNE: I don't care about the colors. I just --

MR. MILLER: Okay. Just the arrow.

COMMISSIONER DUFRESNE: -- don't want the entrance. I want the arrow.

MR. MILLER: We'll provide that detail to staff.

COMMISSIONER DUFRESNE: Thank you.

COMMISSIONER KAPLAN: Mr. Chairman, what is that motion now pending?

CHAIRMAN BARBIERI: To grant the variance;

correct, with the conditions.

COMMISSIONER DUFRESNE: Grant the variance, subject to conditions.

And it's been seconded; correct?

CHAIRMAN BARBIERI: Yes. Second by Commissioner Armitage.

Is there any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER BOWMAN: Aye.

COMMISSIONER ARMITAGE: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER DUFRESNE: Aye.

CHAIRMAN BARBIERI: Opposed.

Aye.

COMMISSIONER HYMAN: Aye.

CHAIRMAN BARBIERI: Commissioner Hyman and Commissioner Barbieri opposed.

The motion passes, 4-2.

MR. PERRY: Just a suggestion for the future, and I understand this issue came up this morning earlier with Collene Walter.

These variances, when they're granted, ought to be tied to the zoning. You know, you're just going to end up with this stuff happening over and over again.

I mean you're required to get a variance prior to your processing a zoning application, it just -- the timing becomes a problem, just in my opinion.

Notwithstanding the difference of opinions here, but this whole hearing should not have occurred.

Thank you.

CHAIRMAN BARBIERI: Thank you.

COMMISSIONER HYMAN: I agree.

CHAIRMAN BARBIERI: Item 23.

MR. Mac GILLIS: Item 23, Shadowood Square Regal Cinema.

Ora Owensby will present this.

MS. OWENSBY: Good morning. This is application ZV2007-881.

The Regal Cinema at Shadowood Square is requesting a variance from the sign regulations of the Code. They're asking that the -- a variance from -- to allow a sign that does not face a street and to allow an increase in sign face area.

This wall sign, if it were to face the street, would be limited to 14.5 square feet by Code. The applicant is requesting 28.3 square

feet, a variance of 13.8 square feet.

Shadowood Square is 35 acres in size and supports 299,645 square feet.

The theater is a 49,000 square foot building in the center of the shopping center. It has parking in the rear and parking in the front.

They do have a sidewalk access from the rear to a public entrance.

The applicant has justified their application by stating that cars driving through the rear parking lot cannot find the theater, and I did experience that when I did my site visit.

But, however, staff does not support this variance because in the hardship criteria we don't find that there is any hardship.

The Code does provide another alternative in that traffic can be directed through a large shopping center by an unlimited number of directional signs in the parking lot, and that would resolve the situation without requiring a variance.

Therefore, staff recommends denial.

Thank you.

COMMISSIONER HYMAN: Well, I don't know about this yet, and we're going to see your presentation, but little signs inside a shopping center, in order to see those little signs you have to be there, and oftentimes you're over there, the little sign's over there (indicating).

So I think you do need -- and I've been lost in -- listen, I'll admit it, I've been lost in shopping center parking lots trying to find a building that's over there and how to get there.

So I'd like to hear what your presentation is, but I think maybe some signage would be appropriate.

MR. LOCKETT: Thank you. My name is Bill Lockett. I'm with Custom Finishers. I'm here on behalf of the Shadowood Square owners and the Regal -- or the tenant, Regal Cinemas.

I'd like to submit to the record authorization for me to be here today, original notarized copies, as well as additional plans and photographs that we prepared subsequent to seeing the staff's report. If I may.

As the staff report indicated, this is a 49,000 square foot entertainment venue in the middle of the Shadowood Square Shopping Center, which is at a major intersection of Route 441 and Glades Road.

Regal Cinemas at this point does not have any visibility on any of the three freestanding signs located for the property, and the property in itself is irregularly shaped at this particular location, and you can see that on the rear -- the last piece of paper, 11 by 17 copy of the site plan, on the package that I just submitted.

What's odd about this configuration is what appears to be the rear of the shopping center is not the rear of the shopping center for the Regal Cinema's location. It's actually the east elevation.

The difference of the shopping center, it has access points from both locations. In the center there is a courtyard. The --

COMMISSIONER HYMAN: Could you just show us some elevations, some drawings? Do you have anything to illustrate exactly what you're talking about besides this one sheet in here?

MR. LOCKETT: I'm sorry. I thought that the drawings were submitted with the original package.

COMMISSIONER HYMAN: Oh.

MR. LOCKETT: The sign shows a 28 square foot, six-foot diameter sign --

COMMISSIONER HYMAN: Sorry.

CHAIRMAN BARBIERI: We have them.

MR. LOCKETT: No, I apologize.

COMMISSIONER HYMAN: I can only focus on one thing at a time.

MR. LOCKETT: I didn't come prepared with the PowerPoint presentation.

COMMISSIONER HYMAN: It's okay. I can't do it, either.

MR. LOCKETT: But it's important to know -- I mean I totally agree, as does Regal's Cinema's, with the staff's findings that directionals, which are allowed in the Code, would certainly help you get back to what is the east elevation of the theater; however, I'd like the staff to take a look at -- or the Board, I'm sorry, to take a look at specifically photo E.2.

At the last directional that's what you see as access to the theater, the photograph in E.2.

Clearly, the directionals will get pedestrians back to that location, but they still don't know where the cinema is.

COMMISSIONER HYMAN: Okay. So, but do you have a drawing that shows what the sign would look like? Where is that?

MS. OWENSBY: It's in the staff report.

COMMISSIONER HYMAN: Yeah, but I --

MR. LOCKETT: It's in the staff report.

MS. OWENSBY: Page 318.

COMMISSIONER HYMAN: I saw that.

MS. OWENSBY: There's also photos --

COMMISSIONER HYMAN: No, no, no, not that.

MS. OWENSBY: -- with the simulation.

COMMISSIONER HYMAN: I mean a drawing that shows what this sign looks like on the building.

MS. OWENSBY: Page 319 there's a photo simulation.

COMMISSIONER HYMAN: Oh, I didn't -- is that all you're asking for, is that little circle?

MR. LOCKETT: Yes, ma'am.

COMMISSIONER DUFRESNE: Is there a pedestrian access --

COMMISSIONER HYMAN: I didn't even see it.

COMMISSIONER DUFRESNE: -- from the back of the building to the front?

MR. LOCKETT: Yes, there is.

COMMISSIONER DUFRESNE: Okay.

MR. LOCKETT: And I mean that's what we're

trying to do.

I also have the theater manager on site here today to present his testimony on behalf of consumers.

He gets on average four to eight complaints per weekend that when people go to the back of the building, they don't know where the theater is, and I would like him to come up and talk to the Board a little bit on that situation, along with -- most of the demographic of the theater happens to be senior citizens, and they have a tough time.

They end up going back completely through the other end of this parking lot to a dead end on an adjacent roadway on the other side of Best Buy, and they circle the lot looking for this Regal Cinemas.

I mean truly, proving a hardship is very difficult from a sign perspective. It really is, but in this case there truly is no identification on the side of this building.

COMMISSIONER HYMAN: This is on the back of the building?

MR. LOCKETT: Side, actually. It's the --

COMMISSIONER HYMAN: Side.

MR. LOCKETT: -- back for every other tenant in the shopping center, but it's actually the side of the Regal Cinemas because the front, the box office, faces the courtyard, as you can see in the site plan.

CHAIRMAN BARBIERI: So people actually drive back there.

MR. LOCKETT: Absolutely.

CHAIRMAN BARBIERI: 'Cause I've lived out there 22 years, and I never drive to the back because I know that is the back of the shopping center.

Let me ask you a question.

MR. LOCKETT: Yes, sir.

CHAIRMAN BARBIERI: Why do you have to have a 26, whatever, feet in the air when it faces a residential community?

If they're in the parking lot and you can see the parking lot is wide open, why can't you put a sign that's 12 feet off the ground on the building that says "Regal" so that they can see it like on the other side of the building?

MR. LOCKETT: I think we could. In our initial interpretation of the Code was that we took the entire elevation.

See, the Regal Cinemas has a bump-out, and the way the Code is written, correct me if I'm wrong, is that if it projects out more than 10-foot, just the elevation of the bump-out can be calculated for square footage, not the entire elevation.

The problem here is that each auditorium needs to have emergency exits in each auditorium; therefore, the physical construction of the site bumps that building out.

Unlike a Target or another retailer who would have that vast elevation, would get signage

according to that, they have issues that make that unrealistic.

So it would fit. If you were to calculate the entire footage of the elevation, we would fit within Code; however, with the bump-out we were restricted to a 14 square foot sign, and we in turn are asking for an additional 13.

The sign is similar to the one on the front elevation, and I want the Board to please keep in mind the adjacent residential is heavily screened, as the staff report had proposed. It's 500 feet away, and Regal really feels this is the minimum sign in order to come into that area and then see the sign, read it and know where they're going to park safely and safely go into that courtyard.

COMMISSIONER HYMAN: Is it -- is the location of the sign where the "G" is on the site plan?

MR. LOCKETT: Yes, the "G" actually represents a photo that I took at that wall showing the adjacent heavily screened property.

COMMISSIONER HYMAN: That's the location --

MR. LOCKETT: Yes, ma'am.

COMMISSIONER HYMAN: -- that you want for the sign?

MR. LOCKETT: That's correct.

COMMISSIONER HYMAN: And what height do you want it at?

CHAIRMAN BARBIERI: Can you bring -- you know, the community right behind there --

MR. LOCKETT: Yes.

CHAIRMAN BARBIERI: -- there's a hedge, then they have the water retention on the shopping center side.

MR. LOCKETT: That's correct.

CHAIRMAN BARBIERI: If you can bring it down so that all those people aren't looking out their back yards at this huge round circle on the side of a building, can't you bring it down so that you could -- it's -- will be obvious from the parking lot that it's the Regal Cinema, but it's --

MR. LOCKETT: We certainly can do that.

CHAIRMAN BARBIERI: Because they're the ones that are probably -- they're the only ones that are affected back there.

MR. LOCKETT: We certainly can do that.

COMMISSIONER HYMAN: Twelve -- 12 feet? What is it?

MR. LOCKETT: Does the Board have a preference?

COMMISSIONER HYMAN: I'm sure. We always do, given the option.

CHAIRMAN BARBIERI: Staff, what's the lowest we could put it without -- so people could still see it and it --

COMMISSIONER HYMAN: Are there trees throughout that parking lot?

COMMISSIONER DUFRESNE: In light of the size of that parking lot --

CHAIRMAN BARBIERI: No, there's no trees.

MS. OWENSBY: No, there's no trees in front of there. Twelve to 15 feet would probably be acceptable.

The vegetation to the east, as you see on Page 319 of the staff report, is a very good representation of the screening that is out there.

I would think if you would lower it to between 12 and 15 feet, it would probably be acceptable.

COMMISSIONER HYMAN: Fifteen feet?

CHAIRMAN BARBIERI: Yeah.

COMMISSIONER HYMAN: Fifteen feet?

MR. LOCKETT: Twelve to 15 on center, 12 to 15, bottom edge, top edge.

COMMISSIONER HYMAN: The height. Okay. We don't care about the --

MS. OWENSBY: Top edge of the sign?

MR. LOCKETT: Fifteen feet to the top of the sign.

CHAIRMAN BARBIERI: Fifteen to the top.

MR. LOCKETT: I think that's reasonable.

COMMISSIONER HYMAN: Is that okay?

MR. LOCKETT: Yes.

COMMISSIONER HYMAN: Okay. I'm going to -- is there anybody here to speak on this?

CHAIRMAN BARBIERI: Is anybody here to speak on this? Mr. Lockett?

MR. LOCKETT: Yes, sir.

CHAIRMAN BARBIERI: That's you. Okay.

COMMISSIONER HYMAN: I'm going to move approval of the zoning variance to allow the wall sign on 2007-881, the sign being on the rear facade that does not face the street, and to allow an increase in sign face area, subject to the conditions and the additional condition that it not exceed at the top 15 feet from grade.

MS. HERNANDEZ: We just want to add the two standards we do -- we typically place on, which is that they supply the Building Division a copy of the variance, the resolution result letter, and that they have to apply -- get a certificate of completion prior to June 7th, 2008.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Petitioner agree to those?

MR. LOCKETT: Yes, absolutely.

Is there a waiting period between the resolution being adopted and when the permit could be submitted?

MR. Mac GILLIS: Approximately two weeks.

The County Attorney has to sign them, so --

MR. LOCKETT: Thank you.

CHAIRMAN BARBIERI: Who seconded Commissioner Hyman's motion?

COMMISSIONER DUFRESNE: I will.

CHAIRMAN BARBIERI: Commissioner Dufresne.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. LOCKETT: Thank you very much.

MR. Mac GILLIS: Brings us to Item 24, Z/CA2006-1818, Ledis Rezoning.

MS. RECHENMACHER: Okay. Good morning, Commissioners.

Carrie Rechenmacher, for the record.

COMMISSIONER HYMAN: I think we're going to break for lunch -- no, I'm just kidding. I'm kidding.

MR. KOLINS: I'm coming, Elizabeth, I'm coming.

MS. RECHENMACHER: Yes. This application is for a 3500 square foot convenience store with fixed fuelings - fixed pumps and 12 fueling stations and additional 3500 square foot retail structure.

It does meet zoning criteria as far as location criteria and location and separation criteria and other standards of the Code.

This application went for a variance on the lot width and was approved in 2003 and was reinstated in January of 2007.

Staff, however, is recommending denial based on the Planning Division Recommendation that this is inconsistent with the future land use plan, inconsistent with the County's Comprehensive Plan and inconsistent with the directive to protect residential areas.

It's inconsistent with the Jog Road Corridor Study. It's inconsistent with the PBLA Overlay, which is -- encourages industrial land uses and inconsistent with the compatibility directive of the Comp Plan.

The LPA reviewed this petition in January, 2007, and unanimously voted 11 to zero against this petition.

So staff is recommending denial; however, if the Commission does decide to approve this petition, we have drafted 26 conditions.

And for the record, there were some lighting conditions that we will be deleting because the Code has been amended recently so we don't need lighting conditions anymore.

Thank you very much.

CHAIRMAN BARBIERI: Mr. Kolins.

MR. KOLINS: Thank you. Ron Kolins, for the record, representing the applicant.

Good morning, ladies and gentlemen.

That all sounds pretty negative so now let me tell you the rest of the story, and I'm going to break up my presentation, really, into three parts, basically.

One, I'm going to show you why without a shadow of a doubt the use that's proposed for this property is appropriate and, indeed, the best use for the property.

Second, I'm going to discuss some things about the staff report that I think require discussion.

And then thirdly and finally there is one condition of approval with which we have a problem. So if I may, let me begin with showing you about the project and the area itself.

To orient you, this is Jog Road, this is Belvedere, and this (indicating) yellow area is the property in question. It is only two and a half acres, and it doesn't have much depth. It's very narrow, and that will be relevant in just a moment.

It's only 144 feet deep, and in part the reason for that is 'cause a lot of it was taken by the County for road right-of-way. So we have a narrow piece of property that is considered to be at the intersection of Belvedere and Jog Road.

This area is an area undergoing tremendous change. Now, it is clearly true that in the neighborhood of this property there are a number of residential projects. There is one virtually immediately to the south, although I must point out to you that the portion of that PUD that abuts the property in question is the civic parcel.

Secondly, there is residential on the other side of Jog Road to the east of that, and there is residential here to the northeast.

COMMISSIONER HYMAN: Ron, what's the corner piece on the lower right -- no, diagonal.

MR. KOLINS: Here (indicating)?

CHAIRMAN BARBIERI: Come down.

COMMISSIONER HYMAN: Down one, down that corner piece there.

CHAIRMAN BARBIERI: That corner intersection.

COMMISSIONER HYMAN: The corner, what's that?

MR. KOLINS: I don't know. That's a good question that I hadn't thought about. It looks to be their civic -- their civic parcel because there's no residential development shown in that, and that would -- and it's designated very much the same as this is.

So I would say that it's the civic piece, but I don't want to say that under oath. I'm not a thousand percent sure about that, but I believe so.

This area here (indicating)--

COMMISSIONER HYMAN: And what's directly across the street from this piece?

MR. KOLINS: Right over here (indicating) there's a home, and then there's a commercial nursery, and behind it to the west is a commercial

nursery and a home, and I will pass out to you in a little while letters of support from the property owners on the west side and the property owners on the east side. They support this project very clearly.

This property was approved as a PUD, hasn't been built yet, but it's very interesting because one of the conditions of approval required exceptionally extensive buffering landscaping because it was recognized, as I soon will show you, that this is very near an industrial area, heavy industrial area.

There's also a great deal of traffic, truck traffic in particular, along both Jog and Belvedere, and the new exit off the Florida Turnpike right here (indicating) is just about to open, and it is a one-way exit, southbound only.

So all the traffic that's going to come off the Turnpike will dump off on Jog Road going south.

As you move into this area, you get not only into industrial on both sides, both the north and the south, but you get into some heavy industrial, and let me show that to you.

The first thing I want to show you is the relationship of the surrounding areas to my client's property.

You see here in yellow my client's property. All of the red that you see is industrial. All of the orange that you see is institutional. All of the purple that you see is utilities and transportation. This area is a preserve for utilities runoff so nothing will ever be built here (indicating).

So on the one hand, you do have residential. On the other hand, this is far from simply a quiet little residential area. It is a very major traveled area and a lot of uses that are heavy industrial, and in that regard, just by way of example, I'm going to put up a board that shows two uses on the north side of Belvedere just to the west of my client's property.

One is a concrete plant. Another is a gas compression plant, and there are other industrial uses up and down the road on both sides.

CHAIRMAN BARBIERI: Where's the nuclear disposal plant?

MR. KOLINS: That's next. Somebody will buy our site for that unless we get an approval here today. That's my problem.

So that's what's going on with it.

Now, there are no -- my client wants to use this for a gas station and for a convenience store, and there'll be one small 3500 square foot outparcel, too small for a restaurant, so there won't be a restaurant there. There'll be some small retail -- retail use.

In fact, I'll just quickly put up the proposed site plan just so you get an idea what's planned.

COMMISSIONER HYMAN: How many filling stations?

MR. KOLINS: There are six islands, which make it 12 pumps, and I'm going to discuss that with you a little bit later in conjunction with a proposed condition of approval from the staff.

But here is Belvedere. Here is Jog (indicating). All the entrances that we have meet all the locational requirements for entrances, and this is far enough from the civic parcel so that when that civic parcel is built out, they can put an entrance there, and it will meet the locational separation requirement.

So that's the site plan that's proposed.

There are virtually no services for the people that live in this area, and I want to read to you the County's definition for the zoning that we're asking for.

We're asking for community commercial, and here's what it says in the Code.

"The Community Commercial District is to provide a commercial facility of a community nature that services residential neighborhoods within a three to five-mile radius located on a collector or higher classification street."

Now, that is exactly what we're proposing.

Now, what is the effect of this? For anybody that lives in this area that wants gas --

CHAIRMAN BARBIERI: Microphone.

MR. KOLINS: Sorry. Anyone in this area that wants gasoline, convenience store products, the sort of thing we're talking about, if this weren't here, they have two options. One, drive all the way up to Okeechobee Boulevard; two, go west on Belvedere Road.

Now, part of the idea, I thought, was to take traffic off the roads, not compel it to stay on the roads.

You can't even go south anymore to Southern Boulevard because with the widening of Southern Boulevard all the gas stations and convenience stores that were down there are gone.

So by putting this here it serves the people nearby and is in the perfect location to serve the people coming off the Turnpike.

Now, let us talk for a minute about the position of staff.

MS. RECHENMACHER: Excuse me. There's a gas station location map on Page 333.

COMMISSIONER HYMAN: Right, we saw it.

MR. KOLINS: Which I think confirms what I said.

Staff basically says this should be residential. In fact, so did the Land Use Advisory Board.

Now, this cannot be residential, and I'll tell you why. The property is so narrow, and it is along Jog Road, that in order to buffer -- buffer it with any degree of substance, as was specifically required up here (indicating) for good reason, you don't have any room to build houses.

This is not a place to build two or three

single family homes right up on Jog Road, particularly without substantial buffering. There just is not the width.

It was said by the staff, and it was said by the Land Use Advisory Board, well, look, why don't you wait -- you're premature. Why don't you wait until this property here (indicating) is going to develop, and you can be part of it?

Well, first of all, to tell one landowner that he can't use his property until another landowner uses his is, in my opinion, unlawful, let alone, unreasonable.

But besides that, my client tried to buy this property, but the landowner refused to sell.

So there's no option of utilizing any of that property. So you can't say that we're premature, which is what the Land Use Advisory Board based its decision on.

The staff report relied on three things to reach a similar conclusion, one, the Haverhill Neighborhood Plan. The Haverhill Neighborhood Plan is 17 years old. When it was adopted, there was no Jog Road in this area. Belvedere has been widened since then. There were no industrial uses in the area.

The area has dramatically changed, and interestingly enough, your staff, after getting through telling you about the Haverhill Neighborhood Plan, says in its staff report, and I quote from Page 324, two-thirds of the way down the page.

"At the time this plan was adopted, Jog Road had not yet been extended through the area, and the Belvedere Road widening had not yet taken place. Because of this the character surrounding the subject property was significantly different, although the PBIA Overlay was already in existence and some industrial properties were being introduced into the area. At this time with Jog Road built and the expanded intersection in place, the nature of this area within the Urban-Suburban Tier has greatly changed."

Now, subsequent to the Haverhill plan, five or six years later the County did what's called the Jog Road Corridor Study. Let me show you some conclusions from that study, conclusions and recommendations about the expansion and extension of Jog Road. It was about 1996.

Jog Road represents a dividing barrier which provides a clear separation between residential uses to the east and non-residential uses to the west. We are to the west.

Under recommendations, retain industrial land uses on the west side of Jog Road and residential land use on the east side of Jog Road. We're to the west.

Finally, require additional setbacks, buffering and landscape treatments for future and existing, where possible, residential areas along Jog Road. We don't have room for that.

And finally, there is the Palm Beach Airport Overlay, and we went before the Palm Beach

Airport Overlay Board, and by unanimous vote they supported our project.

I'd like to take a moment and maybe I can ask Bob's assistance just to pass out the letters of support we have from those property owners I told you about.

COMMISSIONER HYMAN: Ron, are you also going to go over if there are any conditions --

MR. KOLINS: Yeah, have one that --

COMMISSIONER HYMAN: -- that are unacceptable?

MR. KOLINS: Now, I think everything I've told you really cries out for allowing this application to be approved, and the staff in their report said to you if it is approved, they had a long laundry list of conditions, and we agree with all of them except one, and that is the condition -- bear with me for one second.

It is on Page 326 of your report. It is under location and separation criteria, the second full paragraph under that, and what it basically says is reduce the fueling -- refueling island or the fueling islands from six to five.

Now, with all due respect, I don't see any substantive merit to that whatsoever. All you would do by taking two fuel pumps out of this is in busy times making people wait longer to refuel.

I daresay I doubt very much as a practical matter that whether you have 10 pumps or 12 pumps is going to change the number of cars wanting to come into that station.

Now I should tell you, to one extent or another this matter has been before County staff and various County boards for two years, and this latest staff report is the very first time that suggested condition was put in here. We never heard of it before.

Now let me tell you the relevance of that.

Not only do I think there's no practical rationale for it, but had we known earlier that they were going to propose that, we would have at least had some options. The reason why we can't put a 5,000 square foot restaurant on the site is traffic. Okay. We can only put so many trips on, and that's why we have a smaller retail use.

Now, if you take two of our pumps away, we could have had another traffic study done, and I will bet you that we would have been able to have less pumps, but have the restaurant. Now, I can't tell you that for sure 'cause we just found out about this the other day. But I'm not asking for that.

I'm just saying to you I see no reason to accept that condition. We certainly don't willingly accept it, and that's the only condition we have a problem with.

I think if you consider all of the circumstances, the nature of the area, particularly over recent years, the opening of the Turnpike extension, the fact that this property is both small and relatively unusable in every other way. It abuts a civic site. It's on Jog Road,

and if you take it all into account, I truly believe that the application has great merit, and, respectfully, I hope you'll approve it.

COMMISSIONER HYMAN: Okay. Well, Ron, I think -- I'm convinced that residential's not the way to go. I think you made a very compelling argument on many fronts.

The question I asked initially, which was how many islands, is because -- and I guess I was thinking along the same lines as staff.

When you see these mega-gas stations that have all these islands, they, at least in my opinion, are extremely unattractive.

Now, I don't know how often all the islands get used in these huge gas stations, but it probably would have been great to have one less island and a restaurant for the neighborhood.

Did your client want to investigate that in the next, you know --

MR. KOLINS: Well, perhaps we can. As I said, we didn't have enough time. We didn't know about this until a few days ago. We didn't know.

I will say this to you, Sherry, and I do understand where you're coming from, I really do, but now the new gas stations that the companies are putting up, they're not parks, okay, but they're certainly far more attractive than the gas stations of, you know, of yesteryear, and I don't think, you know, the two more pumps, which is the one more station, would really make much difference.

What I would request of you is this. If you are otherwise inclined to approve the application, to do it without that condition, but I will make this representation to you.

We will between now and the Board of County Commissioners investigate the alternative, and if the alternative is at all doable, when we go to the Board of County Commissioners, we'll tell them, and then, of course, in any event, they're going to make the final decision.

COMMISSIONER HYMAN: And I don't think that would have a major effect on the site plan, which is why I think that's probably a plausible resolution.

MR. KOLINS: We'd be happy to look into it.

COMMISSIONER HYMAN: But what is the gas company whose station this is?

MR. KOLINS: We don't know that yet. That has not --

COMMISSIONER HYMAN: Because they -- there are -- yeah.

COMMISSIONER KAPLAN: Mr. Chairman, I think that I agree with **Commissioner Hyman's** statement, only part of it, that all gas stations are ugly.

MR. KOLINS: There you go.

COMMISSIONER KAPLAN: And, very frankly, I agree with you that 10 or 12 should not make any difference, and I'm prepared to support your application, leaving it with 12.

COMMISSIONER DUFRESNE: I would agree with Commissioner Kaplan.

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

MS. RECHENMACHER: I'm not sure if Mr. Kolins also realized or if the commissioners realized that there is a modification for a condition, Use Limitation No. 2.

We revised the hours as the community commercial actually has fairly restrictive hours, so because there's residential adjacent to the south, we recommended the separate store, retail store, hours of operation be from 9:00 a.m. to 9:00 p.m. instead of, as the condition said, seven -- 7:00 a.m. to 11:00 p.m.

COMMISSIONER HYMAN: You know, I don't know.

Do you have any --

MR. KOLINS: I would not want to be restricted that way.

COMMISSIONER HYMAN: I mean I don't think that's necessary. I mean if I lived in the neighborhood, typically I need something at 11:00 o'clock.

MS. RECHENMACHER: Well, the -- this is just -- it's not for the convenience store. It's for -- there's a separate retail to the south by the civic parcel.

COMMISSIONER HYMAN: We don't know what that's going to be, and the retail for commercial, neighborhood commercial, is fairly limited, you know, dry cleaner, things like that, so --

MS. RECHENMACHER: All right.

COMMISSIONER DUFRESNE: You can have a Dunkin' Donuts maybe.

COMMISSIONER HYMAN: Dunkin' Donuts.

COMMISSIONER DUFRESNE: You want to be there 7:00 to 11:00.

COMMISSIONER HYMAN: So I think we should --

MS. RECHENMACHER: Get rid of it.

COMMISSIONER HYMAN: Throw it away.

COMMISSIONER DUFRESNE: I have a question.

COMMISSIONER HYMAN: Yeah.

COMMISSIONER DUFRESNE: On the site plan, do you have a preference, does staff have a preference as the interconnectivity to the --

MS. RECHENMACHER: Number of pumps?

COMMISSIONER DUFRESNE: No, no, to the -- in the southwest corner, the interconnectivity to the civic site.

MR. KOLINS: I think there's a condition that requires that, Mr. Dufresne.

COMMISSIONER DUFRESNE: It does?

COMMISSIONER HYMAN: Yeah, it does.

I'm going to move approval of the official zoning map amendment from Single Family Residential to Community Commercial Zoning District.

COMMISSIONER DUFRESNE: Second.

CHAIRMAN BARBIERI: Engineering.

MR. ROGERS: Mr. Chair, just two points of

information.

The -- in Mr. Kolins' presentation he mentioned about Jog Road not being extended.

When that report was done 17 years ago Jog Road was between Southern Boulevard and Belvedere Road as a two-lane facility. The extension was from Belvedere Road up to Okeechobee Road. So there certainly was a Jog Road there at the time that those recommendations were done.

The other thing Mr. Kolins mentioned was the real -- the tear-down of the gasoline station at the intersection of Jog Road and State Road 80 which was done as part of the widening of State Road 80; however, this body and the Board of County Commissioners has approved another replacement gasoline station and another C-store on the property immediately north of that, and if I remember correctly, site clearing for that property has just started in the last couple of weeks.

So there is another opportunity for the residents in that area to have these type of services which was not included as part of Mr. Kolins' presentation.

CHAIRMAN BARBIERI: Okay. Thank you.

COMMISSIONER HYMAN: This gentleman --

CHAIRMAN BARBIERI: Yes, sir.

MR. HOYOS: Isaac Hoyos with the Planning Department.

Most of the presentation we talked to, of course, was related to the land uses and the merits of the land use were analyzed by the Land Use Advisory Board and by staff.

And I just wanted to -- I'm not going to rebut Mr. Kolins, but just wanted to point out that just five minutes north of the subject site is a very large commercial hub at the intersection of Jog Road and Okeechobee Boulevard, which is where our new offices are located.

There's plenty of commercial, several gas stations, a Home Depot, Publix, restaurants, fast food, just five minutes north of the subject site.

The residents also have that other alternative for services.

COMMISSIONER DUFRESNE: With all due respect, I drive Southern Boulevard every day for 20 years, and if I want gas between downtown and Wellington, I have one gas station at the corner of Australian. I have one gas station on Southern at Cleary, and that's it.

So post-hurricane, you know, I'm much more in favor -- I'm glad there's a site going north of Southern, and I think this will serve people coming off of the Turnpike at Belvedere quite well, actually. I think it's pretty consistent.

Thank you.

COMMISSIONER HYMAN: There's a motion on the table.

CHAIRMAN BARBIERI: The motion was made by **Commissioner Hyman**. And I think Commissioner Dufresne or Kaplan -- who seconded the motion?

COMMISSIONER DUFRESNE: I did.

CHAIRMAN BARBIERI: Commissioner Dufresne.
Is there any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

COMMISSIONER HYMAN: I move for --

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: I move for approval of the Class A conditional use to allow the convenience store with all those gas sales, subject to the conditions as modified.

COMMISSIONER DUFRESNE: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: Ron, take a look --

MR. KOLINS: Thank you very much.

COMMISSIONER HYMAN: Take a look at that, reducing --

MR. KOLINS: Yes, I absolutely will. Promise you that.

MR. Mac GILLIS: This brings us to Item 26, Z/CA2006-1678, BP at Wallis and Haverhill.

Anthony Wint will present this.

Just also so you note, this application is also tied to a small scale Comp Plan amendment that will be going in front of the Board on August 26th.

MR. WINT: Hello, Commissioners. Anthony Wint again.

Before I begin, I'd like to point out two errors on the staff report. The errors have been corrected, but it's corrected after it went to print.

On Page 365, the last paragraph under standard -- rezoning standard will be removed, and on Page -- again, on 365, the last paragraph under rezoning standard, No. 3, will be removed.

The applicant is proposing rezoning 2.15 acres of land from the Residential Multi-family Zoning District to the General Commercial Zoning

District with a Class A conditional use to allow for the development of a convenience store with gas sales.

There's a concurrent small scale, as Jon pointed out, to change the land use that was submitted to the Planning Division.

On January 19th, 2007, the Land Use Advisory Board recommended denial for the small scale. The Planning Division is also recommending denial for inconsistencies with the Comp Plan.

Subsequently, the Zoning Division is recommending denial based on Article 1.A.1.C.

In the event that the Commission recommends approval, staff is prepared with 26 conditions of approval, this in Exhibit C.

If there are no questions, I'd like to turn it over to the applicant.

MS. MISKEL: Good afternoon, members of the Board. This is Bonnie Miskel on behalf of the petitioner.

We're having a little technical -- ah, here we go. Thank you.

Again, Bonnie Miskel, here on behalf of the applicant.

Actually, Mr. Kolins and I did not plan to be back to back, but we have many similarities.

We believe that our request is even more compelling for a change, and I'll just briefly bring you through some background on the property, where we are, where we're related to our neighbors, the changes that have occurred over time.

This is an overview, an aerial of the overall property. Our property is on the corner, the southwest corner of Haverhill Road and Wallis Road, and it's identified in Green.

Just to give you a perspective, in blue is the Town of Haverhill. This is the land use and the surrounding land uses, LR-2, as you just heard from staff. We have some MR-5 identified properties in Orange, HR-8, and then commercial categories and industrial categories.

The area that we just put up on the screen in white is actually the buy-out area, and obviously east of that is the airport.

You see a plan that is a concept plan, and it's the latest one we were able to obtain our hands on. It's a few months old, certainly, but this plan is the plan that the consultants for the airport intend to put forward to the Board of County Commissioners for the buy-out area.

Essentially, this is primarily an industrial park with some commercial nodes. I'd like to specifically draw your attention to the intersection pieces.

The small squares southeast and southwest -- pardon me, northeast of us and east of us are commercial nodes, very similar to what we're talking about here today.

Here is a blow-up, again, Pod H and Pod A was what I was just referring to. You can see the conceptual layout.

There's a close-up of the site.

Surrounding us on the north is Azalea Court. It's a rehab facility. To the west of us are some single family homes and a number of vacant lots, and directly south of us is one single family home. South of that is a very large retention pond that was acquired to make the improvements to Southern Boulevard.

East of us is the buy-out area, and as you can see on the aerial, what used to be a substantial residential community, there are a few houses left. They are vacant. There are some homeless people and others living there today.

Southeast further is Southern Plaza, which is right on Southern Boulevard. Just to also bring perspective to this, there is not direct access from Haverhill Road to Southern Boulevard.

It must be done through the parallel road to Southern, the perimeter road.

Buy-out area again.

This is a view, a perspective, a picture that was taken recently of the buy-out area. As you can see what used to be significant residential homes, there are a few left. Many have been removed. They are vacant, that which is left.

Okay. That's the northeastern perspective. That building is not occupied. This is Azalea Court. That is a picture of Azalea Court parking, and the rehab facility is further west.

Those are the residential homes that are directly behind us.

The two streets to our west we did provide certified notice and knocked on doors to initiate dialog with the neighborhood. They are dirt roads. There are a number of vacant parcels. We met with a lot of renters; however, the majority of the residents that own the properties on the two streets behind us are off-premises owners.

This is the single family home. The Grimley (ph) family currently live there and have for many years, and this is their -- this is their house from our perspective from the parcel that we have before you this afternoon.

Again, an aerial of the site.

Now if I could go to the staff report --
COMMISSIONER HYMAN: What's the outparcel that's not shown on this slide but the other ones?

MS. MISKEL: Okay. Let me go back.

The outparcel, I'm not --

COMMISSIONER HYMAN: It's not really an out -- not --

MS. MISKEL: Oh, there's a lift station that is cut into -- go back?

COMMISSIONER HYMAN: Yeah, the notch-out --

MS. MISKEL: Yeah, the notch-out is actually a lift station.

COMMISSIONER HYMAN: Oh, that's it?

MS. MISKEL: That's a lift station, yes. Okay. If we turn to staff's report, we

actually don't disagree with a lot of what staff said. We just come to different conclusions.

First of all, their -- it appears that their principal objection is consistency with the Comp Plan and compatibility. We acknowledge at the moment we are inconsistent because we have a land use plan amendment that we've submitted; however, when you go into -- and I spent a lot of time reading the Comp Plan over the past few weeks.

When you actually read through your Comp Plan, we're consistent with a lot of current goals, policies and objectives, and I'd like to very briefly go through those and cite them; 1.2.5, which is the Palm Beach International Overlay.

The purpose is to provide for future land uses that are compatible with existing neighborhoods and the future operation of the Palm Beach International Airport.

It goes on to say to protect viable existing neighborhoods from incompatible uses, allow residents to participate in the process, provide opportunities for property owners to initiate conversions of their property to non-residential uses.

First of all, we have gone to the neighborhood. We have gone to the Neighborhood Watch. We have gone to the Airport Committee that reviews this, all of which support us, so one of the principals of the Comp Plan has been dealt with here. That's obtaining neighbors' participation and their support.

The other comment, viable neighborhoods. I went through some of the pictures, and I encourage you to walk this community, dirt roads, vacant parcels, for sale signs all over the place, for rent signs for those properties that haven't been sold.

This neighborhood immediately behind us has been on the decline, it is not a neighborhood that is growing or flourishing, for that matter.

The neighbors work very hard to maintain their properties. It's very difficult when you have such a transient population. Fifteen out of 27 homes on the two streets that you're looking at are rentals.

The property directly -- let me before I get to that. I'm sorry.

Objective 2.1, the provision for balanced growth, managing and directing future development to appropriate locations to achieve balanced growth, the need to accommodate the population with the need for services.

There -- as Mr. Kolins mentioned and also I think as one of your Board members mentioned, there are no gas stations left on this stretch of Southern Boulevard due to the expansion.

In order for a neighbor from this neighborhood to go to get milk, as an example, they need to travel at least a mile to a mile and a half away. There are no services that are being

afforded to them late in the hours.

There are very few shops left in Southern Plaza. They, too, have struggled. We've talked to the owner of that property. We have a great deal of difficulty keeping business there because of Southern, the Southern Boulevard expansion.

2.1.B, the County shall utilize a range of residential designations to accommodate growth and non-residential land use designations to support the residential and tourist populations.

2.2.2A, the County shall apply the following range of commercial at appropriate locations. CA shall be allowed in the Urban-Suburban Tier. We qualify with that.

2.2.2B, the subject site must be located within an urban-suburban tier directly on a roadway classification or classified as an arterial and meet one or more of the following, and I believe I have that.

Here, I'm sorry, it's on the screen now -- meet one or more of the following. Number one, be contiguous on two or more sides, and intersection property, which we are; two, one, either parcels with CH are deemed to be, or, two, parcels with a residential future land use category of MR-5 or greater.

To the east of us, the entire east perimeter of our property, you have MR-5 which will be converted to industrial, I might add.

To the north of us you have a piece of property that is zoned less, but is occupied by a use that must be HR-12 or greater, so, clearly, we comply with that provision of the Comp Plan.

2.2.8, the Board of County Commissioners may restrict or impose restrictions on landscaping and walls. We've already committed to that to the neighbors. We've agreed, pursuant to our discussions, to extensive landscaping, to walls on our -- both our west and our south borders and many other conditions that I'm going to submit for the record in just a moment.

So although I'm not quite sure the conclusion to Paragraph 1 of your staff report, we believe that there is not an objective, policy or goal in the Comp Plan that we are not going to be complying with.

Consistency with the Code, again, in the Code you've adopted the Palm Beach International Airport Overlay provisions, all that I just discussed with you. We intend to comply with that. We are compliant with that.

This is a conversion of non-residential property in the conversion area. This is exactly what the airport and the County envisioned when they established this legislation many years ago.

Number three, compatibility with surrounding uses. I'll go back to the viable neighborhood terminology.

Here's the HR-12 that I just referred to.

The County has recently initiated, and they have been transmitted, I believe, two land use plan amendments, one, as you can see, from the

Low Residential to HR-12, and the second is from the LR residential category to HR-H.

What County staff is acknowledging to you is that this area has changed, that the uses that were out there 20 years ago are not compatible with, one -- number one, what has been built, and, number two, the magnitude of growth specifically as it relates to the airport.

So the categories that are there are inappropriate. They're making our case for us.

Again, this is an overall aerial, and you can see on the aerial, the east, that is not what it was like 20 years ago, but I also urge you to look just west of us and see the difference between the community behind us versus that two streets over.

The community behind us is not a viable community, is a community on the decline.

There -- also, I'd like to make note the area that is on the fringe of the picture that is in white is also protected pursuant to the -- your Comp Plan.

In the Comp Plan it describes certain neighborhoods that are not subject to conversion and should not be converted. Those neighborhoods are half a mile from our property. We comply with that objective.

This is an aerial of what -- what was the date of this aerial? Okay.

We have an aerial of what this area used to look like in 1990 versus what it looks like today. If that isn't a changed condition, I'm not quite sure what is, but as you can see, this is not a community on the rise. This is not a growing community. This is a community in decline.

Finally, speaking to one of their last comments about changed conditions, and, you know, there is no effect on natural environment. The development patterns, as you can see, it's not a community that is growing and flourishing, that we are consistent, by the way, with the Haverhill Neighborhood Plan, and we're consistent with the overlay.

And, finally, changed conditions. Let's talk a little bit about that 'cause I know the hour is long.

I came to Florida in 1985. My first visit was in 1979, and I actually stayed in a home that is no longer there today that was taken by the airport.

Before the new terminal the amount of passengers was approximately half what you see in 1989. 1989 reflects the new terminal and the new airport, and as you can see then, almost 20 years ago, we were at 2.5 million passengers, 11,000 aircraft; 1998, less than a decade later, more than double that, 5.8 million passengers and seven times the aircrafts going over that area.

In 2006, we're at 6.8 million, and we're growing, and that airport continues to expand. There are projects underway as I speak.

This is a changed condition that is more significant than any changed condition affecting any of us in Palm Beach County.

When we met with the neighbors to the south, we were urged by the District Commissioner to talk to the community and find out what their needs are, what they want, whether they could live with this, and we did that, and as I mentioned, there were six immediate neighbors that are the most affected by this application.

Of the six, two were renters. We got no responses from the owners. We knocked on their door. They didn't answer.

Two were very much supportive, and we have letters to that effect.

We had one gentleman opposing simply because of a concern that it would lower his property value.

So out of six -- out of six we only had one objector, but one that is -- I think it's worth talking about was our neighbor immediately -- and I'll go back to one of the -- this, by the way is the neighborhood community letter supporting the application.

Let me go back to an aerial. Okay.

The neighbor that is immediately south of this parcel just north of the retention pond, Mr. and Ms. Grimley, Mrs. Grimley cried. She said when they tried to -- or when they were talking about condemning more property than just the buy-out area, we wanted them to take us.

"We didn't want to live here anymore then, but they chose to draw the line on Haverhill Road. When they talked about expanding Southern Boulevard, we wanted them to take our property and use it for retention, but they drew the line, unfortunately, south of us."

She wished that we would buy her property; however, you really don't need that much land to build what we intend to build, but she understands -- understood and supported our position because she does believe that it will make Haverhill Road a better road to live on to the extent that she has to live there.

But, clearly, you have a neighbor who understands better than anyone that this is no longer a viable single family residential area, and as such we believe we comply not only with the Comp Plan, not only with the Unified Land Development regulations, but every category that staff's talked about this afternoon we comply with, and for those reasons we believe we should be approved.

Thank you for your attention.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: What happened to the -- what happened to our map that shows the surrounding gas sales? Is it the same -- well, I know there was one -- there's supposed to be one with each petition, but there isn't one with this one.

Do you know?

MR. Mac GILLIS: The one that we used to do years ago?

COMMISSIONER HYMAN: No, no. You know how you -- every gas station that we look at there is a chart or a map, an aerial or a plan that shows the surrounding --

COMMISSIONER DUFRESNE: We had that in the last one.

MR. CHOBAN: I believe there was one with the previous --

COMMISSIONER HYMAN: -- within five miles gas stations.

MR. CHOBAN: The previous one had one.

COMMISSIONER HYMAN: I know, for that petition, but you don't have one for this one?

COMMISSIONER DUFRESNE: No, but it's -- it's the same essential neighborhood.

MR. Mac GILLIS: No. I'm sorry, we don't.

COMMISSIONER HYMAN: So the closest gas station is --

MS. MISKEL: The closest -- if I can respond. If staff does not know, I'm happy to.

COMMISSIONER KAPLAN: I don't have it, either. I agree with Commissioner Hyman --

COMMISSIONER HYMAN: You should have one for the County Commission.

COMMISSIONER DUFRESNE: It's on Page 333. The last petition --

COMMISSIONER HYMAN: It's for the -- well, I didn't look at the --

CHAIRMAN BARBIERI: Petitioner, would you tell us where the --

MS. MISKEL: Yes, I'm happy to respond.

Actually, the nearest gas station is at Okeechobee and Haverhill. There is also one as, Zoning Commissioner Dufresne said, at Cleary and Southern, but that's about a mile, 1.7 miles.

I think the closest is Okeechobee and Haverhill. We actually have fewer close to us than Mr. Kolins. He had more closer to him.

COMMISSIONER HYMAN: For the BCC you should -- you should put that in there.

MR. CHOBAN: There's a Hess at Military, and that's just a little bit north of Southern.

COMMISSIONER HYMAN: Okay. And just so we -- make sure we understand the site plan because we had a little question about it, the -- I think it's a parallelogram. I'm not sure -- in the corner, in the northeast corner of the piece -- no, not -- that's the carwash.

MS. MISKEL: Oh, this right here (indicating)?

COMMISSIONER HYMAN: Yeah, that -- is that just --

MS. MISKEL: That is the lift station.

COMMISSIONER HYMAN: No, no, no.

MS. MISKEL: Right here?

COMMISSIONER HYMAN: No, no, the green area to the right of that, is that all landscaping?

MS. MISKEL: That's all landscaping, and we're intending to put some sort of water feature

there, as well, water feature.

COMMISSIONER HYMAN: That would be sort of nice for a gas station, I can imagine. Okay.

I don't have a problem with this petition.

COMMISSIONER DUFRESNE: Bonnie, that's what this is here (indicating) in the corner?

MS. MISKEL: Yes, that -- this little -- I think she's right, it's some sort of a sextagon [sic] or is a water feature with some sort of a fountain, septagon [sic], however you pronounce it.

COMMISSIONER DUFRESNE: Thank you.

COMMISSIONER HYMAN: There's nobody here to speak on this? I don't have a problem with this.

MR. WINT: There's one member of the public that showed up, but wishes not to speak.

COMMISSIONER HYMAN: You're here? Did you have -- did you bring -- sign a card?

MS. JOHNSON: There were no cards out front.

CHAIRMAN BARBIERI: Okay. Why don't you come up to the podium and tell us your name and address, please.

COMMISSIONER HYMAN: And then do a card.

MS. JOHNSON: Do a card? Okay.

Good afternoon. My name is Victoria Johnson. I'm speaking on behalf of the owner of the parcel that is nearly adjacent to the north and on the west side of Haverhill Road.

It is a multi-family property that's in the process of being converted from affordable rental housing to affordable ownership housing, and we'd like to speak to oppose the project because we believe it will destabilize the neighborhood and make the homes much less attractive to future purchasers.

COMMISSIONER HYMAN: Show us where you are on the site plan. Can you -- can you put up the aerial or something that -- I guess that -- can you show us on that where you are?

MS. MISKEL: I actually -- I believe that -- and they spoke at the LUAB meeting.

I believe that they are one of the properties -- let me find a better, a closer -- oh, there we go.

I believe that they are just north --

MS. JOHNSON: Just north of --

MS. MISKEL: -- of the Azalea Court; is that correct?

MS. JOHNSON: Yes, that is correct.

MS. MISKEL: Okay. So it's the buildings that are north of Azalea Court on Haverhill Road. You see a number of squares up there. That's what she's referring to.

COMMISSIONER HYMAN: Okay.

MS. JOHNSON: Yes, those are the rooftops of those -- of those units.

I would disagree with the contention that because the adjacent residential neighborhood is in decline that it would be appropriate to put a 24-hour gas station and carwash, which I think

would further destabilize and perhaps push over the edge of the cliff the ability of that adjacent neighborhood to recover.

The adjacent neighborhood, not my own parcel, but the adjacent neighborhood I would think would be a perfect candidate for redevelopment, and the presence of the carwash and the gas station would make it a much less attractive site to potential home buyers.

Also, we'd like to take exception to the reference to renters, even the allusion to homeless people, trying to cast this pall over the area. We don't feel that way.

We feel as if the neighborhood has a lot of potential, and, again, the fact that it's in decline represents potential, not the -- not a reason to further promote more decline.

On the east side of the highway I understand that there is a potential for -- east side of Haverhill -- the airport overlay will incorporate parcels that can have gas stations when that site is developed; is that correct?

Can anybody comment on that? Mr. Wint?

MR. WINT: I'm sorry. Can you repeat that?

MS. JOHNSON: Yes, the airport overlay design that is -- has been approved is a preliminary design; correct?

MR. WINT: I'm not certain that it's been approved, and the applicant can speak to that better than I can.

MS. JOHNSON: Okay. Well, my question was if -- does that pre-approval tend to incorporate gas stations? Will it incorporate the gas station?

MS. MISKEL: It is a concept plan, and I'm not -- and I don't represent the agent for the County in that regard.

The concept plan shows commercial pods. I don't know whether that would extend further than being commercial. I'm not sure what the intention is there.

MS. JOHNSON: And that would bear, in our opinion, because if there were going to be gas stations on the other side of Haverhill Road, it would be even more objectionable to have them on both sides of the road.

And my final comment would be if the Board decides to recommend approval, that it not be for general commercial for 24-hour services, but be similar to the preceding application, which was for neighborhood commercial, which would limit it to the seven -- 7:00 to 11:00 hours.

COMMISSIONER HYMAN: Yeah, why is that? Why wasn't this neighborhood commercial?

MS. MISKEL: If I may speak to that.

We actually obtained a variance for the hours so that we can go 24 hours, and we've been very forthright with the neighbors as to that intention.

In fact, the immediate neighbors were pleased with there being some person and lights on

and some activity after hours because they have had a significant problem with crime.

But typically there is not a lot of business that comes in after 11:00 o'clock at night; however, from a user's perspective, there's also a lot of loss that occurs after hours, and that's why many of these stores prefer to have a human being open, and it's more for loss than it is for productivity and sales.

So we did -- we spent a great deal of time -- we actually had a unanimous approval from the variance board for the hours, and there was no opposition to the hours.

COMMISSIONER HYMAN: Well, could it be rezoned to the neighborhood commercial and just allow them the additional hours on the gas station?

CHAIRMAN BARBIERI: Jon, could it be? Did you hear her question?

MR. Mac GILLIS: I'm sorry, I was --

CHAIRMAN BARBIERI: That's okay.

MR. Mac GILLIS: -- distracted by a question.

CHAIRMAN BARBIERI: Commissioner Hyman, ask your question again.

COMMISSIONER HYMAN: Could we rezone it to a neighborhood commercial, a little less intense, and give them the additional hours on the gas sales?

MR. Mac GILLIS: Yes, they're -- they'd have to revise the request, the applicant would. They have it in here now for what they're proposing, so they'd have to -- I mean you could make a recommendation not to support this, and they'd have to go back and revise the application and come in with a different request.

MS. MISKEL: We actually tried to come in with a lesser application, and we were advised then that in order to have the hours, we were required to go CG, hence the reason for our application. So we agreed to that.

Now, you know, I know that you can accept a deed restriction. We're so committed to this site in the form that we agreed to with the neighbors, that pursuant to the land use approval process we're willing to deed restrict to what you see and all the conditions that we accepted with the neighbors.

But I don't believe that your attorney would find it appropriate for me to make that commitment here to you.

But initially we did come in and ask for less, and we were told that that would not work, and that we had to go CG, and that's why we're here today.

COMMISSIONER HYMAN: I think that's probably -- I understand that advice and -- but can't we modify this request here today, and since it's a less intense use, if we were intending -- if we intended to approve -- wanted to approve this project, approve it as a commercial -- neighborhood commercial and then just give them

the additional hours?

I mean I don't --

MR. BANKS: It wasn't approved or analyzed under CN, and there are I assume some different requirements in the Code.

MR. Mac GILLIS: I think the use standards are probably the same for that use. The supplementary notes I believe would be the same. It's just the land use -- or the zoning districts are consistent with that land use so you'd have commercial low, commercial low office and commercial high.

So I don't -- if there's somebody here, down there at the end of the table from Planning.

MR. HOYOS: The request for the land use amendment was for commercial high, so I don't know what the concurrent and the zoning designation for that one.

MR. Mac GILLIS: Right, the current one is commercial high, and they -- the Board is asking to go with commercial low on the zoning, which they could do, that would be consistent.

COMMISSIONER HYMAN: Right. So can't we just do an approval for commercial low and give them the additional hours on the gas sales?

MR. Mac GILLIS: Can you do it at this meeting? I don't know if we've done that at the meeting. Usually once the --

MR. BANKS: The Board's not reviewing the land use request. You're only dealing with the rezoning --

COMMISSIONER HYMAN: Right.

MR. BANKS: -- and CN zoning would be inconsistent with the CH.

Could you do neighborhood commercial in the commercial high land use category?

COMMISSIONER HYMAN: Why not?

MR. HOYOS: I need to see the Code.

COMMISSIONER HYMAN: What?

MR. HOYOS: See what the Code says. But the requested use was for commercial high, so it cannot be changed to commercial low because the application was for commercial high.

MS. KWOK: Okay. There are five zoning districts that are consistent with this commercial high future land use designation; however, a gas station would not be allowed in a lower zoning district, such as neighborhood commercial.

COMMISSIONER HYMAN: Well, we just did that for --

MS. KWOK: Allowed in commercial, community commercial, not neighborhood commercial.

COMMISSIONER HYMAN: Well, neighborhood --

MS. KWOK: CC.

COMMISSIONER HYMAN: I'm just saying why wouldn't we do this the same like we just did on Kolins' request, you know, do a neighborhood commercial?

Why give them a higher intensity, you know, a higher intensity commercial because neighborhood commercial's really more consistent for this -- for this use. Neighborhood

commercial.

MR. Mac GILLIS: I think maybe what happened -- unfortunately, I can't go through the Code quickly enough, but I think staff may have -- they may have come to us and wanted to do 24 hours.

I think in the lower commercial zoning districts near residential you can't do 24 hours.

So in order to get the 24 hours, they went and from the old Board of Adjustment and got a variance to do that.

COMMISSIONER HYMAN: Okay. That's what she said.

MR. Mac GILLIS: Yeah.

COMMISSIONER HYMAN: All I'm saying is can we approve it as neighborhood commercial and give them the increased hours?

MR. Mac GILLIS: They would have to seek -- come back --

COMMISSIONER HYMAN: Which they already have the variance for. They already have that variance.

MS. MISKEL: I believe --

COMMISSIONER HYMAN: All I'm trying to do is get this project --

MR. Mac GILLIS: Generally, the variance is tied to the land use and the circumstances that prior Board approved. That Board is no longer in existence so -- I mean I don't know if I can make that call right here in front of you.

COMMISSIONER HYMAN: I mean if this project goes away and it's 15 years down the line, and, you know, everything around it's residential, and all of a sudden someone says well, how did this get a high commercial, you know, designation.

Neighborhood commercial's really more --

COMMISSIONER DUFRESNE: Well, my observation is that the neighborhood is changing and going away from residential, rather than toward residential.

COMMISSIONER HYMAN: Yeah, but it doesn't matter, I mean we can't -- we can't tell the future.

COMMISSIONER DUFRESNE: But I mean even across the street that's what's happening. It's pending now for land use applications across the street.

COMMISSIONER HYMAN: So the question really is can we --

COMMISSIONER DUFRESNE: And it's MR-5 to the east which will allow lots of other uses.

COMMISSIONER HYMAN: I mean I think the petitioner will accept the lower zoning. I'm just saying, if can do it right now.

MS. MISKEL: Perhaps a solution, since this plan and this use doesn't seem to be a problem to the Board, we -- I think there is a problem with an arterial criteria, but what we could do if this is acceptable to you, I don't have a problem if we can get in under a lesser category, converting that, and we'll work with the attorney's office, and we'll work with staff, and

we'll do that before the Board of County Commissioners meeting.

But if you can pass this, I -- we have a contract issue so that's why time is not my friend.

COMMISSIONER HYMAN: I don't have a problem with that.

MS. MISKEL: Okay. Thank you.

COMMISSIONER HYMAN: I don't have a problem with that.

Is there anybody here --

CHAIRMAN BARBIERI: Is there anybody here from the public that wishes to speak besides the young lady that already spoke?

(No response)

COMMISSIONER HYMAN: Okay. I'm going to move approval of the zoning map amendment from Multi-family Residential to General Commercial, with the understanding that between now and BCC, if we can convert this to a neighborhood commercial that the petitioner will accept that lower designation.

MR. Mac GILLIS: I think it would be community commercial is what Maryann indicated. Community commercial, not neighborhood commercial.

MS. KWOK: It's community commercial, CC.

COMMISSIONER HYMAN: What was -- Ron Kolins' was neighborhood commercial; right?

MS. HERNANDEZ: No, his was CC, as well.

COMMISSIONER HYMAN: Okay. Community commercial then. Excuse me.

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: Okay. That's the motion.

CHAIRMAN BARBIERI: Okay. It was seconded by Commissioner Kaplan.

Is there any further discussion?

MR. Mac GILLIS: Just to clarify, if it cannot be worked out, then it's postponed and it comes back here?

COMMISSIONER HYMAN: No, no. Then it's still -- it's approved. We recommend approval, and also if they can -- if we can reduce the intensity to the community --

MR. Mac GILLIS: Okay.

COMMISSIONER HYMAN: -- commercial.

MR. Mac GILLIS: If we can work it out, we work it out; otherwise it proceeds the way it was advertised. Okay.

COMMISSIONER HYMAN: And I move to --

CHAIRMAN BARBIERI: I didn't take a vote on that.

COMMISSIONER HYMAN: Oh. Sorry.

CHAIRMAN BARBIERI: If there's no discussion, all in favor of the motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: I move for approval of the Class A conditional use to allow the convenience store and gas sales and carwash,

subject to the conditions as modified.

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, 6-0.

MS. MISKEL: Thank you very much.

MR. Mac GILLIS: Two items left, Item 27, Z/CA2006-1914, The Residences at Haverhill.

Douglas Robinson will present this.

CHAIRMAN BARBIERI: Staff, hold on a second. We're just trying to figure out what we're doing here.

We have a whole bunch of people who want to speak on 27 that are opposed and a whole bunch of people on 28 that are opposed. So the question is if we continue on, we may be here 'til 3:00 o'clock.

Do we break for lunch and come back after lunch so that --

COMMISSIONER HYMAN: They want to stay, I think.

CHAIRMAN BARBIERI: Want to stay and get it over with?

COMMISSIONER KAPLAN: I'm in favor of continuing, Mr. Chairman.

COMMISSIONER DUFRESNE: I would be in favor of continuing, also.

CHAIRMAN BARBIERI: Pardon me? You want to take a five-minute break?

Staff, what do you -- staff, what's your preference on this?

MR. Mac GILLIS: Either way. We're ready to stay.

CHAIRMAN BARBIERI: Okay. So the people from the public wish to stay, so why don't we take a --

COMMISSIONER HYMAN: Five.

CHAIRMAN BARBIERI: -- five-minute break to -- we'll take a five minute break, and then we'll go on with the next petition.

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

CHAIRMAN BARBIERI: Let's get started.

COMMISSIONER DUFRESNE: Mr. Chairman, may we renumber the agenda, please? I'm going to have a conflict on 27, and I won't be able to participate in the discussion or the vote. You will not lose your quorum.

COMMISSIONER HYMAN: I know -- I want him to stay.

CHAIRMAN BARBIERI: So you want to move 27 up behind 28?

COMMISSIONER DUFRESNE: Right. We only have two left.

CHAIRMAN BARBIERI: Pardon me?

COMMISSIONER HYMAN: He's just asked to reorder the agenda.

CHAIRMAN BARBIERI: Just reorder the agenda.

AUDIENCE MEMBER: We've been waiting all this time.

COMMISSIONER DUFRESNE: With all due respect, ma'am, I've been waiting, too. We don't get paid to do this, and if we can renumber, I'd appreciate it.

AUDIENCE MEMBER: I have to go to a critical doctor's appointment.

COMMISSIONER HYMAN: All right. Let's just --

COMMISSIONER DUFRESNE: Okay. All right. Okay. I withdraw my motion.

AUDIENCE MEMBER: Thank you, sir.

CHAIRMAN BARBIERI: All right. Twenty-seven. Okay.

COMMISSIONER DUFRESNE: I'll be outside.

CHAIRMAN BARBIERI: Commissioner Dufresne is recusing himself on this one so there'd be five commissioners.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Go ahead.

COMMISSIONER HYMAN: Let's do it.

MR. ROBINSON: Good afternoon. Doug Robinson, for the record.

The proposed application is an official zoning map amendment with a Class A conditional use. The applicant is proposing to rezone 2.69 acres of land from residential high, RH, to multi-family residential, RM, and a Class A conditional use to allow for the transfer of development rights for 10 units to allow for the development of 39 multi-family units.

The site is located within a URA, Urban Redevelopment Area, which encourages higher development intensity and densities and encourages workforce housing opportunities.

It is also located in a Revitalization and Redevelopment and Infill Overlay, RRIO, within the Stacey Street Countywide Community Revitalization Team, which is the CCRT, and it's a targeted area.

Just north of this property is an existing daycare and a congregate living facility. To the southeast are one-story single family homes, and to the west are multi-family, single family one-

story homes.

The surrounding properties, except for the town of Haverhill, are all existing multi-family residential zoning district with a future land use of HR-8 or higher.

The applicant addresses the height compatibility with a visual sight analysis cross section, spatial separation and additional plant materials in the landscape buffers.

Access will be from Haverhill -- access will be from Haverhill Road.

At the time of publication staff received no letters from the public. Subsequently -- subsequent to publication, staff has received letters in opposition to the density, intensity, height and traffic concerns of this area, and yesterday staff received the fax from the -- from the Mayor of the Town of Haverhill addressing the previous mentioned issues.

Staff is recommending approval, based on conditions of approval contained in Exhibit C on Page 403.

CHAIRMAN BARBIERI: Okay. Petitioner, before you begin, is Helen Zywicki here?

Ma'am, if you're here for 29, we postponed that hours ago so I hope you haven't been sitting here waiting for hours for us.

AUDIENCE MEMBER: Yes, we have.

CHAIRMAN BARBIERI: But 29 -- item -- agenda Item No. 29 was postponed until September 6th.

AUDIENCE MEMBER: September 6th?

CHAIRMAN BARBIERI: Yes, ma'am.

MR. ROBINSON: October 11th.

AUDIENCE MEMBER: Will it also be postponed for the County Commission meeting?

MR. ROBINSON: October 11th.

CHAIRMAN BARBIERI: Yes, it will not be on -- I'm sorry?

MR. ROBINSON: October 11th.

CHAIRMAN BARBIERI: October 9th? October which?

MR. ROBINSON: Sixty days.

CHAIRMAN BARBIERI: It's 29.

MR. ROBINSON: No. Lake Harbor Quarry?

MR. Mac GILLIS: Yes, that's postponed for 60 days so that will go to the -- back here in the October 6th [sic] -- October 6th [sic] Zoning Commission.

CHAIRMAN BARBIERI: October 6th [sic], and it will not be on the Board of County Commissioners' agenda this month. Sorry about that.

Okay. I'm sorry.

Petitioner, go ahead.

MR. BARRY: Good afternoon. Chris Barry, with Jon Schmidt & Associates.

Just to give you a brief intro into our project, as Doug stated, it's just under 2.7 acres on the west side of Haverhill and north of Belvedere Road.

The plans, overlays and study areas that

affect the property are the Urban-Suburban Tier, the Urban Redevelopment Area, the Haverhill Neighborhood Plan, the Revitalization Redevelopment and Infill Overlay, the Countywide Community Revitalization Team, Stacey Street area, and we'll get into detail on how those affect the proposed project.

These are the requests. As Doug stated, we're requesting the rezoning from the RH to the RM zoning district, as well as a Class A conditional use to allow the transfer of 10 transfer of development rights.

The way that the unit breakdown will be for the 39 multi-family units, 21 of those are by standard and PUD density. Eight of those units are from the workforce housing density bonus, and then 10 are the request for transfer of development rights.

In terms of compatibility, as Doug stated, the land uses, except for the properties to the south in the Town of Haverhill, are consistent with what our request is. There's HR-12 and HR-8 to the west and HR-12 and HR-8 and LR-2 to the east.

The proposed site plan -- what we've tried to do here is consolidate the buildings into the middle of the project as much as possible so you can see the configuration of the site is very irregular, and what we tried to do was get the buildings as far away from the single family residential to the south, as well as the multi-family residential buildings to the west.

A point was that the Traffic Division at one point wanted us to try to align our entrance up with the existing roadway across the street from Haverhill, and we negotiated with them on the current location stating our justification for it was that if we lined up with the street across from Haverhill, then the residential building that we were proposing would be directly on our south property line and would have a greater impact on the single family residential properties to the south.

So we negotiated that and put the building on the north side of the entry road, and then the building in the back, after some discussions with staff, we relocated the dry retention area to the very west to create more separation from the existing multi-family buildings to the west.

In terms of the separations and setbacks, along the rear -- along the multi-family units required is 15 feet, and the proposed building as stands is at 108 feet, which is a 93-foot difference from our west property line; therefore, the separation from the proposed building to the existing multi-family buildings to the west is 161 feet, as those buildings are 53 feet off of their eastern property line.

In regards to the single family units to the south -- and I understand that our site plan was incorrect. It showed that the single family to the -- single family residence to the south was

49 feet off of our property line, and it's actually only 31. So that's been reflected in this breakdown.

The required is 15 feet. Our proposed building is 62 feet, which is a 40-foot -- 47-foot difference from our south property line; therefore, the separation from the proposed building to the existing house to the south is 93 feet.

These are just some cross sections so this would be a cross section as if you were looking north from the single family properties, you can see Building A and Building B and the separations for the multi-family buildings to the west, as well as a single family residence across from Haverhill.

This is the separation setback as if you were looking from Haverhill Road west. So you can see the 93-foot separation from the one-story single family house to the south to our proposed building and then the 74-foot separation from our proposed building to the existing daycare facility.

Just a bit of a time line. This was originally submitted in December. We went to the first DRO meeting in February, and just the reason for showing you the time line, it's just some of the attempts that we've made, one, the meeting in early April with the Office of Community Revitalization staff.

As I stated, this is in the Stacey Street CCRT area so it was recommended that we meet with the OCR staff and see if there's -- was a viable neighborhood group that we can meet with for the Stacey Street area, and at that meeting they told us that there wasn't. So we didn't -- and that's primarily because a lot of the units in the Stacey Street area are rental units.

Then in mid-April we sent our notification letter, the site plan and the elevations for the buildings to the Town of Haverhill, and then I spoke with the town clerk in about mid-May, and she represented to me that they were presenting the site plan and the elevations to their Town Council, that we didn't need to be present, that it was more of an informative meeting, and then after that we were certified in mid-June, and then Tec Shoumate will get up here.

We spoke and met with him within the last two weeks. He's the neighbor directly to the south.

And as the staff report stated, this is just one of the things that we'd like to bring up is that our request is for the rezoning, as well as a Class A conditional use for the 10 additional units -- the transfer of development rights units, but as the staff report stated, we would be permitted to go through the staff level DRO process and still achieve a 34-unit project, the difference being that we wouldn't be allowed to get the 10 transfer of development rights.

We'd only be allowed to request five, and

instead of requesting the price of those transfer of development rights at one dollar, we'd have to pay the full price of 50,000 for each one of those.

But it's just one of the things that we wanted to point out, that we wouldn't necessarily need to go to a public hearing, and we could still achieve 34 units if we met all the other Code requirements.

And this is -- these are just some of the policies. This is the one regarding the urban redevelopment area, and the biggest part of this is that discouraging urban sprawl, promoting economic growth, improving the present conditions of infrastructure investment and reinvestment in the area.

Then the Revitalization Redevelopment and Infill Overlay shall -- it says that the County shall establish incentives, such as the TDRs and make resources available to encourage revitalization redevelopment and infill areas identified, such as our property.

Then the CCRT area states that the RRIO shall be designated as a potential receiving area for the transfer of development rights, and that's what we're requesting.

And here, again, is our proposed site plan.

CHAIRMAN BARBIERI: Staff, do you have anything to add before I go to the public?

MR. Mac GILLIS: No.

CHAIRMAN BARBIERI: We have quite a few cards, so if you would come up in the order that I call you at alternate podiums, we'll give you three minutes.

Would Roy Corie please -- I can't hear you. Come up to the microphone, please.

MR. CORIE: Hello. Thank you.

CHAIRMAN BARBIERI: What's your name?

MR. CORIE: Raymond Corie. I live at 1286 Haverhill, across Haverhill from the proposed site.

CHAIRMAN BARBIERI: Mr. Corie, it says on the card if you are a paid lobbyist you must register with the county administration before speaking or register with the County. It says yes and no.

Are you a paid lobbyist?

MR. CORIE: No, sir. I was a little confused there.

CHAIRMAN BARBIERI: Just an error. Okay.

MR. CORIE: When I leave here I'm on my way to the doctor's to help with someone.

Look, I had a lot to say, but I know my neighbors are going to cover some of that ground so I'm just going to hit a couple of issues.

By the way, how many people are here from the neighborhood are there? One, two, three, four, five, six, seven, eight, nine, 10, 11, 12, 13, 14 -- about 15, I guess, 16 including myself.

Frank, if I might borrow your words about the kids' safety, they're proposed to put 39 units

in here. Approximately, if there's two kids in every unit, and we know this low income housing usually has a lot more than that, that would give 80 kids, and I know you said you're worried about where would they play.

This is only a little over two and a half acres of land or 2.6. I'm concerned with that, also. Where would these kids play?

I know they're putting a little playground in there just like the development that was up here earlier had a little playground, and you said you were very concerned about that. Well, I am, too.

The overspill would absolutely go out into the road to the sidewalk.

We're concerned about crime.

I did a little survey in the neighborhood myself, and this is a work force. Well, about 30 percent of what I see of my neighborhood are skilled workforce. There's even a doctor and a lawyer in there somewhere. I'm a carpenter, myself.

There's probably about 15 percent that's retired and about 55 percent that already live in workforce housing up and down Haverhill probably within only a couple square miles.

We have Stacey Street, for an example. So I feel that we're already saturated with this type housing.

That's basically all of what I have to say. If I have minutes left, I'd like to give it to one of my neighbors.

Thank you for your consideration.

CHAIRMAN BARBIERI: Okay. Who's your neighbor?

MR. CORIE: I'd like to give them to Dave.

CHAIRMAN BARBIERI: Dave Abbott?

MR. ABBOTT: Yes, sir.

CHAIRMAN BARBIERI: Okay. Dave, if you would come up to the podium on your left, and we'll give you four minutes, and Thelmalee Brandenburg, would you please come up to the other podium.

MR. ABBOTT: My name is Dave Abbott. I live at 1262 Park Lane. That's at the intersection of Cypress directly across from this property, and it intersects Park Lane. I'm on the corner.

I purchased my home in 1986. It's been my permanent residence since then. Over the years I've watched the area change.

When Uptown/Downtown took place, they razed all the buildings downtown and disbursed a large amount of individuals. They relocated to only one place that had the affordable housing units and the available land between Okeechobee and Southern Boulevard west of the Trail.

Where downtown area of West Palm Beach saw a large decrease in crime, we, west of the Trail, saw a dramatic increase.

With the development of Stacey Street and the clusters of low to moderate to subsidized

housing, mainly rentals, we've watched the area further deteriorate.

Stacey Street is a haven for drug abuse, drug dealing, violent crimes, domestic abuse. The Sheriff's Department is constantly in the area responding to instances on Stacey Street.

The Sheriff's helicopter flies regularly, that's almost daily, over Stacey Street. Go out there at night, any time after about 10:00 o'clock, it's hovering and circling over Stacey Street.

They chase the people out of Stacey Street. They come on to Park Lane, Cypress and Pine.

I've been held at gunpoint in my own house by the Sheriff's Department because I walked outside of my house on a Sunday afternoon when they are abducting somebody on my property that they chased off of Stacey Street.

I was held under a shotgun until they finally got this guy thinking that I was part of the group.

Anyway, the -- on any given weekend you can hear gunfire coming off -- off of Stacey Street if you're up at 2:00 o'clock. Nobody goes out after about midnight, you know, because you're taking your life in your hands.

When you have young people that live on Stacey Street, most of them do not have their own transportation. So when they want to go to Wal-Mart or go to Military Trail, it's easier to go in a straight line. That's over private property. They will not walk down to Haverhill. They will not walk down to Elmhurst and make the -- make the distance.

They will go over your property. They break into your cars. My car's been -- my truck's been broken in four times. I'm not the only one in the area that's had burglaries.

But they walk over your properties. They took my neighbor's fence and tore it down because it was a hindrance to them walking over to Kohl's (ph) so they can go toward the east.

When the school starts again, we'll have more kids because the bus makes loops. It's easier to get off on Haverhill and walk in the different directions so they're going to once again start, you know, quicker to get home, they will walk over our properties and trespass.

The units proposed by the developer in question shows absolutely no regard for the people who live just east of Haverhill. We're in single family homes. I've been there for 26 years, and -- I mean 21 years, I'm sorry, and the houses are well kept.

We're all on one acre, most of us on a minimum half-acre and usually -- I think there's only two houses on a half-acre. Everybody else is on one acre, yet they propose a building that looks like a jail.

They give this rendering which is a disgrace. That is -- that's the building they're

proposing. It looks like the Palm Beach County jail. It looks like an institution, and they call that affordable housing.

What they're doing is they're opening up more crime, more people, when you have affordable housing, when you do subsidized housing, you're going to get people that have dependencies, and you have families, and, unfortunately, in our society you look at the people that live on Stacey, if you go down there, if they would just enforce the Code violations, we would not have the problems that we presently have.

You have families with five, six, seven members living in a two -- two-bedroom house that breeds -- breeds violence in the home. You can't have that many people.

But here they're proposing something that's just once again going to take people and cram them into an area and call it -- we've done affordable housing in Palm Beach County, and it's going to affect every one of our neighbors around us.

We're not looking to sell our property. We're not looking for multiple units on our property. We're not looking to become millionaires. We want to live peaceably in our area, and this is a direct attack against us, a further attack.

Stacey Street is a -- is the pits. It's the pits, and if you haven't figured it out, I'm adamantly opposed to this project.

Thank you.

COMMISSIONER KAPLAN: Mr. Chair -- I have a question for you, sir.

MR. CORIE: Yes, sir.

COMMISSIONER KAPLAN: Assuming there was no workforce housing, would this application be acceptable to you?

MR. CORIE: Not under the -- not the way he drew it up. If he drew something that's pleasing to the eye -- there are no -- to my knowledge, there's no three-story buildings on the west side. They're on the east side, but if you look on the east side, they're -- they're all rental units.

They're well kept. They have managers on site. They patrol the areas. They understand, and they have workforce people living in those areas. That's Haverhill Commons, I think it's called.

COMMISSIONER KAPLAN: So you're objecting to the appearance of the units as such.

MR. CORIE: I'm objecting to any of the -- to where we're putting subsidized housing or Section 8 housing or workforce to the -- you know, I don't have a problem with working people living in our area.

I do have a problem when we bring subsidized housing into the area, and that's what this is leading to.

COMMISSIONER KAPLAN: All right. Thank you, sir.

MR. CORIE: Yes, sir.

CHAIRMAN BARBIERI: Howard Brandenburg, would you please come up to the right -- to the podium on your left.

Would you state your name and address for the record, please.

MS. BRANDENBURG: I'm Thelma Brandenburg.

I live at 4894 Cypress. That is one property away from where this is going to be built.

When I bought my property about 1968, the deed limited the area to single family houses on no less than one-half acre.

I lived there for over 15 years, starting around 1968 with zero crime at my house. Since the apartments were built over on Stacey, we've had our house broken into two times.

One time they broke the window directly over our bed. We were robbed both times. We have had our garage window torn apart, broken into, multiple items stolen.

We have had several burglaries of our vehicles since Stacey Street, multiple family jammed together has happened.

I'm only asking that you honor what my deed said of single family houses on half-acre minimum to be put back into effect and thereby, by reducing the density, giving the children yards of their own to play in, you reduce the crime in our area.

Thank you.

CHAIRMAN BARBIERI: Thank you.

After the next speaker will be Rhonda Shoumate. Would you please come up to the podium that Ms. Brandenburg was just at.

Would you state your name and address for the record, please.

MR. BRANDENBURG: Okay. Howard Brandenburg.

As my wife just said, we live on the east side of Haverhill directly across from where this is going to be built, and I oppose it.

I talked to Ron Robinson, the fellow that drew it up on the zoning Board there, and he says it's zoned for 21 units now, but they're trying to approve it for 39 units because of TDR.

Looks like everything I've heard this morning, Haverhill Road is going to be either apartments, condos, businesses, gas stations or something, and we'd like to keep our community, at least in this little section, like it was zoned, as my wife said, half-acre to one-acre lots or single family units.

We have all the added traffic that these 39 units would put in. It's at least a hundred -- hundred dollars -- hundred cars a day, counting two per unit plus service units plus visitors in a 90-unit parking lot.

And what's going to happen -- I'll ask you something for the future. What's going to happen when they build the school on Stacey Street with all the extra traffic then? We're going to put a traffic light at Stacey Street and Haverhill?

I'm directly across -- Cypress Lane is a dirt road or shellrock road. It is maintained by Palm Beach County. Graders, they have to come in twice a month to grade our road. People dodging Belvedere and Haverhill come down Park Lane and into Haver- - into Cypress Lane to get -- to dodge the red light so they can head north.

So we've got all the added traffic, added traffic on Haverhill getting across into the turn lane, which is center, then you have to fight to get in northbound traffic, southbound traffic.

Another 100 cars plus the school in a few -- in a year or two is going to add tremendous traffic, more traffic to Haverhill Road, and especially with the new businesses you just approved today.

Thank you.

CHAIRMAN BARBIERI: You're welcome

COMMISSIONER HYMAN: Is there a school going in?

MR. CHOBAN: At Stacy Street.

COMMISSIONER HYMAN: There's a what?

MR. CHOBAN: The School Board has a proposal for a school. They're looking at that.

I believe there's somebody from the School Board --

COMMISSIONER HYMAN: What, south --

MR. BRANDENBURG: It's already approved, and it may be waiting to be built, but --

COMMISSIONER HYMAN: Where is it going to be?

MR. BRANDENBURG: It's on South Stacey Street.

MR. CHOBAN: At the end of Stacey Street west of --

COMMISSIONER HYMAN: Where the apartments are?

MR. BRANDENBURG: Where Stacey Street T's off north and south.

MR. CHOBAN: West of Haverhill.

COMMISSIONER HYMAN: Oh, west. Isn't that where the apartments are?

MR. BRANDENBURG: It's on the west end of Stacey Street.

MR. Mac GILLIS: Michael Owens is here, I think, from the School Board, if you could come up.

COMMISSIONER HYMAN: Isn't that where the apartments are?

MR. CHOBAN: Further, little bit further west.

MR. OWENS: Good afternoon. Michael Owens with the School District.

I don't think we have a slide that shows you Stacey Street, but the proposed school is towards the western terminus of Stacey Street before it turns north-south.

The School District has acquired some property on the north and south side of Stacey Street. We're looking to build an elementary school, proposed elementary school on the southern side primarily on about somewhere between eight

and nine acres, an elementary school that may open by August 2, 2009.

It's preliminary, but --

CHAIRMAN BARBIERI: Any questions? Okay.

MR. OWENS: -- that's what we're looking at right now.

CHAIRMAN BARBIERI: Thank you.

Yes, ma'am. Your name and address, please.

MS. SHOUMATE: My name is Rhonda Shoumate.

I live at 1231 Haverhill Road in the Town of Haverhill.

As you can see on this layover [sic] here, I'm on the very left side. It's right next door to this project which is in the County jurisdiction.

I'm strongly opposed to this project, and I feel the zoning change from RH to RM should be denied.

The owner of the land has a right to build something, but, please, not this.

If you look at the heavy concentration of projects already on Haverhill Road, as well as nearby Stacey Street, it becomes clear that this area has reached a saturation point.

I do not want a three-story building with people looking down onto my private property.

In addition, there would probably be all kinds car doors slamming, car alarms, exhaust fumes, engines revving from cars and motorcycles, combined with garbage dumpsters at 5:00 a.m., moving trucks, family feuds, boom boxes, and the list goes on.

Regarding the traffic impact, in the morning exiting our driveway onto Haverhill Road is already an exercise in patience. Coming home between the hours of 4:00 and 6:00 p.m. usually requires a long wait in line.

Adding the traffic -- the traffic generated by this massive project to the traffic of Whiz Kids Daycare Center and the proposed future school on Stacey Street would cause traffic gridlock and be a real nightmare.

The inevitable increase in crime from jamming so many people in a small area is of extreme concern to me.

The Sheriff's log that I requested from Belvedere Road to Okeechobee Road for the month of July included 543 service calls. These service calls were a combination of traffic-related matters and criminal activity.

Adding 39 apartments with workforce units would undoubtedly add to this list of service calls.

In conclusion, I would like to thank the Planning, Zoning & Building Department for their time and effort to keep our County from becoming another Miami-Dade or Broward County.

I would like to recommend a longer window of opportunity between the date of notification and the date of the hearing so that neighbors have a chance to discuss the impact and make

suggestions. Fifteen days does not allow sufficient time to get organized, in my opinion, although I really enjoyed meeting all the neighbors. That's one good thing that's come out of this.

At this time I would like to go on record as recommending denial of this zoning change request. This project is out of character for the neighborhood and is totally unacceptable.

Thank you.

CHAIRMAN BARBIERI: Thank you.

Mr. Shoumate, would you please come up to the podium on your left, and Merry Lindenberg (ph), would you please come up to the one on your right.

State your name and address for the record, please.

MR. SHOUMATE: Good afternoon. I'm Tec Shoumate. I live at 1231 Haverhill Road North in the Town of Haverhill. I live directly adjacent to this proposed project, which is just to my north.

I strongly oppose the rezoning of this property at 1277 Haverhill Road. I'm a civil engineer, a real estate agent, a general contractor, and I was born in West Palm Beach, lived all my life in this area.

The zoning is now six units per acre. They're proposing to put in 14 units per acre.

The high density will have a severe negative impact on my property and the neighbors, also. The value of my property could be -- could be reduced considerably as a result of this project, along with my quality of life.

I will reduce -- it will reduce my privacy and security, cause excess amount of noise and air pollution, especially if you get a north wind, exhaust fumes, which we do get sometimes still, and it will cause major conflict with the traffic at the Whiz Kids, which is just north of this project.

And as was mentioned before, we have the school on Stacey Street, and I can't imagine the volume that's going to generate when they come out to the intersection of Haverhill.

So basically we're already saturated with apartments in the area.

And I would like to read this to the group as far as a -- the purpose of the Zoning and Building Department, which you call your mission statement.

"The Department of Planning, Zoning & Building helps the people of Palm Beach County preserve and create a quality community life."

And I think this project needs to be modified to follow this mission statement or purpose.

There is a reason this property was zoned at six units per acre, and that is because it's next to the Town of Haverhill, which is a single family residents, family. Possibly going to one story duplexes or triplexes would be more in line.

Additionally, I talked with the owner recently, and he would really prefer to go with a daycare similar to what's there and expand it, but apparently there was some problem with traffic flow, so this might be a solution to the problem, and that was voiced from the owner of the property.

So as it stands right now, I oppose the rezoning, anything above six units per acre.

CHAIRMAN BARBIERI: Thank you.

Would you state your name and address for the record, please.

MS. LINDBERG: Good afternoon, Commissioners. Merry Lindberg. I live at 1253 Park Lane, and it's directly in this neighborhood. You've heard a couple of our neighbors talk about Cypress. That's this little street, and it connects with Park Lane. So we're right there (indicating).

I'm probably a rarity here in front of you, Commissioners, as well as my sister, Bonnie Graham, who's sitting over there.

We were born and raised in the houses that we live in. Our mom and dad built the house in 1950, and my aunt, uncle and grandmother built the house next door in the early '50s. We were born at Good Samaritan Hospital downtown and came home to that house. We're the only owners who ever owned the houses, and --

CHAIRMAN BARBIERI: Take the microphone. You can -- you can walk with it.

MS. LINDBERG: I'm just pointing, but on that side of the street on Haverhill they're all houses as we've described, of an acre, a half-acre, and it's a very stable neighborhood, unlike what we've heard about some of the other sections.

As you've heard, everyone who's spoken so far has been there for 15 years or 20 years. We could go down the list and tell you who lived in each house, you know, when, that's only turned over once or twice in their entire existence.

So this is radically changing, the neighborhood, radically.

Yes, there is some other multi-family housing in the area and down this Stacey Street that we've talked about, but nothing of this level of density and -- and jammed in on as small a parcel. It's only 2.6 or seven acres and -- I mean you can't even put 90 cars on that, I don't think. Can you? But, whatever.

They're really proposing a major, major change in our lifestyle and in properties that we've owned, like I say, since 1950 and, you know, hope to continue to enjoy into our retirement and into my nieces' and nephews' lifetimes who live there.

So that's, you know, the major concern, too, is that we did get rather late notice. Some of us didn't get notice at all until the neighbors canvassed the area. We never heard anything from, you know, the proposed development or developer, unlike we've heard about some of these other

projects where they've met and consulted and tried to get approval or tried to lay out what it is that they're trying to do.

I happened to get one little notice card probably a week or so ago. My sister, who lives right next door to me, didn't. Many of the other neighbors didn't. So this is really our, you know, first and only opportunity to even see what it is that's being proposed.

So at a minimum we would certainly request a postponement and an opportunity to understand more of this project or other alternatives that could be on this site, although obviously our principal request is that you deny, but if you're not inclined to deny, we at least request some additional time and postponement.

And, again, like we don't even really see elevations here -- well, we did up there, but I mean it's -- the one little rendering that we saw, like our prior neighbor said, I mean it looks like the County jail. It doesn't look like -- or a very downtown urban environment or something, not a residential surrounded by acre and half-acre lots.

And actually in an area that I want to say, too, I mean we just put a lot of money into fixing up our one house. Most all the neighbors have in our area, and so we're invested in that community. We're trying to maintain a quality lifestyle.

CHAIRMAN BARBIERI: Thank you.

We have a letter from the Mayor of the Town of Haverhill that's asked to be into the record. I'll just read his summary paragraph, and then I'll ask for a motion to accept it into the record.

"The proposed project is immediately adjacent to the town's corporate boundary, as well as immediately adjacent to one-story single family residences located within the Town of Haverhill. While the Town of Haverhill recognizes the need for workforce housing, the height of the proposed buildings, three-story, and the densities and intensities of the proposed project are in conflict with those properties, as well as surrounding areas, whether incorporated or unincorporated, and if approved would compromise the quality of life, the health, safety and welfare of those properties. As such, the Town of Haverhill is requesting this letter opposing the proposed project be entered into the record."

It's signed by Joseph Crow (ph), mayor of the city of -- Town of Haverhill.

Do we have a motion to receive and file?

COMMISSIONER HYMAN: So moved.

COMMISSIONER ARMITAGE: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

Is there anybody else from the public that wishes to speak?

(No response)

CHAIRMAN BARBIERI: Staff, do you have anything to add at this point?

(No response)

CHAIRMAN BARBIERI: Petitioner.

Yes, ma'am.

MS. GRAHAM: I'll just state for the record that my name is Bonnie Graham, and I live at 1261 Park Lane, and I oppose the density and the height of what they want to put in.

CHAIRMAN BARBIERI: Thank you.

MR. BARRY: I'm just here to answer any questions.

COMMISSIONER HYMAN: Could I ask some questions?

CHAIRMAN BARBIERI: Absolutely.

COMMISSIONER HYMAN: First, have you met with -- have you met with the neighbors?

MR. BARRY: No. We've met with Mr. Shoumate, who's directly to the south of us, and then we met with staff, and they told us that there wasn't a neighborhood group for the CCRT area, so -- actually, Mr. Shoumate's probably -- is the only owner that we met with.

COMMISSIONER HYMAN: Okay. And is -- wait. Allen.

Are there any deed restrictions on this property in terms of --

MR. BARRY: Not that we're aware of.

COMMISSIONER HYMAN: Okay. This request is what, from RH, which is a high density residential --

MR. Mac GILLIS: Actually, the zoning change is just to get it consistent with the land use because there is no RH zoning in the Code. We've taken that out in the 2003 Code rewrite, so it's RM.

So that -- that's just a clean-up thing for the zoning.

COMMISSIONER HYMAN: Okay. That's just a clean-up. Okay. I didn't understand that. Okay. All right.

And the Stacey Street apartments, those are the apartments that are the -- the low to moderate income apartments, right, that were funded by tax exempt bonds, I think; right?

This is different. This is -- what you're proposing is workforce housing.

MR. BARRY: Correct.

COMMISSIONER HYMAN: You're not talking -- so there's a -- I think a different financial threshold we're talking about.

MR. BARRY: Correct.

COMMISSIONER HYMAN: Okay. I have a problem -- I have a couple of problems.

One is I have a problem with the height.

I have a problem with three stories right next to one story. I don't remember the last time we've done that. Okay. I don't think that's compatible.

And the density under standard, your standard density you get about 16 units, with a PUD you get 21 units, and you're -- with the density bonuses and then the transfer of development rights and all that kind of stuff you're up to 39 units.

You know, we want to -- you know, we are in favor of workforce housing, clearly, and, you know, I think our County needs more affordable housing for people. It's almost become an oxymoron in our -- in our County, affordable housing, but I'm not sure putting 39 units on a two-acre parcel in the middle of a community that's struggling to preserve itself is compatible or a good idea.

I think that you need to take a postponement and meet with these -- with your neighbors and maybe get the names of all the people that are here, and then it's all of -- you know, your obligation to get your neighbors together since you don't have a homeowners association and meet with them and see if you can address their concerns.

One of them, you know, will probably be, you know, bring the height down from three stories to two stories.

You know, the property is zoned residential. It's going to be developed residential. It's not going to be left as vacant. You don't want it to be left as vacant, but we do want it to be compatible with the neighborhood.

So I don't know how my fellow commissioners feel, but I would move for a 30-day postponement for the specific purpose of you working with the neighbors.

COMMISSIONER KAPLAN: Mr. Chairman.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: If the Commissioner Hyman would let me talk now?

CHAIRMAN BARBIERI: Go ahead. You got the floor.

COMMISSIONER KAPLAN: First question to the applicant, petitioner, are there any other three-story residences in the area?

MR. BARRY: To the north on the east side of Haverhill.

COMMISSIONER KAPLAN: Three --

MR. BARRY: I don't know the exact distance.

COMMISSIONER KAPLAN: No. Are they three stories?

MR. BARRY: Yes.

COMMISSIONER KAPLAN: Okay. And they're -- and to your north and west side are there any surrounding you?

MR. BARRY: North and west it's primarily one story.

COMMISSIONER KAPLAN: Okay. I'm going --

well, the motion hasn't been seconded, but I want to speak on the request by **Commissioner Hyman** for a postponement.

I think this Commission has postponed too many items. All we're doing is delaying the calendar to the next month. I don't think it's our function to micromanage every application that comes before us.

On this particular application I'm opposed to it. I'm willing to stand up to be accounted as opposed to it. I see no purpose of us postponing it to let the petitioner play around with another design, another area type of development so that we can then reconsider it.

I don't think that's the function of this Commission. Either we approve it with certain modifications, that's one thing, but if we disapprove it, which I'm -- hear from **Commissioner Hyman** that she's not in favor of it, then I think we should stand up to be counted and be against it, deny the application and let the Commissioner go -- let the petitioner go to BCC and try to convince them to overturn our decision or let the petitioner revise his program that he has to do and come back again.

But I don't think it's our function to micromanage and say postpone, postpone.

This would be the third or fourth postponement we've had today, and, frankly, I'm abhorred -- I can't believe how bad I feel about these continuing postponements.

We, as Commissioners have been appointed to protect the public, to make decisions, and decisions should be to approve it if you feel they're in favor of it, or deny it if you feel against it, but not constantly make applications to postpone to come back and make modifications.

CHAIRMAN BARBIERI: **Commissioner Hyman.**

COMMISSIONER HYMAN: Okay. Allen, I couldn't disagree more. Okay. Our job here is to get the best projects that we can, and by voting to deny this project, it doesn't stop the project.

It goes on to the Board of County Commissioners, and then -- and they have to decide what to do. We're not doing our homework if we're doing that.

We've heard that the petitioner hasn't met with the neighbors. There's some residential development that's going to go on this property, and I think that the developer who's going to develop this property needs to meet with the adjacent homeowners to come up with the best project that's most compatible with them.

And so I think taking the postponement, giving them time to do it -- if you do that and you come back and you still have not been able to reach some kind of compromise or agreement, then we're going to have to, you know, vote on the project at that time.

But I'm going to renew my motion for a 30-day postponement for the express purpose of you meeting with the neighbors.

CHAIRMAN BARBIERI: Do we have a second on

Commissioner Hyman's motion?

COMMISSIONER BOWMAN: I'll second it.

CHAIRMAN BARBIERI: Okay. Commissioner Bowman seconded the motion.

Is there any discussion on the motion?

COMMISSIONER KAPLAN: I think my position is clear, particularly I think Commissioner Hyman has supported my position to the fact that apparently he has not met with the neighbors, for example.

That, to me, is sufficient to deny his petition. I don't think we have to send it back or send it down to BCC without having the petitioner say he's met with the neighbors.

That's his responsibility, and if he hasn't lived up to that responsibility, it's our responsibility to deny the application, and I intend to vote against it.

CHAIRMAN BARBIERI: Any other discussion?

(No response)

CHAIRMAN BARBIERI: All in favor of the motion.

COMMISSIONER HYMAN: Aye.

COMMISSIONER BOWMAN: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Motion carries, four to -- 4-1.

Postpone to October --

MR. CHOBAN: Three-two.

CHAIRMAN BARBIERI: I'm sorry.

COMMISSIONER HYMAN: Did you vote against it?

CHAIRMAN BARBIERI: Who voted against it?

I'm sorry.

COMMISSIONER HYMAN: Three-two.

CHAIRMAN BARBIERI: Three-two.

MR. BARRY: Thank you.

MR. Mac GILLIS: That'd be September 6th Zoning Commission.

COMMISSIONER HYMAN: And if you got -- if all of you would give your information to the petitioner how they can contact you.

If they don't, that's -- that'd be unfortunate, but please give them your information.

MR. Mac GILLIS: That brings us to the last item, Item 28, DOA2006-1694, the Friendship

Baptist Church.

Doug Robinson will present this.

MR. ROBINSON: Doug Robinson, for the record.

This application is a development order amendment to an existing place of worship, Friendship Baptist Church, to reconfigure the site plan and add square footage.

This is a 1.93-acre site originally approved in May of 1979, for a place of worship.

The site currently has a 2,294 square foot fellowship hall used as a sanctuary and is requesting to add a 6,588, 255-seat place of worship.

The original -- the original approved plan has approved -- proposed addition of approximately 7500 square feet. The applicant is proposing an addition of approximately 1,000 feet less than original plan and has upgraded in size and plant material the landscape buffering to help mitigate incompatibility.

At the time of publication no letters were received but received phone calls from adjacent property owners complaining about cars being parked in the buffers and the swale areas.

Staff recommends approval, subject to conditions of approval and amendments found on add/delete contained in Exhibit C, found on Page 450.

MR. KOEHLER: Good afternoon, Mr. Chairman, Board members. My name is Dennis Koehler. I'm the attorney for the Haitian Bethel Baptist Church.

I'd like to introduce my client, Pastor Jean Joint (ph), pastor, and some of his Board members and family members.

Our site planner and project architect is over here, Ron Uphoff. Ron and I have perhaps more experience, as you can tell by the hair, than anybody around here in this business, except for Marty Perry.

Actually, as I went through this file when the pastor came to me in December of 2003, to ask about representing him on this project. I looked at the zoning resolution, and I knew it was a good one because I offered the motion to approve this thing back in 1979, 28 years ago.

COMMISSIONER HYMAN: Okay. We know you're old, Dennis. Okay.

MR. KOEHLER: Thank you, Sherry. I'll be brief 'cause I know it's the end of the day.

COMMISSIONER HYMAN: Yeah, right, but --

MR. KOEHLER: Bottom line is that this project was approved. The site plan was never developed. The Friendship Baptist Church sold it to my client, the Haitian Bethel Baptist Church. They've been long, hard, very patient in working with staff and with Mr. Uphoff, and we're finally here today with a recommendation of approval with just two conditions we'd like to ask that you change.

The first one has to do with the south

setback, and Mr. Robinson, I believe, is ready to agree with us. Instead of 50 feet it should be 35 feet.

And the second condition has to do with the number of seats. We've agreed that it should be 235 seats, rather than 200, and I would tell you that 28 years ago there were 300 seats that were approved, a building that was substantially larger.

So as long as staff goes along with and agrees with these modified conditions, we're happy to help us get out of this place today.

CHAIRMAN BARBIERI: Staff.

MR. ROBINSON: Yes, the condition about the number of seats is on the add/delete, and the setback, we agree with the 35-foot setback.

CHAIRMAN BARBIERI: Okay. We have a whole bunch of cards, but let me just make sure there's nobody opposing.

Oh, yes, I do. Mr. Richard Levy, would you please come up to the podium.

Your name and address for the record, please.

MR. LEVY: Yes, Richard Levy, 1973 Tomatoe Road and 7460 High Ridge Road.

I live on this property now since 1999, and we've had the neighbors that live directly -- I'm also here talking -- there was another lady that was with me here this morning. Her name is Monica Barracas (ph). She lives at 7461 High Ridge Road and has property directly next door to the church right now.

Initially when that church was set up, it was set up as a community church right in the area there for the people, the people that signed the documents and everything like that for the church.

As the gentleman said, it was sold off to somebody else because the people in the area were not participating in using the facility.

We live directly right across the street from the facility. I just recently built a granny slats house for my mother on my property, she's 85 years old, which directly is going to be right in the area of where their driveway is, and increasing the size of that facility and everything like that.

I also have pictures from Monica's house showing the quantity of cars that right now with the building that they're using --

CHAIRMAN BARBIERI: You have to speak up.

MR. LEVY: The building they're using that -- that it gets very crowded over there, and increasing that size of that property, that's her -- one of her houses on her property is -- the cars are directly right up against the fencing against her house, okay, with fumes and everything like that.

Another question that I have about the -- is the rural area and everything like that is -- that's directly across the street from the High Ridge scrub area.

I know the area is -- was initially

zoned -- it's still zoned residential with a variance to have a church there, but it was supposed to be a community church.

I go on again about another thing is that the Boynton area keeps trying to annex us into their area. They just took 18 acres south of us.

I spoke with Warren Newell before he left about that area that they decided they were going to increase that so Boynton decided just to say oh, we'll take the land from the County, and we'll build whatever we want down there, and you people that have your acre or half-acre houses and stuff like that, tough luck, because guess what, the City's coming, and we're going to take you over.

I wanted to find out about the quantity of service days, what the County recommends for a facility of that size and how often they're allowed to have services and everything like that.

I don't want -- you know, we don't know the people that live in that area, the usage of that facility, what it was ever substantially supposed to be used for and the quantity.

When I look myself and say to the -- what I had read before -- I don't know what happened to the documents -- when I went and looked at the file, the initial thing that that gentleman was talking about is that there was a recommendation that they were supposed to be hooked up to City water and City sewer in order to increase the size of that facility.

I don't know what happened to those documents. They were in the file, but they're not there anymore.

CHAIRMAN BARBIERI: Sir, maybe wrap it up for us.

MR. LEVY: Yeah. Okay. All I wanted to say is, you know, if you increase it and it grows and it grows -- I spoke with the gentleman from the church three days ago. We found out about it when we got the letters in the mail.

I also have documents here showing you like all the -- all this. I don't know if you have all that, of the growth and everything for that area, but I can supply it to you.

All I can say is I disapprove of that growth.

CHAIRMAN BARBIERI: Thank you.

Mr. Uphoff, would you please come up to the podium, and then Mr. Joint.

Do you want to submit this for the file? Mr. Levy, you want this in -- yes.

We have a motion?

COMMISSIONER ARMITAGE: So moved.

CHAIRMAN BARBIERI: Motion to receive and file by Commissioner Armitage.

COMMISSIONER HYMAN: Second.

CHAIRMAN BARBIERI: Second by Commissioner Hyman.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

The record should reflect that Commissioner Dufresne has left the building.

MR. UPHOFF: Yeah, my name is Ron Uphoff, and I'd like to answer a couple of the gentleman's questions that he presented.

The house on the north side is one foot off of the property line, so we have accommodated that by removing the parking area directly adjacent to his building, and there'll be a green space of 2100 square feet, and it sets back 33 feet from the property line.

The services majorly are on Sunday from 9:00 to 12:00 and Thursday from 7:00 to 8:30.

Incidental to that there's a fellowship meeting, choir rehearsals and Bible studies which are all around 7:30 to 8:30 in the evenings, and those are relatively small groups compared to the congregation.

Originally the site was approved for a congregation of 300, approximately 1,000 more square feet than we're providing, and it was a two-story structure.

It would have also eliminated probably 70 to 75 percent of the existing vegetation, which are substantial trees of oak and pine.

The relocation of the building will preserve all but five trees. The layout of the parking and shuffling of spaces in between, et cetera, we preserved the trees.

The structure, it'd be one story, a maximum height of 26 feet.

MR. KOEHLER: I'd like to add one thing, Commissioners.

As far as parking is concerned, yes, there had been a problem before because there was very little in the way of paved parking. This site plan calls for 78 parking spaces, so that problem has been addressed.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Dennis, do you have an elevation of this building, what it's going to look like?

Are you taking the existing house and moving it?

MR. UPHOFF: No, that's --

COMMISSIONER HYMAN: You're just getting rid of that and you're adding -- you're putting a new building on?

MR. UPHOFF: No, that -- the structure that's there will be used for Sunday School.

COMMISSIONER HYMAN: So it stays there?

MR. UPHOFF: It will stay there.

COMMISSIONER HYMAN: What did you -- so what's this about relocating something?

MR. UPHOFF: The approval of the original second structure --

COMMISSIONER HYMAN: Oh, for -- okay.

MR. UPHOFF: -- which was twice the size that -- I mean 1,000 square feet more than --

COMMISSIONER HYMAN: Okay. So do you have a --

MR. UPHOFF: -- we're providing, and it was a two-story structure.

COMMISSIONER HYMAN: Do you have an elevation of what this building's supposed to look like?

MR. UPHOFF: I don't have them at present. I can have them available for the planning meeting -- or the Council meeting.

COMMISSIONER HYMAN: Has staff seen it?

MR. UPHOFF: We've agreed to --

COMMISSIONER HYMAN: And you said 26 feet, but the site plan says 30 feet high.

CHAIRMAN BARBIERI: Mister -- Mr. Levy --

MR. UPHOFF: Well, that was a request of the --

CHAIRMAN BARBIERI: -- has a copy? Is that possible that Mr. Levy has a copy and we don't?

MR. UPHOFF: -- of the DRO.

COMMISSIONER HYMAN: How did --

MR. Mac GILLIS: The elevations?

MR. UPHOFF: They were submitted, conceptual plans were submitted.

MR. Mac GILLIS: The architectural Code requires you to submit them at three different stages, either at the public hearing if you want to garnish support from the Board.

I don't think they submitted them for --

MS. HERNANDEZ: They submitted -- they submitted them; however, the elevation review was not completed; therefore, they wanted to finalize it at final DRO.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: So --

MR. UPHOFF: He's got it there, yeah.

The problem with going --

COMMISSIONER HYMAN: We have -- we have this site plan. You say you're limiting the height to 26 feet --

MR. UPHOFF: Right, that's --

COMMISSIONER HYMAN: -- so you're modifying the site plan which says 30 feet?

MR. UPHOFF: That was a request of staff, and we agreed to it.

COMMISSIONER HYMAN: And --

MR. UPHOFF: The existing building is --

COMMISSIONER HYMAN: Is this what the elevation looks like? Is that -- where's the existing house?

MR. UPHOFF: That's conceptual, yes. It'll be much improved --

COMMISSIONER HYMAN: Where's the existing house?

MR. UPHOFF: -- meeting the criteria of staff.

COMMISSIONER HYMAN: Where's the existing house, Dennis?

MR. KOEHLER: It's to the north side. Let me take a look at --

MR. UPHOFF: The elevation is to the --

the front is facing east, and the long elevation is on the south.

COMMISSIONER HYMAN: Okay.

MR. KOEHLER: The existing home, Board members, is here (indicating).

Board members, the existing house that sits one foot from the property line is located approximately here (indicating), and as you heard Mr. Uphoff say, he's created a green space and limited the parking adjacent to that single family home.

Here's the --

MR. UPHOFF: Here's the revised site plan.

CHAIRMAN BARBIERI: We can't do this.

MR. KOEHLER: The detailed -- the detailed plan --

CHAIRMAN BARBIERI: You're going to have to go back to the podium. You're going to have to be on the record over there. You can do that that way.

Can you put it up there, Dennis? Somebody will help you hold it up and -- so that everybody can see it, rather than just Sherry and I.

MR. UPHOFF: Okay. The adjacent house to the north is located right here (indicating), and this is a green space that we've created.

The original landscape requirement around the perimeter was five feet. We have gone to 15 feet, and we will meet the new landscape criteria.

Also, adjacent to the building is eight-foot of foundation planting to the percentage of each side and the front.

COMMISSIONER HYMAN: See, I -- I'm not sure I have any problem with the church being in the neighborhood. I think -- I love churches in the neighborhood.

I have a problem with approving something that we don't -- we can't see. I mean we've -- I don't know the last time we approved a church which we didn't have an elevation for -- have we?

MR. Mac GILLIS: Staff reviewed preliminary drawings, they're indicating to me, but the applicant failed to get them in to meet our deadline, so staff -- he indicated he would do them per the Code that allows them later on, not something we really support, but he didn't -- you didn't meet the deadline in getting the revised drawings in to include them --

MR. UPHOFF: No, we didn't because there was so much getting a resolution of the -- the right-of-way changed twice on us. The last meeting we had that was increased another 10-foot take of right-of-way so we had to rework the site, and it was just push-pull all the way.

Hopefully, we'll meet the requirements, and we said we'd go by the prescriptive methods and requirement of the design staff.

COMMISSIONER HYMAN: You say it.

MR. KOEHLER: Commissioners, we indicated before that what you've seen, the sketches that were offered by our unpaid consultants, the Levys, is the concept plan for the church, and that's

four feet higher than what's been proposed.

So what you see there is essentially what you're going to be getting.

COMMISSIONER BOWMAN: Mr. Chairman.

CHAIRMAN BARBIERI: Yes.

COMMISSIONER BOWMAN: I'd like to make a motion to postpone Z/CA2006-1694 [sic] because it doesn't seem like we have the proper elevations to make an educated decision on this matter.

COMMISSIONER HYMAN: Second.

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

Any discussion? Commissioner Kaplan.

MR. KOEHLER: See you next month, Commissioners.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

COMMISSIONER HYMAN: Oh, can I just -- one thing, on the proposed motions, you know, that you write on the materials --

CHAIRMAN BARBIERI: Approving the postponement, yes.

COMMISSIONER HYMAN: You can put in subject to the conditions since we always add it anyway. If there aren't conditions, just type in, you know, subject to the conditions.

And if you could just make sure that the disclosures, the ownership disclosures are included with each of the petitions, because I think that's important.

CHAIRMAN BARBIERI: We need a motion to adjourn.

COMMISSIONER ARMITAGE: So moved.

COMMISSIONER BOWMAN: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Armitage, second by Commissioner Bowman for adjournment.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: 5-0.

Thank you, staff.

(Whereupon, the meeting was concluded at 2:20 p.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA)

COUNTY OF PALM BEACH)

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

DO HEREBY CERTIFY that the above-entitled
and numbered cause was heard as hereinabove set
out; that I was authorized to and did report the
proceedings and evidence adduced and offered in
said hearing and that the foregoing and annexed
pages, numbered 5 through 127, 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 20th day of August, 2007.

Sophie M. Springer, Notary Public