

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, September 4, 2008
9:02 a.m. - 10:46 a.m.
Jane M. Thompson Memorial Chambers
301 North Olive Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

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

Bob Banks, Assistant County Attorney
 Jon Mac Gillis, Zoning Director
 Maryann Kwok, Chief Planner, Zoning
 Wendy Hernandez, Zoning Manager
 Autumn Sorrow, Senior Site Planner, Zoning
 Ron Sullivan, Senior Site Planner, Zoning
 Carrie Rechenmacher, Senior Site Planner, Zoning
 Carol Glasser, Site Planner II, Zoning
 Ora Owensby, Site Planner II, Zoning
 Joyce Lawrence, Site Planner II, Zoning
 Anthony Wint, Site Planner II, Zoning
 Donna Adelsperger, Site Planner I, Zoning
 D. G. McGuire, Site Planner II, Arch Review
 Isaac Hoyos, Planning
 Ken Rogers, Director, Land Development Div.
 Joanne Koerner, Land Development
 Nick Uhren, Senior Professional Engineer, Traffic Div.
 Kenny Wilson, Health Department
 Bob Kraus, ERM
 Michael Owens, School Board Rep.
 Stacey Smalls, CDR Secretary

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P R O C E E D I N G S

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4 CHAIRMAN BARBIERI: If everybody will
5 please be seated, we'll get started.

6 All right. Staff, would you please take
7 the roll call.

8 MS. HERNANDEZ: Commissioner Bowman.

9 COMMISSIONER BOWMAN: Here.

10 MS. HERNANDEZ: Commissioner Armitage.

11 COMMISSIONER ARMITAGE: Here.

12 MS. HERNANDEZ: Commissioner Brumfield.

13 (No response)

14 MS. HERNANDEZ: Commissioner Davis.

15 (No response)

16 MS. HERNANDEZ: Commissioner Anderson.

17 VICE CHAIRMAN ANDERSON: Here.

18 MS. HERNANDEZ: Commissioner Barbieri.

19 CHAIRMAN BARBIERI: Here.

20 MS. HERNANDEZ: Commissioner Hyman.

21 COMMISSIONER HYMAN: Here.

22 MS. HERNANDEZ: Commissioner Zucaro.

23 (No response)

24 MS. HERNANDEZ: Commissioner Kaplan.

25 COMMISSIONER KAPLAN: Here.

26 MS. HERNANDEZ: We have a quorum.

27 CHAIRMAN BARBIERI: All right. The record
28 should reflect that Commissioners Armitage and
29 Bowman, our alternates, will both be voting today.

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

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

34 CHAIRMAN BARBIERI: The Zoning Commission
35 of Palm Beach County has convened at 9:00 a.m. in
36 the Jane M. Thompson Memorial Chambers, 6th Floor,
37 301 North Olive Avenue, West Palm Beach, Florida,
38 to consider applications for Official Zoning Map
39 Amendments, Planned Developments, Conditional
40 Uses, Development Order Amendments, Type II
41 Variances and other actions permitted by the Palm
42 Beach County Unified Land Development Code and to
43 hear the recommendations of staff on these
44 matters.

45 The Commission may take final action or
46 issue an advisory recommendation on accepting,
47 rejecting or modifying the recommendations of
48 staff. The Board of County Commissioners of Palm
49 Beach County will conduct a public hearing at 301
50 North Olive Avenue, West Palm Beach, Florida, in
51 the Jane M. Thompson Memorial Chamber, 6th Floor,
52 at 9:30 a.m. on Monday, September 29, 2008, to
53 take final action on the applications we'll be
54 discussing today.

55 Zoning hearings are quasi-judicial and
56 must be conducted to afford all parties due
57 process.

58 This means that any communication with
59 commissioners which occurs outside of the public
60 hearing must be fully disclosed at the hearing.
61 In addition, anyone who wishes to speak at the
62 hearing will be sworn in and may be subject to

1 cross-examination.
2 In this regard, if any group of citizens
3 or other interested parties wish to cross-examine
4 witnesses, they must appoint one representative
5 from the entire group to exercise this right on
6 behalf of the group. Any person representing a
7 group or organization must provide written
8 authorization to speak on behalf of the group.
9 Public comment continues to be encouraged,
10 and all relevant information should be presented
11 to the Commission in order that a fair and
12 appropriate decision can be made.
13 Staff, do we have proof of publication?
14 MR. Mac GILLIS: Yes, Mr. Chair.
15 VICE CHAIRMAN ANDERSON: We need a motion
16 to receive and file.
17 COMMISSIONER HYMAN: So moved.
18 VICE CHAIRMAN ANDERSON: So moved.
19 CHAIRMAN BARBIERI: Motion made by
20 Commissioner Anderson, seconded by Commissioner
21 Hyman.
22 Any discussion.
23 (No response)
24 CHAIRMAN BARBIERI: All in favor.
25 COMMISSIONERS: Aye.
26 CHAIRMAN BARBIERI: Opposed.
27 (No response)
28 CHAIRMAN BARBIERI: Motion carries, 5 --
29 6-0.
30 Those of you who wish to address the
31 Commission today, would you please stand and be
32 sworn in by the Assistant County Attorney.
33 (Whereupon, speakers were sworn in by Mr.
34 Banks.)
35 MR. BANKS: Thank you.
36 CHAIRMAN BARBIERI: All right. Do we have
37 any disclosures, starting with Commissioner
38 Bowman.
39 COMMISSIONER BOWMAN: No.
40 CHAIRMAN BARBIERI: Commissioner Armitage.
41 COMMISSIONER ARMITAGE: No disclosures.
42 CHAIRMAN BARBIERI: Commissioner Anderson.
43 VICE CHAIRMAN ANDERSON: Yes, I met with
44 the agent on agenda Item No. 14.
45 CHAIRMAN BARBIERI: And I also met with
46 the agent on Item No. 14.
47 Commissioner Hyman.
48 COMMISSIONER HYMAN: So did I.
49 CHAIRMAN BARBIERI: Commissioner Kaplan.
50 COMMISSIONER KAPLAN: I received a phone
51 call from the petitioner agent on Item 6 and 10,
52 but I did not discuss any matters.
53 CHAIRMAN BARBIERI: Okay. The record
54 should reflect that Commissioner Hill [sic] is
55 here. So that will be seven.
56 Davis, I'm sorry. Wrong -- wrong board.
57 You can tell where my mind's at.
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1 CHAIRMAN BARBIERI: All right. That'll
2 take us to consent items.
3 COMMISSIONER HYMAN: So who doesn't --
4 MR. Mac GILLIS: Postponed items.
5 CHAIRMAN BARBIERI: Postponed items.
6 MR. Mac GILLIS: Begin on Page 2, Item 1,
7 Z/DOA/CA-2007-1185, Winners Church, a motion to
8 postpone 30 days to October 2nd, 2008.
9 COMMISSIONER HYMAN: Anybody here?
10 CHAIRMAN BARBIERI: Is there anybody here
11 to speak on Item Number -- which one are we on?
12 One?
13 COMMISSIONER HYMAN: Number 1.
14 COMMISSIONER KAPLAN: No. 1.
15 CHAIRMAN BARBIERI: No. 1?
16 (No response)
17 COMMISSIONER KAPLAN: Hearing none, Mr.
18 Chairman, I move we postpone that item 30 days
19 'til October 2nd, 2008.
20 VICE CHAIRMAN ANDERSON: Second.
21 CHAIRMAN BARBIERI: Motion made by
22 Commissioner Kaplan, seconded by Commissioner
23 Anderson.
24 Any discussion.
25 (No response)
26 CHAIRMAN BARBIERI: All in favor.
27 COMMISSIONERS: Aye.
28 CHAIRMAN BARBIERI: Opposed.
29 (No response)
30 CHAIRMAN BARBIERI: Motion carries, 7-0.
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43 MR. Mac GILLIS: Item 2, ZV/PDD/DOA-2008-
44 452, Lantana Square Shopping Center, motion to
45 postpone 30 days to October 2nd, 2008.
46 CHAIRMAN BARBIERI: Is there anybody here
47 from the Public to speak on Item No. 2?
48 (No response)
49 COMMISSIONER KAPLAN: Not hearing any
50 members of the public, I move to postpone that
51 item 30 days to October 2nd, 2008.
52 VICE CHAIRMAN ANDERSON: Second.
53 CHAIRMAN BARBIERI: Motion made by
54 Commissioner Kaplan, second by Commissioner
55 Anderson.
56 Any discussion.
57 (No response)
58 CHAIRMAN BARBIERI: All in favor.
59 COMMISSIONERS: Aye.
60 CHAIRMAN BARBIERI: Opposed.
61 (No response)
62 CHAIRMAN BARBIERI: Motion carries, 7-0.

1 MR. Mac GILLIS: Item 3, ZV-2008-1184,
2 Canyon Town Center TMD, postponement for 30 days
3 to October 2nd, 2008.
4 CHAIRMAN BARBIERI: Is there anybody here
5 to speak on Item No. 3?
6 (No response)
7 COMMISSIONER KAPLAN: Not hearing any
8 opposition, I move to postpone that item to
9 October 2nd, 2008.
10 VICE CHAIRMAN ANDERSON: Second.
11 CHAIRMAN BARBIERI: Motion made by
12 Commissioner Kaplan, seconded by Commissioner
13 Anderson.
14 Any discussion.
15 (No response)
16 CHAIRMAN BARBIERI: All in favor.
17 COMMISSIONERS: Aye.
18 CHAIRMAN BARBIERI: Opposed.
19 (No response)
20 CHAIRMAN BARBIERI: Motion carries, 7-0.
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33 MR. Mac GILLIS: We've had two late
34 requests to be added to the postponements, Item 9,
35 DOA-2008-791, the Toppel Center, postponement for
36 30 days to October 2nd, 2008.
37 CHAIRMAN BARBIERI: Is there anybody here
38 to speak on Item No. 9?
39 (No response)
40 COMMISSIONER KAPLAN: Hearing no
41 opposition I'm going to move to postpone that item
42 to October 2nd, 2008.
43 VICE CHAIRMAN ANDERSON: Second.
44 CHAIRMAN BARBIERI: Motion made by
45 Commissioner Kaplan, seconded by Commissioner
46 Anderson.
47 Any discussion.
48 (No response)
49 CHAIRMAN BARBIERI: All in favor.
50 COMMISSIONERS: Aye.
51 CHAIRMAN BARBIERI: Opposed.
52 (No response)
53 CHAIRMAN BARBIERI: Motion carries, 7-0.
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1 MR. Mac GILLIS: Item 14, DOA/R/TDR-2008-
2 441, Woodwind PUD, a postponement for 30 days to
3 October 2nd, 2008, to allow staff to readvertise
4 this item.

5 CHAIRMAN BARBIERI: We have one card, Mr.
6 Jako. We also have a letter from you.

7 MR. JAKO: I have no problem with the
8 postponement.

9 CHAIRMAN BARBIERI: Okay. All right.
10 Is there anybody else here to speak on
11 Item No. 14?

12 (No response)

13 COMMISSIONER KAPLAN: Hearing none, I move
14 to postpone that item to October 2nd, 2008.

15 VICE CHAIRMAN ANDERSON: Second.

16 CHAIRMAN BARBIERI: Motion made by
17 Commissioner Kaplan, second by Commissioner
18 Anderson.

19 Any discussion.

20 (No response)

21 CHAIRMAN BARBIERI: All in favor.

22 COMMISSIONERS: Aye.

23 CHAIRMAN BARBIERI: Opposed.

24 (No response)

25 CHAIRMAN BARBIERI: Motion carries, 7-0.

26 For the benefit of the court reporter, the
27 gentleman in the audience who spoke is Theodore
28 Jako, J-a-k-o.
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41 MR. Mac GILLIS: That'll bring us to Page
42 3, the withdrawn items.

43 Item 4, ZV-2008-89, Westgate Station.

44 No motion required for this item.
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57 MR. Mac GILLIS: Item 5, DOA-2007-2013,
58 Del Mar Plaza.

59 No motion required for this withdrawal.
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1 MR. Mac GILLIS: That'll bring us to Page
2 4 of your agenda, consent agenda.

3 We'd ask the applicant to come to the
4 podium, state their name for the record and agree
5 to the conditions.

6 Item 6, PDD-2006-1682, 112th/Northlake
7 Office, found on Pages 6 through 33,

8 Staff is recommending approval of this
9 MUPD, subject to 29 conditions.

10 CHAIRMAN BARBIERI: All right. The record
11 should reflect that Commissioner Brumfield is
12 present. Commissioner Bowman will not be voting
13 on these motions any further.

14 Commissioner Armitage will be the voting
15 alternate member.

16 So we have -- we're on No. 6, and this is
17 for -- I'm sorry, Jon.

18 MR. Mac GILLIS: This is for -- we're on
19 the consent agenda.

20 CHAIRMAN BARBIERI: Okay.

21 MR. Mac GILLIS: This item is for
22 approval.

23 CHAIRMAN BARBIERI: Is there anybody here
24 from the public that wishes to speak on Item No.
25 6?

26 (No response)

27 CHAIRMAN BARBIERI: Petitioner.

28 MR. TERRY: Good morning. Brian Terry,
29 with Land Design South, on behalf of the
30 applicant.

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

33 CHAIRMAN BARBIERI: Okay.

34 Any discussion from the board?

35 COMMISSIONER HYMAN: Move for approval of
36 the official zoning map amendment from
37 Agricultural Residential Zoning District to the
38 Multiple Use Planned Development District, subject
39 to the conditions.

40 VICE CHAIRMAN ANDERSON: Second.

41 CHAIRMAN BARBIERI: Motion made by
42 Commissioner Hyman --

43 COMMISSIONER KAPLAN: Second.

44 CHAIRMAN BARBIERI: -- seconded by
45 Commissioner Anderson.

46 Is there any discussion.

47 (No response)

48 CHAIRMAN BARBIERI: All in favor.

49 COMMISSIONERS: Aye.

50 CHAIRMAN BARBIERI: Opposed.

51 (No response)

52 CHAIRMAN BARBIERI: Motion carries, 7-0.
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1 MR. Mac GILLIS: Item 7, PDD-2007-792
2 [sic], MPC III Turnpike Business Park, found on
3 Page 34 through 59.

4 Staff is recommending approval of this
5 rezoning, subject to 27 conditions found on Pages
6 48 through 51.

7 Just -- the Board will recall, this item
8 was on consent agenda last month. It was
9 postponed for 30 days.

10 At the last minute there was a request
11 from FDOT for additional right-of-way on this
12 site, but that issue has since been --

13 MR. ROGERS: That issue is still
14 outstanding.

15 There may want to be some discussion about
16 this, and it may have to be pulled off the consent
17 agenda.

18 COMMISSIONER HYMAN: Yeah, and I did have
19 a question about this, also, so I'd like to take
20 it off the consent.

21 CHAIRMAN BARBIERI: Okay.
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34 MR. Mac GILLIS: That brings us to Item 8,
35 DOA-2007-1776, the Cross County Mall, found on
36 Page 60 through 92.

37 Staff is recommending approval of this
38 development order amendment to reconfigure the
39 site and add square footage, subject to 65
40 conditions found on Page 74 through 84.

41 CHAIRMAN BARBIERI: Good morning.

42 MR. SALTZ: Good morning. My name is Mark
43 Saltz, from Saltz Michelson Architects, and I'm
44 the agent for the owner, and we agree to all the
45 conditions.

46 CHAIRMAN BARBIERI: All right.

47 Is there anybody here from the public to
48 speak on Item No. 8, DOA-2007-01776?

49 (No response)

50 COMMISSIONER KAPLAN: Hearing none --

51 COMMISSIONER HYMAN: I have --

52 COMMISSIONER KAPLAN: Go ahead.

53 COMMISSIONER HYMAN: -- a comment.

54 You know, this is a project that's got
55 these huge signs out front, and they're 50 feet
56 high, and I know they've been around a long time,
57 and the last time this came before us and we
58 raised the issue.

59 They said because they're not -- they're
60 not altering the signs, and we really can't change
61 the height of the signs. They're huge. They're
62 huge. It's a busy corner, I grant you that, but

1 they're still huge signs.
2 I think there are -- aren't there
3 alternative signs? This time isn't there anything
4 that we can do to get the signage down?
5 I mean they've got one 50-foot sign,
6 they've got one 40-foot sign, and they've got
7 another sign that's probably like 30 feet or
8 something.
9 MR. Mac GILLIS: The large --
10 COMMISSIONER HYMAN: Isn't there something
11 that we can do to get these down?
12 MR. Mac GILLIS: -- entrance signs were
13 granted variances back when the original shopping
14 center was --
15 COMMISSIONER HYMAN: I know they're from
16 the original shopping center.
17 MR. Mac GILLIS: Right. They were part of
18 the agreement when we were doing the -- 'cause
19 that was an infill redevelopment site.
20 We tried to work with them. That was --
21 COMMISSIONER HYMAN: Is it your fault that
22 we got this?
23 MR. Mac GILLIS: Well, I think it was --
24 the Board of Adjustment, based on non-
25 conformities, because they didn't want to take the
26 signs completely down because of the configuration
27 of that shopping center they would lose a lot of
28 necessary identification for all those uses in
29 there.
30 So it was -- it was the Board of
31 Adjustment that granted the variance to allow them
32 to renovate those two big signs that are at the
33 entrances.
34 COMMISSIONER HYMAN: Oh. Oh, the --
35 MR. Mac GILLIS: So there -- that's been
36 under prior variances.
37 COMMISSIONER HYMAN: Okay.
38 COMMISSIONER KAPLAN: Under those
39 conditions, Mr. Chairman, I move to recommend
40 approval of a development order amendment to
41 reconfigure site plan and add building square
42 footage to DOA-2007-1776.
43 VICE CHAIRMAN ANDERSON: Second.
44 CHAIRMAN BARBIERI: Motion made by
45 Commissioner Kaplan, second by Commissioner
46 Anderson.
47 Any discussion.
48 (No response)
49 CHAIRMAN BARBIERI: All in favor.
50 COMMISSIONERS: Aye.
51 CHAIRMAN BARBIERI: Opposed.
52 (No response)
53 CHAIRMAN BARBIERI: Motion carries, 7-0.
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1 MR. Mac GILLIS: That brings us to Page 5,
2 Item 10, DOA-2008-801, Pinewood Square, found on
3 Page 117 through 140.

4 Staff is recommending approval of this
5 development order amendment to reconfigure the
6 site plan, add square footage and change uses,
7 subject to 46 conditions found on Page 130 through
8 136.

9 CHAIRMAN BARBIERI: Good morning.

10 MS. NIELSEN: Good morning. Arianne
11 Nielsen, on behalf of the applicant.

12 We are in agreement with all conditions of
13 approval.

14 CHAIRMAN BARBIERI: All right. Is there
15 anybody here from the public to speak on DOA-2008-
16 00801, Item No. 10?

17 (No response)

18 COMMISSIONER KAPLAN: Hearing none, I'll
19 move recommend approval of the development order
20 amendment, requests to reconfigure the site plan,
21 add square footage and change uses, auto service
22 station with carwash to financial institution on
23 DOA-2008-801.

24 VICE CHAIRMAN ANDERSON: Second.

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

28 Any discussion.

29 (No response)

30 CHAIRMAN BARBIERI: All in favor.

31 COMMISSIONERS: Aye.

32 CHAIRMAN BARBIERI: Opposed.

33 (No response)

34 CHAIRMAN BARBIERI: Motion carries, 7-0.

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47 MR. Mac GILLIS: Item 11, DOA/R-2008-290,
48 Poinciana Day School.

49 Staff is recommending approval of the
50 request for development order amendment amending a
51 condition of approval and their request to allow a
52 school, private daycare, general, subject to 62
53 conditions found on Page 157 through 167.

54 CHAIRMAN BARBIERI: We have three in
55 opposition, three cards in opposition, so let's
56 pull this.

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1 MR. Mac GILLIS: That brings us to Page 6,
2 Item 12, ZV/CB-2008-433, American Oil Company.

3 Two motions on this request, one to
4 approve a Type II variance to allow a reduction in
5 the required queuing spaces and a motion to adopt
6 a resolution for a Class B conditional use to
7 allow a convenience store with gas sales, subject
8 to eight conditions found on Page 186 through 187.

9 CHAIRMAN BARBIERI: Good morning.

10 MR. BEHN: Good morning. Seth Behn, with
11 Greenberg and Traurig, on behalf of the applicant.

12 We do have one request. There was one
13 Engineering Condition No. 3 that we were meeting
14 with the Engineering Department to resolve. We
15 have reached a resolution last week but not in
16 time to make the printing deadline.

17 I have copies of the agreed modification
18 that they've agreed to, if I could distribute that
19 and read into the record as just the change to
20 Engineering Condition 3.

21 Other than that, we agreed to all other
22 conditions, and are -- would like to remain on
23 consent.

24 CHAIRMAN BARBIERI: Mr. Rogers.

25 MR. ROGERS: We concur.

26 Just pass them down.

27 CHAIRMAN BARBIERI: Engineering, you have
28 a copy of this? The language here is acceptable
29 to you?

30 MR. ROGERS: Yes, it is.

31 CHAIRMAN BARBIERI: Do we need it read
32 into the record, or is it sufficient if we just
33 have this -- a motion to receive and file?

34 COMMISSIONER KAPLAN: So moved.

35 MR. ROGERS: Just need to have it
36 received.

37 CHAIRMAN BARBIERI: Okay.

38 COMMISSIONER HYMAN: Second.

39 CHAIRMAN BARBIERI: We have a motion by
40 Commissioner Kaplan, seconded by Commissioner
41 Hyman to receive this into the record.

42 Is there any discussion.

43 (No response)

44 CHAIRMAN BARBIERI: All in favor.

45 COMMISSIONERS: Aye.

46 CHAIRMAN BARBIERI: Opposed.

47 (No response)

48 CHAIRMAN BARBIERI: Motion carries, 7-0.

49 All right. Is there anybody here to speak
50 to Item No. 12, American Oil Company, ZV/CB-2008-
51 00433.

52 COMMISSIONER KAPLAN: Hearing none, Mr.
53 Chairman, I'll move to adopt a resolution
54 approving a Type II variance allowing for a
55 reduction in required queuing spaces with
56 conditions as modified.

57 VICE CHAIRMAN ANDERSON: Second.

58 COMMISSIONER HYMAN: And just to state
59 that it -- all the seven criteria were satisfied
60 for the approval.

61 CHAIRMAN BARBIERI: Commissioner Kaplan,
62 you add that to your motion, all seven criteria

1 for the variance have been satisfied?
2 COMMISSIONER KAPLAN: No -- no objection.
3 CHAIRMAN BARBIERI: All right.
4 We have a motion by Commissioner Kaplan,
5 seconded by Commissioner Anderson.
6 Any discussion.
7 (No response)
8 CHAIRMAN BARBIERI: All in favor.
9 COMMISSIONERS: Aye.
10 CHAIRMAN BARBIERI: Opposed.
11 (No response)
12 CHAIRMAN BARBIERI: Motion carries, 7-0.
13 COMMISSIONER KAPLAN: I'll move to adopt a
14 resolution approving a Class B conditional use for
15 a -- to allow a convenience store with gas sales.
16 VICE CHAIRMAN ANDERSON: Second.
17 CHAIRMAN BARBIERI: Motion made by
18 Commissioner Kaplan, seconded by Commissioner
19 Anderson.
20 Any discussion.
21 (No response)
22 CHAIRMAN BARBIERI: All in favor.
23 COMMISSIONERS: Aye.
24 CHAIRMAN BARBIERI: Opposed.
25 (No response)
26 CHAIRMAN BARBIERI: Motion carries, 7-0.
27 MR. BEHN: Thank you, Commissioners.
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40 MR. Mac GILLIS: That will bring us back
41 to the items pulled from the consent agenda, Item
42 7, PDD-2007-1792, the MPC III Turnpike Business
43 Park.
44 Would you like a full presentation on this
45 or just --
46 COMMISSIONER HYMAN: I just had a
47 question. I mean if this is going from industrial
48 business park -- I mean from residential to an
49 industrial business park, it just doesn't seem
50 like the appropriate buffer, but then when you
51 look at the site plan, it's more like just a
52 regular business park, as opposed to industrial.
53 Because it's next to residential -- and
54 I'm surprised that nobody's here regarding this,
55 actually.
56 Because this is next to residential,
57 shouldn't we be looking at the types of uses that
58 we're permitting under the PIPD to make sure that
59 there aren't any inconsistent types of uses for
60 this -- for this buffer area?
61 It is a transition area between
62 residential and the Turnpike.

1 MR. Mac GILLIS: Yeah, I think with the
2 PIPD most of the permitted uses, that
3 consideration is given in the use matrix when
4 we drafted it and the Board adopts it, but --
5 COMMISSIONER HYMAN: Yeah, 'cause it's not
6 like a typical industrial. It's more like a --
7 MR. Mac GILLIS: Yeah, it's more an office
8 type --
9 COMMISSIONER HYMAN: -- there's an office.
10 MR. Mac GILLIS: -- warehouse where you
11 have a small office in the front and the business
12 is back.
13 COMMISSIONER HYMAN: Do you have like a
14 list of the types of uses that you could tell us
15 real quickly that are permitted?
16 MS. HERNANDEZ: Okay. In the PIPD we have
17 permitted uses like a cocktail lounge, medical-
18 dental office.
19 What land use does it have? Residential.
20 Monument sales, retail, office, business,
21 professional, parking garage, personal services,
22 printing, copying, a repair and maintenance,
23 repair services, limited.
24 COMMISSIONER HYMAN: So what kind of
25 repair, like for cars and stuff?
26 MS. HERNANDEZ: Yes. It'll be a general--
27 yeah, general repair and maintenance and then also
28 repair services, limited, so like lawnmowers and
29 mopeds and so forth. That'd be the limited ones.
30 Auto sales, retail general. We got a
31 self-service storage, vet clinic, vocational
32 school, work/live.
33 Some of the requested uses involve -- but
34 those would come back before you guys -- would be
35 vehicle sales and rental, drive-in theater.
36 COMMISSIONER HYMAN: Okay. So you -- did
37 you say all the permitted uses?
38 MS. HERNANDEZ: Yeah.
39 COMMISSIONER HYMAN: Okay. So those are
40 fine. All right.
41 I didn't know if you could have like a
42 concrete plant or something that's part of the
43 thing.
44 CHAIRMAN BARBIERI: Any other
45 commissioners -- questions from the commissioners?
46 (No response)
47 CHAIRMAN BARBIERI: I have two cards.
48 Both in support. Edna Trimble says she doesn't
49 want to speak, she's in support.
50 Andrew Jacobson, did you want to speak?
51 MR. JACOBSON: I'm here representing the
52 developer.
53 CHAIRMAN BARBIERI: Okay. All right.
54 Is there anybody else here from the public
55 to speak on this Item No. 7?
56 (No response)
57 COMMISSIONER KAPLAN: Hearing none, Mr.
58 Chairman, I recommend approval of an official
59 zoning map amendment to a Planned Development
60 District from the Planned Unit Development Zoning
61 District to the Planned Industrial Park
62 Development Zoning District on Item 2007-1792.

1 VICE CHAIRMAN ANDERSON: Second.
2 CHAIRMAN BARBIERI: Motion made by
3 Commissioner Kaplan, second by Commissioner
4 Anderson.
5 Any discussion?
6 COMMISSIONER HYMAN: Subject to the
7 conditions.
8 COMMISSIONER ARMITAGE: Mr. Chairman, when
9 you asked your question two men in the back raised
10 their hands.
11 CHAIRMAN BARBIERI: I'm sorry. You're
12 here to speak on Item --
13 UNIDENTIFIED SPEAKER: We're okay.
14 CHAIRMAN BARBIERI: Okay. I don't know
15 where we --
16 MR. JACOBSON: For the record, we agree to
17 the conditions.
18 COMMISSIONER HYMAN: Take a vote.
19 CHAIRMAN BARBIERI: Okay. I have a motion
20 on the floor by Commissioner Kaplan, second by
21 Commissioner Anderson.
22 Any discussion.
23 (No response)
24 CHAIRMAN BARBIERI: All in favor.
25 COMMISSIONERS: Aye.
26 CHAIRMAN BARBIERI: Opposed.
27 (No response)
28 CHAIRMAN BARBIERI: Motion carries, 7-0.
29 MR. JACOBSON: Thank you very much.
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42 MR. Mac GILLIS: That'll bring us to Item
43 11 that was pulled, Poinciana Daycare School.
44 Ora Owensby will give us a brief
45 presentation on this item.
46 MS. OWENSBY: Okay. Good morning.
47 This is a development order amendment for
48 the Agradex/Lyons PUD. It's also known as
49 Wellington View, and the request is for a
50 development order amendment to modify a condition
51 of approval and a requested use to allow a private
52 school and daycare.
53 The condition of approval is a previous
54 Property Real Estate Management condition that
55 limited the conditions of this civic parcel, which
56 as you'll see on the master plan that's being
57 passed out to you right now, it's an existing
58 civic parcel with the -- within the PUD, but it is
59 on the east side of Lyons Road.
60 The PREM condition limited the civic uses
61 that would be permitted to only public uses, so
62 the petitioner is requesting to allow a privately

1 owned civic on this parcel, as well. And that's
2 the DOA.

3 The requested use, of course, is for a
4 private school and for a daycare. The private
5 school is 24,050 square feet for 250 students, and
6 the daycare is 1,080 square feet for 30 children.

7 This is a very long, narrow parcel as you
8 can see on your master plan and in the staff
9 report exhibits.

10 There are 57 parking spaces proposed, a
11 long queuing lane, and access is existing off of
12 Lyons Road.

13 The uses are consistent with the future
14 land use designation of LR-2. That's Low
15 Residential 2.

16 To the north is a single family residence
17 in the AR zoning district. It also has LR-2 land
18 use.

19 To the south -- and that's 300 feet away
20 across the lake is a -- are large lot single
21 family residences.

22 To the east, and this is 150 feet away
23 across the lake, are other large lots, single
24 family residences.

25 To the west across Lyons Road are single
26 family residences within the Agradex/Lyons PUD.

27 Staff supports the requested condition
28 amendment to allow private civic uses, and staff
29 supports the request for the daycare civic use.

30 Civic uses in a PUD, there is -- the only
31 difference between public and private is the
32 ownership of the land, according to the zoning
33 code. So this would allow a private owner.

34 The existing buffers to the north and the
35 west are existing buffers that are owned by the
36 HOA. They're platted in separate tracts. They're
37 existing and maintained by the HOA.

38 The -- to the south and east of this
39 parcel is a large lake, and there are no buffers
40 required by the zoning code; therefore, we have
41 added conditions of approval which the applicant
42 has voluntarily agreed to to provide additional
43 screening to the south and east with trees and
44 hedges.

45 We had one letter of opposition regarding
46 traffic in the area, and that was at the time of
47 publication.

48 Staff recommends approval, subject to 62
49 conditions.

50 CHAIRMAN BARBIERI: Okay. Petitioner.

51 MR. BARRY: Good morning, Commissioners,
52 Chris Barry, with Jon Schmidt and Associates.

53 We are in agreement with the conditions.
54 We'd just like to go through a couple things to
55 hopefully address some of the neighborhood
56 concerns.

57 As Ora stated, the site is on the east
58 side of Lyons Road just north of 7th Place North.

59 As you can see on the aerial, there is a
60 large lake to the south and the east.

61 And some of the things that we would like
62 to point out come from the ULDC, as well as the

1 Comprehensive Plan, that the uses that we're
2 proposing on the site are defined as institutional
3 in the Comprehensive Plan and public and civic in
4 the Land Development Code and not commercial.

5 This Comp Plan policy says that the County
6 shall encourage the location of schools proximate
7 to urban residential areas by considering schools
8 as an allowable use within all urban residential
9 land use categories.

10 Another Comprehensive Plan policy says
11 that the County shall allow planned residential
12 developments to include a limited amount of low
13 intensity commercial and institutional uses
14 intended to serve the residential development.

15 The proposed site plan is in front of you.
16 The majority of the design constraints had to do
17 with the configuration of the site.

18 What we tried to do with the design with
19 our negotiations with staff was to provide as much
20 stacking as possible on the site so you can see --
21 the site's been designed for the traffic coming in
22 at peak times to stack throughout the site so,
23 hopefully, to alleviate any issues of stacking on
24 Lyons Road.

25 Here's a proposed elevation for the main
26 building in Phase I.

27 The site is, as stated before, very
28 narrow, so we tried to minimize the impact as much
29 as possible by providing or exceeding the minimum
30 setbacks.

31 From the front we exceed the front setback
32 by seven feet. The rear setback meets the minimum
33 requirement, and the side interior setback from
34 the properties to the north exceeds the setback by
35 166 feet.

36 We had a meeting with the neighborhood
37 last week, and some of the concerns that were
38 raised at that meeting first had to do with
39 drainage, and what we wanted to point out to the
40 Commission, as well as the neighbors, is that we
41 did research this, and our outfall will be into
42 the L-5 canal to the north, not the lake that's
43 adjacent to our client's property to the south and
44 to the east.

45 The -- like I said before, the main focus
46 of the design was to provide as much stacking on
47 the site as possible. The stacking on the site
48 starts at the entrance and then will go through
49 the site and curve around and up by here, and here
50 is the main drop-off point.

51 So that's approximately 680 feet that's
52 been provided from the beginning of the drive to
53 the drop-off point. The standard queuing spaces
54 are about 20 feet in depth so that equates to
55 about 34 cars stacking internally on our site
56 before the main drop-off point.

57 Then the other issues were traffic coming
58 in off of Lyons Road, how would that effect the
59 existing two-lane road, and the condition that
60 we've agreed to is that we will construct a left-
61 hand turn lane into the site.

62 The last and probably the most prominent

1 issue has to do with outdoor activity and the
2 noise that some of the neighbors will experience.

3 What we'd like to point out is that we've
4 internalized the building to the greatest extent
5 possible so the outdoor activity area is on the
6 north side of the property, and that's the area
7 shown in green, light green, on the aerial.

8 That multipurpose field will be part of
9 Phase I.

10 From the closest residence to the east,
11 which I think is where the most concern comes
12 from, is approximately 724 feet from their
13 structure to the outdoor activity area in Phase I.

14 In Phase II there is an outdoor activity
15 area that's required as part of the daycare, and
16 that's approximately 331 feet from the closest
17 residence to the east across the lake.

18 As Ora stated, there are no buffers
19 required on the east and south, but we voluntarily
20 agreed, as well as our client, to provide buffers.

21 Especially along the east we're providing
22 a seven and a half foot buffer, and we feel that
23 the separation, as well as this landscaping, will
24 suffice in buffering the property from the
25 residences to the east.

26 If there's any questions, we'd be happy to
27 answer them.

28 CHAIRMAN BARBIERI: All right. Why don't
29 we get the questions from the people -- from the
30 public that want to speak.

31 Kanwal Singh, would you please come up to
32 the one podium, and Roger Goudreau - Goudreault,
33 I'm sorry, would you please come up to the one on
34 my -- thank you.

35 MR. SINGH: Good morning. My name is
36 Kanwal Singh. I'm a resident of 466 Lyons Road.
37 I own the property to the north side of the
38 daycare.

39 I oppose this change in zoning. This
40 property was zoned by Toll Brothers to be
41 residential. When I bought the property, it was a
42 dead-end and we are zoned AR.

43 We see a constant change in the
44 demographics and with the land uses being used and
45 affecting my lifestyle.

46 I would request that we leave it. It is
47 zoned civic as private use. There's a big
48 difference between public and private use in way
49 the noise level and the amount of traffic that's
50 going to be coming to this facility.

51 I feel also there's an issue of traffic
52 which the Board needs to know. There's now on the
53 table an access to the middle school that's coming
54 on Marginal Road.

55 The School Board yesterday is now debating
56 to give the access to this middle school from
57 Lyons Road, which is on Ridgeback, which is
58 about -- probably about 500 feet from the daycare.

59 So you will have a left lane going to the
60 daycare -- Poinciana Daycare, and a right lane
61 probably going to the middle school. I'm not sure
62 if the Board is aware of that.

1 This is going to have a negative impact on
2 the traffic and to myself even getting out of the
3 driveway.
4 COMMISSIONER HYMAN: Can you show us where
5 you are? Are you across the road?
6 MR. SINGH: Right here (indicating).
7 COMMISSIONER HYMAN: Okay. So you're
8 across -- that's a canal?
9 MR. SINGH: Yes, right across the canal.
10 COMMISSIONER HYMAN: And what difference
11 does it make if this school is owned by the School
12 Board of Palm Beach County or if it's owned by a
13 board of trustees of some sort?
14 CHAIRMAN BARBIERI: You have to --
15 COMMISSIONER HYMAN: The one that we're
16 talking about.
17 CHAIRMAN BARBIERI: Pick up the
18 microphone.
19 MR. SINGH: I'm sorry.
20 COMMISSIONER HYMAN: What difference does
21 it make if it's public or private if it's still a
22 school?
23 MR. SINGH: It's a different kind of
24 traffic. This was supposed to be an exclusive
25 community by Toll Brothers that build the homes
26 that were almost 500 to \$600,000 homes to million
27 dollar homes across the street, and this was going
28 to be part of Toll Brothers --
29 COMMISSIONER HYMAN: But if it was --
30 MR. SINGH: -- recreation area.
31 COMMISSIONER HYMAN: It was a civic center
32 on that site plan?
33 MR. SINGH: Yes, for private use only, for
34 the people, the residents of Toll Brothers and the
35 178 homes that were being built.
36 COMMISSIONER HYMAN: So you thought that
37 when it said civic use, it was civic use just for
38 that community?
39 MR. SINGH: It was designed that way, yes,
40 the way it was passed, from my understanding.
41 COMMISSIONER HYMAN: Yeah, it's --
42 MR. SINGH: It was a piece of property
43 bought by Toll Brothers, and they paid for that
44 road to go through about two years ago, and my
45 property was eminent domained at that time, so I
46 had to give a portion of my property to let this
47 road go through.
48 We were not aware of all of this, by the
49 way.
50 COMMISSIONER HYMAN: This road, which road
51 are you talking about?
52 MR. SINGH: Which is now called Lyons Road
53 right across --
54 COMMISSIONER HYMAN: Oh, Lyons Road.
55 MR. SINGH: Okay. So they eminent
56 domained, my frontage for that reason, and we were
57 under the impression when they cut all the trees,
58 I know this is through development and that
59 happens, I accept that, but the use of the
60 property by Toll Brothers is not what -- it
61 changed now.
62 Even -- as this is a point of contention,

1 I look at that piece of property. They didn't
2 develop it. They left it alone, and even from a
3 zoning, and just -- this is just my pet peeve is
4 from a government standpoint they are not held
5 accountable to the standards that we as private
6 citizens are held up to.

7 For example, my neighbor got a certified
8 letter for encroachment for the pavement, there's
9 brush growing in, but they have not kept up with
10 the tree and landscape portion when it was zoned
11 that way.

12 That property's in disarray. I look at it
13 every day. I even complained to the Zoning
14 Department downtown, and there was no action
15 taken.

16 So I feel that as a single person we get
17 the short end of it. The property has not been
18 established or maintained by Toll Brothers, but
19 that's not the issue on this table right now.

20 By zoning it differently, ma'am, you're
21 going to have a different kind of traffic there
22 that wasn't originally set up to have.

23 CHAIRMAN BARBIERI: All right. Thank you.
24 Staff, your application summary says that
25 the original condition of approval limited this --
26 use of this civic pod to civic uses open to the
27 public.

28 MS. OWENSBY: Yes, and -- yes. The --
29 it -- the condition currently says open to the
30 public. Property Real Estate Management has told
31 us that at that time that was intended to bring in
32 traffic from outside the PUD.

33 According to the zoning code, changing the
34 use from public to private only regards the
35 ownership of the property. As far as zoning goes,
36 public civic would be open -- would be owned by a
37 public agency.

38 They're now requesting to go to a private
39 civic to be owned by a private developer,
40 although, or course, their traffic will continue
41 to come from outside the PUD.

42 CHAIRMAN BARBIERI: All right. So
43 following up on Commissioner Hyman's comment,
44 there's really not going to be any change in what
45 was anticipated and what could be there now
46 because we could have a public school there.

47 MS. OWENSBY: Yeah.

48 CHAIRMAN BARBIERI: Public ownership.

49 MS. OWENSBY: For potential traffic
50 impacts I don't know. You'd have to ask the
51 Traffic Division.

52 MR. ROGERS: There very easily could have
53 been a public agency wishing to install or
54 construct a similar type facility on this
55 property, and the traffic generation between a
56 public facility and a private facility are
57 basically generally the same or relatively close
58 to each other.

59 CHAIRMAN BARBIERI: All right.

60 MR. ROGERS: But when this was zoned
61 civic, there was no intended use on the property
62 at that time.

1 CHAIRMAN BARBIERI: Okay. Thank you.
2 Mr. Goudreau, and then Mr. Edwards.

3 MR. GOUDREAU: Good morning. My name's
4 Robert Goudreau. I'm a neighbor here.
5 Yeah, I live -- I reside right here
6 (indicating).

7 I gave up part of my property for the
8 County in eminent domain for Lyons Road. I moved
9 out there 15 years ago, dead-end road at this
10 point. I've been impacted immensely with traffic,
11 whatnot, in front of my home, which I know I was
12 going to get when I got Lyons Road, even though I
13 opposed it, you know, I couldn't do much with it.

14 But now that it's here, they want to put a
15 school in here.

16 From what I was told from residents of
17 Wellington View, which they're not here -- they
18 didn't even get enough notice about this meeting
19 'cause they were not notified about this meeting
20 'cause they weren't within the 500 feet of the
21 school.

22 COMMISSIONER HYMAN: Where are they?

23 MR. GOUDREAU: They live in here
24 (indicating). It's not completely sold out yet,
25 but the home residents that are in there, there's
26 quite a few from this picture here. Most of these
27 homes that you see -- I believe there's a few more
28 in there still now. This is an older photo.

29 But they are residing in there, and I've
30 spoke to several homeowners just as last night,
31 and I tried to give them information, but they
32 couldn't make the meeting.

33 Anyways, they're telling me what they
34 got -- were told when they bought the homes in
35 there, that this was going to be like a church,
36 civic center for weekends and possibly one meeting
37 during the week. This is what they were told as
38 homeowners buying these very expensive homes,
39 living in this gated community. This is what I've
40 been told.

41 Again, they did not -- could not be here
42 to voice it, so it's hearsay, anyway, hopefully
43 you'll have another meeting on this.

44 I oppose it based on Marginal Road.
45 There's a school here that's going in -- yeah,
46 right here (indicating). That's not to do with
47 this, I understand that, but that's to do with --
48 we will be dealing with it.

49 They're trying to buy the right-of-way
50 through here, wasting millions of dollars of
51 taxpayers' money, to come up Lyons Road to influx
52 the traffic flow that we got the thoroughfare here
53 that the County wanted so desperately to have for
54 -- to make traffic flow to relieve 441, to relieve
55 all the traffic from these communities that are
56 put in in here.

57 There's one north of here. There's this
58 one. There's Olympia and plus the influx of new
59 residents in Greenacres that come out west and
60 whatnot.

61 Lyons Road is a very heavy traffic road,
62 and it's going to be more heavier. It's going to

1 be going to four lanes eventually. Why are we
2 trying to back this road up with more traffic?
3 That's my main thing here.

4 Marginal -- there's going to be, like I
5 said, an exit here of trying to get -- it's been
6 already approved for two drives that are existing
7 here to go through here (indicating).

8 These neighbors somehow have got power to
9 make more happen, but I'm opposing that, and I'm
10 opposing this 'cause of the fact that it was
11 supposed to have been a weekend function little
12 thing, probably one thing during the week. It's
13 going to influx traffic on that road.

14 CHAIRMAN BARBIERI: All right. Thank you.

15 MR. GOUDREAU: That's all I got to say.
16 Thank you.

17 CHAIRMAN BARBIERI: Mr. Edwards.

18 MR. EDWARDS: Yes. Let me go over here so
19 I can show you where I am.

20 CHAIRMAN BARBIERI: Mr. Broome, you'll be
21 next.

22 MR. EDWARDS: Okay. I'm located --

23 CHAIRMAN BARBIERI: Mr. Edwards, you need
24 to pick up the hand mic, please. Pick up the hand
25 microphone.

26 MR. EDWARDS: I'm sorry. I'm new at this.

27 CHAIRMAN BARBIERI: It's okay.

28 MR. EDWARDS: Bear with me.

29 Okay. I'm located directly across the
30 street here or directly across the lake, and the
31 gentleman explained that from the ballfields, I'm
32 724 feet away from the ballfields. Well, he's
33 correct.

34 But what happens when they have homes
35 going in here, and what about these people over
36 here? They're a lot closer.

37 The opposition that I have to this is
38 quite a few-fold.

39 Granted, the traffic, everybody is
40 complaining about the traffic. You're going to
41 dump all those hundreds of people -- this is a
42 private school, and they don't have buses. They
43 have to have an area there where they can park
44 buses, but they don't have buses. That means that
45 every kid comes in a car.

46 COMMISSIONER HYMAN: They could have
47 buses.

48 MR. EDWARDS: They do?

49 COMMISSIONER HYMAN: Oh, yeah. Private
50 schools have buses. They don't have to, but they
51 could.

52 MR. EDWARDS: Does this school have buses?

53 COMMISSIONER HYMAN: I have no idea.

54 MR. EDWARDS: I don't think so. It's a
55 small school.

56 So everybody's going to come in a car, so
57 that's 300 students, give or take 20, 300 cars. I
58 don't know how many teachers they have, but they
59 also have to have staff. They have to have
60 garbage pickup, deliveries and this and that and
61 the other.

62 The other people were complaining about

1 the new school that was -- that's going over here
2 on Marginal Road, and from what my understanding
3 is, they're trying to do eminent domain, oh,
4 about -- about 100 feet or 200 feet away to make
5 an ingress and egress onto Lyons Road there
6 where -- now, that's a big school. This school's
7 a little bit smaller because the area's a little
8 smaller, but that was a big school, then all those
9 traffic would go onto Lyons Road.

10 This school would go onto Lyons Road.

11 I'm sure that all of you are familiar with
12 Lyons Road. It's a two-lane road. It goes from
13 Okeechobee all the way down to Broward County
14 except two miles south of this school here Lyons
15 Road does not go through. People complained so
16 they didn't put it through.

17 Consequently, there's -- when they -- when
18 they do a traffic study for this school or they do
19 a traffic study for the other school there's not
20 that many cars on this road, Lyons Road.

21 When they put through -- when they go over
22 the canal -- there's just one little canal which
23 cuts off Lyons Road -- the amount of traffic on
24 Lyons Road, and if anybody in here is with the
25 Traffic Department, they'll bear it out, will
26 probably jump five or --

27 COMMISSIONER HYMAN: Anybody here from --

28 MR. EDWARDS: -- eight -- eight times
29 because it's a shortcut.

30 And then when you have all this traffic
31 dumped onto the road at the same time early in the
32 morning and late in the afternoon, it's going to
33 be a bottleneck. That means you're going to --
34 you're going to have to four-lane that road. Now,
35 that's a problem.

36 Also, there's a problem --

37 COMMISSIONER HYMAN: He needs to wrap it
38 up.

39 MR. EDWARDS: Most of the people moved out
40 here for a better quality of life. I don't know
41 if any of you folks will live out west, but it's a
42 little quieter. You live your whole life. You
43 save enough money where you can move out into the
44 suburbs and live your life for the rest of your
45 life in quiet and peace.

46 With a school right across the lake from
47 me, or, for that matter, for all the people in the
48 surrounding area -- I mean I'm affected a little
49 bit more because I'm across the lake, but all the
50 people in the surrounding area, it's a pain in the
51 neck. Noise is -- would you like to live right
52 next to a school?

53 COMMISSIONER HYMAN: I live in the middle
54 of the city.

55 MR. EDWARDS: I don't think so. I don't
56 think there's a person in this whole room that
57 would like to live right next to a school --

58 CHAIRMAN BARBIERI: Mr. Edwards.

59 MR. EDWARDS: -- with all the noise.

60 CHAIRMAN BARBIERI: You have to wrap it up
61 for us.

62 MR. EDWARDS: I beg your pardon?

1 CHAIRMAN BARBIERI: You're going to have
2 to wrap it up for us.
3 MR. EDWARDS: Okay. Okay.
4 Anyway, it's going to affect everybody's
5 quality of life.
6 We tried to work with -- we tried to work
7 with the people that are building this school, to
8 be honest. I mean we're not just all complaining.
9 We wanted to work together, and we suggested that
10 they build a -- they have a wall, runs all the way
11 along Lyons Road. We suggested that -- from there
12 to there (indicating).
13 We suggested that they put another wall
14 around the back to buffer -- you can buffer it
15 with trees a little bit, noise, but a wall is --
16 is so much better, and it would buffer the noise.
17 COMMISSIONER HYMAN: Okay. That's it.
18 CHAIRMAN BARBIERI: All right.
19 MR. EDWARDS: I guess -- I guess that's
20 about --
21 CHAIRMAN BARBIERI: All right, Mr.
22 Edwards. We appreciate your coming up here today.
23 MR. EDWARDS: I appreciate it.
24 CHAIRMAN BARBIERI: We'll be discussing
25 your comments in a few minutes.
26 Mr. Broome.
27 MR. BROOME: Thank you, Mr. Chairman. I'm
28 Bill Broome. I'm a parent volunteer serving now
29 as president of the Board of Trustees of Poinciana
30 Day School.
31 My kids went through the school, but it's
32 a love of -- a community love of mine, and I'm
33 still there in support of it, and I'm pleased to
34 be here this morning.
35 I want to emphasize. This is a non-
36 sectarian, non-profit private school with a record
37 of 17 plus years of excellence and good neighbor
38 behavior right here in West Palm Beach on Kenwood
39 Road, which is just off Mercer north of Belvedere.
40 The site has become urbanized and is no
41 longer suitable for little kids.
42 We -- as the neighbor said, we're a small
43 school. We have less than 80 kids right now.
44 We're hoping to flourish and think we will at this
45 new location which is much more suitable, we
46 think, for an elementary school.
47 COMMISSIONER HYMAN: It'll go up to what
48 grade?
49 MR. BROOME: Eighth. We are preschool to
50 eighth grade.
51 We have included plans for a daycare.
52 Although we have had one, we don't have one now,
53 but we have included plans for one in this
54 proposal because we think it may be a service to
55 the community and helpful to the school.
56 I'm not a traffic expert, but we have
57 consultants who are, and we've worked with the
58 County department, and we think they are, and
59 they've told us the traffic's clear. We've met
60 the standard.
61 I appreciate the neighbors worrying about
62 how their community's changing, but we don't think

1 we're going to change it very much.

2 We're a -- we're a small school, a small
3 class small school committed to academic
4 excellence for everyone. We are completely open
5 to the public. Anyone who qualifies can come.

6 We provide significant financial aid, and
7 we have students of every sort.

8 So we want to be there and be a good
9 neighbor and serve as an actual benefit to the
10 neighborhood, and we think that's how it'll --
11 it'll look once we're in there if you approve it.

12 Thank you.

13 CHAIRMAN BARBIERI: Thank you.

14 MR. EDWARDS: Point of order?

15 CHAIRMAN BARBIERI: You can't speak from
16 back there. It doesn't get on the record.

17 COMMISSIONER HYMAN: He shouldn't be
18 allowed to speak.

19 MR. EDWARDS: Can I -- can I approach just
20 one minute?

21 CHAIRMAN BARBIERI: Come on up.

22 MR. EDWARDS: I forgot one thing.

23 COMMISSIONER HYMAN: He's had -- he had --

24 MR. EDWARDS: I really appreciate it.

25 CHAIRMAN BARBIERI: Make it short.

26 COMMISSIONER HYMAN: -- four minutes.

27 MR. EDWARDS: Less than a minute.

28 You said it was zoned for -- you said it
29 was zoned for civic, which is true, but you also
30 said it could put a school there and this and that
31 and the other, which we were led to believe it was
32 not true.

33 I was at the Commission meeting when
34 they -- when they -- when they passed this zoning
35 and whatnot, for that to be civic.

36 They specifically -- and you can look in
37 the records. They -- and I spoke at that meeting.

38 They specifically said it would be two
39 uses for that particular plot. One would be
40 either daycare center, and the other would be a
41 church. Everybody said okay, that would be fine,
42 and no one was offended, and to this day everybody
43 would be happy with that.

44 So the Commission did say it was
45 specifically for that, and I'm telling you if you
46 look in the records, you'll see it back in -- I
47 think it was 2003.

48 CHAIRMAN BARBIERI: All right. Thank you.

49 MR. EDWARDS: Thank you.

50 CHAIRMAN BARBIERI: Petitioner.

51 MR. BARRY: Just to address some of the
52 issues that have been brought up, one of the
53 concerns was in regards to the Wellington View
54 neighborhood not being notified.

55 Here are the maps that we used for our
56 notices that we sent out for the neighborhood
57 meeting that we had.

58 You can see our property on the map on the
59 left-hand side is the one that's the white
60 property with the magenta surrounding it.

61 Wellington View was within 500 feet, and
62 not only were individual properties within 500

1 feet, but so were common areas, such as the
2 roadway.

3 So the HOA through Toll Brothers was
4 notified, and so were individual properties, and
5 we took it a step further, and there is properties
6 that weren't notified that we felt would be
7 affected, and that's the map on the right-hand
8 side.

9 So we went outside of the 500-foot radius
10 and notified other people, and at our neighborhood
11 meeting -- it was actually in the clubhouse at the
12 Wellington View community -- and as the gentleman
13 said, no neighbors from Wellington View came to
14 that meeting. It was primarily neighbors to the
15 east, north and south, but they were notified.

16 Some of the other things that we would
17 like to go through, in regards to the wall, we
18 feel that the distance, as well as the
19 landscaping, would provide enough buffering. We
20 don't want to wall these children in.

21 There's obviously going to be fencing to
22 protect them from any safety with the lake, but we
23 don't want to wall them in and give them the
24 effect that they have walls on all four sides of
25 them when they're outside.

26 And then the last thing is in regards to
27 the minutes from the original approval, we pulled
28 the original minutes from the February 27, 2003,
29 BCC meeting and didn't see any reference to
30 this -- the Board directing that this had to be a
31 church.

32 And we're available for any questions.

33 CHAIRMAN BARBIERI: Sherry?

34 COMMISSIONER HYMAN: Okay.

35 CHAIRMAN BARBIERI: Any --

36 COMMISSIONER HYMAN: Are we closed with
37 the public portion?

38 CHAIRMAN BARBIERI: Is there anybody else
39 here from the public to speak?

40 (No response)

41 CHAIRMAN BARBIERI: All right. We'll
42 close the public portion.

43 Back to the commissioners.

44 COMMISSIONER HYMAN: I don't -- I -- I
45 don't see the difference. If this was daycare,
46 you know, you'd still have the same type of
47 situation, just the kids are younger.

48 MR. EDWARDS: There's some --

49 COMMISSIONER HYMAN: Maybe -- maybe
50 noisier, I don't know, but, you know, at first you
51 question does private use constitute a civic use,
52 but I -- I could see absolutely what difference
53 should it make what the type of ownership is.

54 Is it condo, is it fee simple, is it this
55 or that, so I don't have a problem with it as long
56 as we, you know, there's sufficient buffer for the
57 neighbors, and if, you know, at first I thought
58 maybe a wall, you know, along the waterfront would
59 be a good idea, but then I -- you know, they --
60 well, no, don't clap so fast 'cause then, you
61 know, I also considered what the petitioner said,
62 and, you know, I think that's -- you know, it

1 might not be the best thing for the kids using the
2 yard to be enclosed with walls.

3 But, staff, you know, what -- what are
4 your thoughts with regards to putting some type of
5 barrier along the back side of the school by the
6 playground?

7 MS. OWENSBY: We can require it if you --
8 if you like. It's not required by the code.

9 As I mentioned, because of the distance of
10 the open space, the code doesn't even require the
11 landscaping, but we are putting in a condition for
12 landscaping.

13 If you want a wall, of course, we can add
14 that to the condition.

15 COMMISSIONER HYMAN: How wide is that lake
16 behind the building?

17 MS. OWENSBY: It's 130 feet from this
18 property to the property across to the east. It's
19 300 feet to the south between this property --

20 UNIDENTIFIED SPEAKER: It's --

21 COMMISSIONER HYMAN: Shhh, it's not
22 appropriate.

23 MS. OWENSBY: -- and the property to
24 the -- and the property to the south.

25 CHAIRMAN BARBIERI: How big is the
26 buffer -- well, how big is the buffer between the
27 lake? What kind of buffer do we have there again?

28 MS. OWENSBY: On the east side it's a
29 seven and a half foot buffer with trees 20 feet on
30 center and a six-foot hedge and a fence.

31 On the south side, because there's a much
32 greater open space distance, we're requiring a
33 hedge at three feet and about three -- three
34 trees, I believe.

35 CHAIRMAN BARBIERI: So let me ask a
36 question. Rather than -- and I agree with the
37 petitioner with respect to having the kids look
38 like they're in a, you know, in a jail yard where
39 they can't get out.

40 But if we're going to have a six-foot
41 hedge, we're going to have trees, why can't we put
42 a wall on the east side of the hedge so that it
43 blocks the noise perfectly, and the kids don't
44 have to look at at a wall.

45 They're going to be looking at a six-foot
46 hedge and trees, anyway, so why can't we put the
47 wall on the other side to block the noise? Is
48 that a possibility?

49 MS. OWENSBY: The Board has the authority
50 to write a condition for the buffers.

51 Now, the code does require the landscaping
52 to be on the exterior side of the wall. We could
53 require landscaping on both sides of the wall.

54 COMMISSIONER HYMAN: What wall? The wall
55 on the west side?

56 CHAIRMAN BARBIERI: No, on the east. If we
57 put a wall on the east side of the landscape
58 buffer.

59 VICE CHAIRMAN ANDERSON: Starting from
60 where to where?

61 CHAIRMAN BARBIERI: Oh, I guess -- I guess
62 along the lake edge we put the wall or whatever

1 distance up from the lake, and then we put the --
 2 the buffering on the inside of the wall so that
 3 the kids see the green, and they don't see the
 4 wall, and the wall gives these people the noise
 5 reduction that they feel that they need.

6 I kind of agree. I mean if you have a
 7 bunch of kids playing out there, you have a lake,
 8 the sound is going to travel. I don't know how
 9 much buffering we're going to get from the -- from
 10 the landscaping, but I also agree with the
 11 petitioner.

12 I don't want these kids to feel like
 13 they're in a walled-off compound with, you know,
 14 the heat bearing down on them and --

15 COMMISSIONER HYMAN: You're not going to
 16 get a very satisfactory landscaping buffer there.
 17 How wide are you talking about?

18 MS. OWENSBY: Seven and a half feet on the
 19 east and five feet on the south.

20 COMMISSIONER HYMAN: So it's not very
 21 wide. So it's not going to be plush or anything,
 22 and once the sprinkler -- you know, I just don't
 23 think it's going to work, but, you know, they're
 24 not out in the yard all day.

25 I mean they're only -- they're there in
 26 the mornings, I guess, before they go into class
 27 while the people are arriving at school, and then
 28 they must have a break sometime during the day and
 29 maybe at the end of the day, but -- I don't know.

30 CHAIRMAN BARBIERI: Commissioner Davis.

31 COMMISSIONER DAVIS: Yeah, I had a -- this
 32 whole discussion about the wall. The wall's going
 33 to take up two feet, so that reduces your green.

34 I wouldn't support the wall. You know,
 35 I'm in agreement. I live in a neighborhood where
 36 there's lots of kids running around, and there's a
 37 church nearby, and there's a little bit of noise,
 38 yes, but it's not, in my opinion, extreme, and in
 39 the evenings there will be no noise when most
 40 people are home having dinner and being with their
 41 families and such.

42 I would -- I would not support putting a
 43 wall in because it reduces the amount of green,
 44 and I think it's much healthier for kids to look
 45 at green than it is concrete.

46 CHAIRMAN BARBIERI: Okay.

47 COMMISSIONER HYMAN: I agree with that. I
 48 just don't think, you know, if you have seven
 49 feet, it's just not enough, and --

50 CHAIRMAN BARBIERI: All right.

51 COMMISSIONER HYMAN: -- there's no
 52 guarantee that a five-foot wall, six-foot wall
 53 would stop all the noise, anyway, and maybe this
 54 is good noise, anyway.

55 CHAIRMAN BARBIERI: All right. I agree.
 56 There's not enough. There's -- there's only seven
 57 feet. There's not enough room for a wall.

58 Is there any other --

59 COMMISSIONER HYMAN: So I'm going to make
 60 a motion --

61 CHAIRMAN BARBIERI: Commissioner Anderson.

62 VICE CHAIRMAN ANDERSON: I'd just, you

1 know, ask the petitioner when they're designing
2 the landscape and working with staff, to make sure
3 that the landscaping is done in a way to try to
4 reduce the impact to the neighbors and to reduce
5 the noise going across the lake as much -- as much
6 as possible.

7 MR. BARRY: Of course.

8 VICE CHAIRMAN ANDERSON: So just be
9 thinking about that when you're actually doing the
10 landscaping.

11 MR. BARRY: Okay.

12 VICE CHAIRMAN ANDERSON: Thank you.

13 COMMISSIONER HYMAN: I'm going to move
14 approval of the development order amendment
15 requesting the amending of a condition of
16 approval, subject to the conditions.

17 VICE CHAIRMAN ANDERSON: Second.

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

21 Any discussion.
22 (No response)

23 CHAIRMAN BARBIERI: All in favor.

24 COMMISSIONERS: Aye.

25 CHAIRMAN BARBIERI: Opposed.
26 (No response)

27 CHAIRMAN BARBIERI: Motion carries, 7-0.

28 COMMISSIONER HYMAN: I'm going to
29 recommend approval of the requested uses allowing
30 a school, elementary or secondary, private, and
31 the daycare, general, subject to the conditions.

32 VICE CHAIRMAN ANDERSON: Second.

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

36 Any discussion.
37 (No response)

38 CHAIRMAN BARBIERI: All in favor.

39 COMMISSIONERS: Aye.

40 CHAIRMAN BARBIERI: Opposed.
41 (No response)

42 CHAIRMAN BARBIERI: Motion carries, 7-0.

43 MR. BARRY: Thank you.

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56 MR. Mac GILLIS: That'll bring us to Page
57 7, Item 13, DOA/R-2008-303, Lantana Civic
58 Pavilion, found on Pages 193 through 217.
59 Staff is recommending approval of
60 development order amendment to add two external
61 access points to the PUD for a civic parcel and a
62 motion to recommend approval of a requested use

1 for a place of worship and daycare.

2 Anthony will do a brief presentation of
3 this item.

4 MR. WINT: Good morning, Commissioners.

5 The location of this project is on the
6 south side of Lantana Road, approximately one mile
7 west of Grand Lacuna Boulevard.

8 Proposed is a development order amendment
9 for the Balmoral Country Club Planned Unit
10 Development.

11 The Balmoral Country Club PUD was
12 initially approved by the Board of County
13 Commissioners on December 21st, 1981.

14 Since the initial approval there's been
15 several amendments, the latest being October 16th,
16 2006, for a development order amendment to
17 reconfigure a portion of the golf course for
18 residential use and to increase the PUD from 451
19 units to 522 dwelling units.

20 The applicant is currently seeking a
21 requested use, a 700-seat house of worship, a 207
22 student private school and a 155-child daycare
23 center. The house of worship and the private
24 school will be in the same building consisting of
25 37,258 square feet.

26 The daycare center will be in a separate
27 building consisting of 9,315 square feet.

28 The site plan indicates that the daycare
29 center and the private school have separate play
30 areas.

31 The site plan also indicate 246 parking
32 spaces, and access to the site will be from
33 Lantana Road.

34 Staff received 13 letters in regards to
35 this project.

36 Staff is recommending approval, subject to
37 24 conditions of approval as indicated in Exhibit
38 C.

39 The applicant is here in attendance and
40 will be making a presentation, and if there are no
41 questions for staff, I'd like to turn it over to
42 the applicant.

43 CHAIRMAN BARBIERI: Okay. Good morning.

44 MS. POLSON: Good morning. My name is Jan
45 Polson, and I'm with the firm of Cotleur and
46 Hearing from Jupiter, Florida.

47 I want to apologize for my voice. I do
48 have a cold, and sometimes go into little coughing
49 spasms so I'll apologize for that up first.

50 The request before you today is for a
51 development order amendment to add two external
52 accesses for the Balmoral PUD. The Balmoral --
53 for the designated civic site at the Balmoral PUD.

54 Also, we're requesting use approval for a
55 place of worship, private school and daycare
56 center on the existing 5.24-acre site.

57 The site's located on the south side of
58 Lantana Road just west of the Florida Turnpike.

59 Surrounding properties include
60 agricultural and rural residential uses to the
61 west, the Lakes of Sherbrooke PUD to the north
62 across Lantana Road, and to the south, east and

1 west the Balmoral PUD.

2 The Balmoral PUD master plan reflects the
3 5.24-acre site, which was originally approved in
4 1981 to satisfy the County's PUD requirements;
5 however, the approval failed to provide -- to plan
6 or provide access to the proposed civic site.

7 The site at one time was owned by the
8 property owner's association but was sold for
9 future development.

10 The site was also subject to an illegal
11 subdivision which my client was able to acquire
12 the other parcel and reconfigure it to its
13 original 1981 configuration.

14 As you'll notice, the Balmoral Country
15 Club is built to the southerly property line of
16 the site, golf course area and lake area in the --
17 barring any possible future internal access from
18 the PUD.

19 You'll also notice the closest PUD
20 structure is about 300-foot from the southern
21 property line.

22 This aerial reflects the location of the
23 PUD's main entry, Grand Lacuna Boulevard. It also
24 shows the proposed locations of the access for
25 the civic pavilion's access. There also -- there
26 are no other options to provide access for this
27 site, other than from Lantana Road.

28 The applicant has agreed to construct a
29 right turn lane at the easternmost access on
30 Lantana Road.

31 The requested uses include place of
32 worship, private school and daycare center, the
33 most appropriate for this residential area, and
34 are keeping with the civic site designation.

35 Two buildings are proposed. A 37,258
36 square foot building for a 700 place -- seat place
37 of worship and a 207-student private elementary
38 school are proposed on the southern portion of the
39 site.

40 It is a 35-foot high building. The height
41 was reduced to comply with COWBRA's comments
42 recently.

43 Additionally, there's a 9,350 square foot
44 daycare building for 155 children, and that is the
45 building up towards the front of the site along
46 Lantana Road.

47 As you'll note, there are two separate
48 play areas, one adjacent to the church and one
49 adjacent to the daycare center.

50 A 20-foot right-of-way buffer is proposed
51 along Lantana Road and 15-foot incompatibility
52 buffers are proposed along the eastern and western
53 property line.

54 The applicant has agreed to some upgrades
55 in landscaping in these buffer areas.

56 Additionally, the applicant agrees to
57 various site-related restrictions, including no
58 outdoor speakers, limiting the building hours from
59 7:00 to 11:00, outdoor hours 7:00 to 9:00, and
60 only allowing three temporary sales event a year
61 at restricted setbacks of 100 foot from the
62 property line, the residential property lines.

1 We've also agreed to reduce the proposed
2 monument signs on the project from three to two.
3 We're allowed three; however, we are proposing two
4 now.

5 The initial architectural submittal before
6 you was found in compliance with the architectural
7 design guidelines. The applicant was contacted by
8 COWBRA and advised that they had recently extended
9 their boundaries to the Lantana Road area;
10 therefore, we had postponed last month's meeting
11 in order to meet with them and other homeowners.

12 The applicant met with them, has agreed to
13 make several architectural changes, including
14 changing the metal roof to barrel tile, enhancing
15 the roof elements and adding additional decorative
16 medallions and textured areas around the windows.

17 This is the place of worship private
18 school, as was originally submitted, as well as
19 the Kiddie Academy Daycare Center, and if I did
20 this right, there is the proposed architecture for
21 the place of worship private school that was
22 reviewed by COWBRA.

23 We are going to be submitting this to the
24 County staff. The condition we will be working on
25 on the architectural will be rewritten to include
26 these changes to comply with COWBRA.

27 The changes will comply with the West
28 Boynton Area Community Plan, and they also comply
29 with Article 5.c, architectural design guidelines,
30 and those plans will be filed prior to final DRO.

31 The applicant also met with the Balmoral
32 Country Club HOA prior to filing of the request.
33 We've recently responded to the HOA's -- to their
34 letter of concern on numerous items, a copy of
35 which I will provide to the County as part of the
36 record.

37 Their concerns, among their concerns was
38 traffic and the need for an additional median on
39 Lantana Road, also the need for additional
40 buffering.

41 We've included in our response to them
42 that and then as reflected in the County staff
43 report that we currently meet the County's traffic
44 performance standards.

45 My traffic engineer is here today to
46 answer any questions that you may have concerning
47 this matter.

48 The median opening is not an option due to
49 the proximity of the other locations of
50 intersections in this area.

51 We've agreed to a six-foot decorative
52 fence in the southeast and southwest compatibility
53 buffers to provide for visibility and sound
54 buffering, and we've also agreed to additional
55 upgrades of the landscaping, as well.

56 In closing, I'd like to note that the
57 staff is in support, full support, of the project.

58 The civic sites are a requirement of PUDs,
59 and that this request is in compliance with all
60 applicable County codes, and we respectfully
61 request your approval on this project and your
62 support, and we'd like to reserve any remaining

1 time to respond to the public or answer any
2 questions that you may have.

3 CHAIRMAN BARBIERI: thank you.

4 MS. POLSON: Thank you.

5 CHAIRMAN BARBIERI: Scott Blasie, would
6 you please come up, be limited to three minutes,
7 then Kenneth Lassiter from COWBRA.

8 MR. BLASIE: Good morning. My name's
9 Scott Blasie. I live at 6632 Rock Creek Drive,
10 Lake Worth, Florida 33467, which is in the Lacuna
11 HOA.

12 I've been authorized to speak on behalf of
13 the Lacuna HOA, and I have a letter from our
14 president, Tony Aprea, if it's necessary.

15 What Jan stated earlier was correct and
16 also County staff.

17 The only thing I would like to bring to
18 your attention, it's roughly about one-tenth of a
19 mile from Grand Lacuna Boulevard to the project
20 site. It's previously been stated it was a mile.
21 That may be neither here nor there, but I just
22 wanted to bring that to your attention.

23 As Jan stated, we do oppose the project
24 based primarily on two criteria, the first being
25 the traffic. With 700 -- the intensity of the
26 project that's proposed with 700 church and 2,007
27 school students and 155 daycare, all the westbound
28 traffic exiting this project will enter onto
29 Lantana Road and will be making a U-turn at Grand
30 Lacuna Boulevard.

31 Unfortunately, there's a U-turn provision
32 east of Grand Lacuna Boulevard that gets used by
33 no one as it goes to nowhere. It's right before
34 you get to the Turnpike, but that's a major
35 concern and probably our primary concern.

36 And we relate the traffic -- we understand
37 that it's generally meeting your Unified Land
38 Development Code regulations, but we feel that the
39 numbers here are much too great to not adversely
40 impact our community.

41 In fact, I may reference the traffic study
42 from Kimley-Horn, and I'd like to -- I'll leave
43 these with the secretary as our -- Lacuna's
44 Exhibits A and B.

45 Page 7 of their traffic analysis, I'll
46 summarize. It states that Lantana Road between
47 State Road 7 and Military Trail are significantly
48 impacted by the project traffic, and they also
49 mention that it meets the traffic -- the County's
50 traffic performance standards up through the end
51 of 2011.

52 Well, hopefully we're all going to be here
53 after 2011, and I'm not sure the project will be
54 done by 2011. I understand it's -- the
55 application's based on today. We're here today to
56 deal with it, but I'd like you to think about the
57 future if we can do that.

58 We also feel the building design -- I
59 understand that it's approved for a civic use and
60 so on, but the building design, contrary to
61 staff's comments, isn't really compatible because
62 all the uses around it are residential, and there

1 are no buildings in this immediate area that look
2 like the building that's proposed.

3 We do appreciate the barrel tile as
4 opposed to the metal because typically all of the
5 units, the residential units in the surrounding
6 area, are either barrel tile or asphalt shingle.

7 I don't have a lot -- like I said, it's
8 basically the intensity of the use and the
9 traffic. Those are the two things that we're
10 really hung up on.

11 We do appreciate them meeting with us. I
12 was at that meeting. We would only ask possibly
13 if we could be given time maybe to meet with the
14 applicant again and see if they would reconsider
15 the numbers they're proposing in terms of the
16 intensity of this use.

17 We're just not sure how we're going to be
18 able to live with it, given the traffic.

19 And in closing -- too many papers here --
20 we don't necessarily agree that it conforms with
21 your Unified Land Development regulations in terms
22 of traffic and in terms of the compatibility with
23 the surrounding uses.

24 And that concludes my presentation at this
25 point. Thank you.

26 CHAIRMAN BARBIERI: Thank you. Mr.
27 Blasie, would you submit your letter to -- up
28 here.

29 We need a motion to receive and file.

30 VICE CHAIRMAN ANDERSON: So moved.

31 COMMISSIONER KAPLAN: So moved.

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

35 Any discussion.

36 (No response)

37 CHAIRMAN BARBIERI: All in favor.

38 COMMISSIONERS: Aye.

39 CHAIRMAN BARBIERI: Opposed.

40 (No response)

41 CHAIRMAN BARBIERI: Motion carries, 7-0.

42 Mr. Blasie, also you asked for more time.

43 Be advised that no matter what we do today, this
44 will be heard by the County Commission in another
45 month, September 29th -- September 29th.

46 So you'll have an opportunity, if you need
47 to discuss with the petitioner, you'll have an
48 opportunity to --

49 MR. BLASIE: Certainly. So I have the two
50 exhibits and also the authorization to speak.
51 I'll give those to who?

52 COMMISSIONER KAPLAN: I'll move we accept
53 the exhibits and the letter of authorization.

54 COMMISSIONER ARMITAGE: Second.

55 CHAIRMAN BARBIERI: All right. Motion
56 made by Commissioner Kaplan, seconded by --

57 MR. BLASIE: Thank you.

58 CHAIRMAN BARBIERI: -- Commissioner
59 Armitage.

60 All in favor.

61 COMMISSIONERS: Aye.

62 CHAIRMAN BARBIERI: Opposed.

1 (No response)

2 CHAIRMAN BARBIERI: Motion carries, 7-0.

3 COMMISSIONER HYMAN: Could I ask our
4 astute traffic people.

5 What -- what's going -- what does that
6 intersection look like where they're going to make
7 the U-turn?

8 MR. ROGERS: It's a signalized
9 intersection.

10 COMMISSIONER HYMAN: And it's past the
11 entranceway to the school? It's further west?

12 MR. ROGERS: No, it's just to the east.

13 COMMISSIONER HYMAN: It's just to the
14 east?

15 MR. ROGERS: Yes.

16 COMMISSIONER HYMAN: So he's saying that
17 people coming from out west would have to make the
18 U-turn to go back.

19 MR. ROGERS: Well, the people have to
20 use -- have to U-turn --

21 COMMISSIONER HYMAN: Either way.

22 MR. ROGERS: -- both on the east and the
23 west side.

24 If you're coming from the east and you
25 want to go to the facility, you will have to go
26 past it to the first median opening west of the
27 site --

28 COMMISSIONER HYMAN: And what does that
29 look like?

30 MR. ROGERS: -- U-turn -- it's a median.
31 It's an unsignalized median opening.

32 COMMISSIONER HYMAN: Okay. And then going
33 the other way?

34 MR. ROGERS: If you're coming from the
35 west and you want to leave the site and you want
36 to go back to the west, you'll have to go east to
37 that signalized intersection and U-turn at that
38 location.

39 We have looked at this, and this meets our
40 standards.

41 COMMISSIONER HYMAN: Okay.

42 MR. ROGERS: Will it be more traffic than
43 what's out there today? Yes.

44 Is it -- the amount of traffic going to be
45 within our acceptable limits? Yes, it is.

46 COMMISSIONER HYMAN: Okay.

47 CHAIRMAN BARBIERI: Mr. Lassiter.

48 MR. LASSITER: Good morning,
49 Commissioners. My name is Ken Lassiter. I live
50 at 6131 Hook Lane in Boynton Beach. It's my
51 privilege to serve as first vice president of
52 COWBRA.

53 COWBRA's reviewed this project twice. The
54 first review we asked for two changes, which they
55 subsequently came back in and proposed to us.

56 One was to make the roof in compliance
57 with the West Boynton Community Plan and have a
58 barrel tile roof. The second was to add some
59 architectural features to enhance the appearance
60 of the building.

61 Our first review, we thought the building
62 looked a little bit like an Army barracks or a

1 storage facility with a rather plain facade, and
 2 so we approved the architectural enhancements. So
 3 we would recommend approval of this project as
 4 long as those two conditions are included.

5 I'd like to also state that it seems I
 6 hear the question several times a day about is
 7 this in the COWBRA area.

8 In 2005 we modified our by-laws and
 9 changed our northern boundary to the south --
 10 include the south side of Lantana Road from I-95
 11 all the way to 441. We did that because we had
 12 several communities in that area who wanted to
 13 become members, and they've since joined.

14 So we supplied documentation to the County
 15 Planning staff in 2005. In fact, they gave us a
 16 new map of the COWBRA area, and we recently
 17 supplied another copy of that to the Planning
 18 staff.

19 So if there are any further questions, let
 20 me know.

21 Thank you.

22 CHAIRMAN BARBIERI: Thank you.

23 Is there anybody else here from the public
 24 who would like to speak on Item No. 13?

25 (No response)

26 CHAIRMAN BARBIERI: We'll close the public
 27 portion.

28 Yes, ma'am.

29 COMMISSIONER BRUMFIELD: There's another.

30 COMMISSIONER HYMAN: Did she put -- did
 31 she do a card?

32 CHAIRMAN BARBIERI: Did you submit a card?

33 MS. NOWICKI: Good morning. My name is
 34 Edith Nowicki. I own --

35 COMMISSIONER HYMAN: Did you submit a
 36 card?

37 MS. NOWICKI: Pardon me?

38 COMMISSIONER HYMAN: Did you submit a
 39 card?

40 MS. NOWICKI: No, I did not.

41 CHAIRMAN BARBIERI: Okay. What's your
 42 name and address? I'm sorry.

43 MS. NOWICKI: Edith Nowicki, 6044 86th
 44 Terrace South 33467.

45 CHAIRMAN BARBIERI: Okay. Go ahead.

46 MS. NOWICKI: I own the property directly
 47 west of this issue, and I was here last month.

48 There's one -- this kind gentleman did a
 49 very good job from Lacuna, but there's one other
 50 issue.

51 There is -- you just okayed another church
 52 on Bentbrook and Lantana which is less than two
 53 miles away.

54 There's two churches on Lyons Road, one on
 55 Lyons and Lantana, and one about a mile up the
 56 road between Lantana and Lake Worth Road.

57 And then there's -- probably within 10
 58 minutes there's X amount of churches on Hypoluxo.

59 So if you're considering another church, I
 60 think, you know, I think you just need to look at
 61 that issue.

62 I think it's packing a lot of issues into

1 5.24 acres and -- and two accesses to Lantana
2 Road, which is going to be -- Lantana Road, I
3 don't know if anybody -- any of you are familiar
4 with that area, but it's -- since you four-laned
5 it and Hypoluxo is not done, it's a thoroughfare.
6 So it's something to consider.
7 Thank you.
8 CHAIRMAN BARBIERI: Okay. Ma'am, would
9 you get a card from the secretary there --
10 MS. NOWICKI: Sure.
11 CHAIRMAN BARBIERI: -- and fill one of
12 those out for us. Thank you.
13 Is there anybody else from the public?
14 (No response)
15 CHAIRMAN BARBIERI: We'll close the public
16 portion.
17 Commissioners have any comments?
18 COMMISSIONER HYMAN: I don't have a
19 problem with this, and I know that sometimes
20 people get afraid of U-turns at intersections, and
21 DOT loves them, and they're probably pretty safe,
22 all things considered, 'cause at least you pretty
23 much start out stationary, usually, except if
24 you're me.
25 But I'm going to move approval of the
26 development order amendment to add the two
27 external access points to the PUD for the civic
28 parcel, subject to the conditions.
29 COMMISSIONER KAPLAN: Second.
30 CHAIRMAN BARBIERI: Motion made by
31 Commissioner Hyman, seconded by Commissioner
32 Kaplan.
33 Any discussion.
34 (No response)
35 CHAIRMAN BARBIERI: All in favor.
36 COMMISSIONERS: Aye.
37 CHAIRMAN BARBIERI: Opposed.
38 (No response)
39 CHAIRMAN BARBIERI: Motion carries, 7-0.
40 COMMISSIONER HYMAN: Move approval of the
41 requested use to allow a place of worship, private
42 school and daycare, subject to all the conditions.
43 COMMISSIONER KAPLAN: Second.
44 CHAIRMAN BARBIERI: Motion made by
45 Commissioner Hyman, seconded by Commissioner
46 Kaplan.
47 Any discussion.
48 (No response)
49 CHAIRMAN BARBIERI: All in favor.
50 COMMISSIONERS: Aye.
51 CHAIRMAN BARBIERI: Opposed.
52 (No response)
53 CHAIRMAN BARBIERI: Motion carries, 7-0.
54 MS. POLSON: Thank you.
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1 MR. Mac GILLIS: That brings us to Page 8,
2 the last item, Item 15, ZV/PDD-2008-804, Hypoluxo
3 Shoppes, Pages 256 through 283.

4 Staff is recommending approval of the Type
5 II variance -- oh, I'm sorry, denial, and approval
6 of the rezoning to MUPD.

7 Carol Glasser will give us a brief
8 presentation.

9 MS. GLASSER: Carol Glasser, project
10 manager.

11 One moment, we have a slide. Proposed is
12 the rezoning of approximately 4.2 acres of vacant
13 land from -- to the Multiple Use Planned
14 Development Zoning District.

15 The subject site is located at the
16 northeast corner of Hypoluxo Road and High Ridge
17 Road.

18 Also proposed are two variances to the
19 incompatibility buffer along the north property
20 line adjacent to eight single family residences.
21 I'll address the variances in full later.

22 To the north are single family
23 residential, Hilltop Acres subdivision, eight
24 single family residences.

25 To the south is an auto service station,
26 convenience store, vacant commercial, agricultural
27 grove and a residence tucked in back behind some
28 dense vegetation.

29 To the east are abandoned commercial
30 structures and a used vehicle lot.

31 To the west is single family residential.

32 The application proposes -- the
33 application proposes to develop two general
34 commercial buildings with 13,555 square foot each
35 and a 3500 square foot financial institution
36 outparcel for a total of 30,610 square feet.

37 The main access is from Hypoluxo Road.
38 There's an additional access on High Ridge Road
39 plus an egress only at the rear of the site for
40 the employees.

41 The site plan indicates the required 20-
42 foot right-of-way buffer along the south property
43 line fronting the existing 108-foot right-of-way
44 for Hypoluxo Road and the required 15-foot right-
45 of-way buffer along the west property line
46 fronting the 80-foot right-of-way for High Ridge
47 Road.

48 The required five-foot compatibility
49 buffer is indicated along the east property line
50 abutting the general -- commercial general zoned
51 property to the east.

52 Also proposed are two variances to the
53 Unified Land Development Code, Article 7, Section
54 F.3, the location of the wall and planting if a
55 wall is used in the perimeter landscaping buffers.
56 The two are linked so we'll discuss it together.

57 The code states if a wall or fence is
58 used, the following shall apply. The location of
59 the wall or fence.

60 It's recommended that walls and fences
61 collocated in a buffer with a berm be located at
62 the top of the berm. Walls and fences with a

1 continuous footer shall be set back a minimum of
2 10 feet from the edge of the property line.

3 Fences may be permitted adjacent to a
4 property line only when used in compatibility
5 buffers, and, B, the location of the planting, a
6 minimum of 75 percent of required trees shall be
7 located between the exterior of the wall or fence
8 facing an adjacent property, except when a fence
9 is used in a compatibility buffer and located
10 along the property line.

11 Shrubs and hedges shall be installed on
12 both sides of the wall facing adjacent property
13 except when the fence is used in a compatibility
14 buffer and located along the property line.

15 The applicant is requesting concurrent
16 Type II variances to allow a precast concrete
17 wall, no continuous footer, within the north
18 incompatibility buffer to be located along the
19 north property line with all of the plant
20 materials located on the interior of the wall.

21 In the discussion of the variances
22 Standard 1 gives you a full detail of -- an
23 explanation of what they're proposing, what the
24 code is.

25 The north property line of the subject
26 parcel is adjacent to single family residential
27 properties along the full length of the property
28 line.

29 Most of the adjacent lots have existing
30 fences abutting the subject site. The existing
31 fences vary in height and material, six-foot and
32 three-foot wood fences and a four-foot chainlink
33 fence, according to the survey.

34 The applicant is required to provide a
35 Type II incompatibility buffer 15 feet in width
36 with a six-foot high continuous solid opaque
37 visual screen between the residential and
38 commercial uses.

39 The applicant proposes to utilize the wall
40 option. The wall is proposed to be a concrete
41 panel-type wall with concrete posts, versus a
42 concrete block structure with a continuous footer.

43 Because the applicant is not proposing a
44 wall with a continuous footer, the applicant has
45 the option to install the wall any distance from
46 the north property line that will allow 75 percent
47 of the trees and some of the required shrubs to be
48 planted on the outside of the wall.

49 The applicant may also meet code
50 requirement by providing this six-foot high
51 continuous solid opaque visual screen utilizing
52 landscape material and no wall.

53 The applicant is concerned as to
54 maintenance, security and liability due to the
55 existing condition of fences along the south line
56 of the adjacent single family residences.

57 Staff feels the current concerns can be
58 addressed through a variety of design options,
59 such as lighting, wall height, selection of plant
60 material, placement of plant material, the use of
61 a berm and hedge combination, rather than a wall.

62 Therefore, staff is recommending denial of

1 the Type II variance request because there's other
2 design options.

3 We are recommending approval of the
4 rezoning request, subject to 21 conditions of
5 approval as indicated in Exhibit C.

6 At time of publication there were no
7 letters in opposition or support to this project.

8 CHAIRMAN BARBIERI: All right. Thank you.
9 Are one of you gentlemen John Allan?
10 Okay. All right. We'll hold off. Okay.
11 You're the petitioners?

12 MR. MARIBONA: My name's Bernie Maribona.
13 I am the owner/developer of Hypoluxo Shoppes.

14 CHAIRMAN BARBIERI: Okay.

15 MR. JIMENEZ: I am Ruben Jimenez. I'm
16 with Luis La Rosa Architects.

17 CHAIRMAN BARBIERI: Okay.

18 MR. MARIBONA: Let me just start by saying
19 I contacted the eight residents living right
20 behind the property, showed them the design, told
21 them about the fence.

22 I have here six signed documents that
23 everyone wants the fence on the property line.
24 They do not want to cause an alleyway to have bums
25 and people hanging out back there, which is --
26 that's the kind of problem we're having now with
27 the vacant land.

28 There's about people hanging out there.
29 We've had -- police department contacted us to do
30 something about it.

31 Everyone here wants the fence on the
32 property line except for one person who was
33 indecisive, and there's eight homes. We got six.
34 One was foreclosed, and one was indecisive.

35 And the reference with the doing the
36 continuous footer, there is no difference between
37 a CBS block wall and a three-inch concrete solid
38 panel fence six-foot high. They all -- they're
39 all designed structural to uphold all hurricane
40 winds and everything.

41 COMMISSIONER HYMAN: I have to tell you I
42 didn't understand this -- I don't understand what
43 the problem is.

44 MR. MARIBONA: The spread footer -- the
45 spread footer is a CBS --

46 COMMISSIONER HYMAN: No, no. Let me ask
47 staff.

48 You know, we do a -- there's no problem
49 allowing the fence on the -- or the wall on the
50 property line. Is it just a matter of the
51 landscaping or what is --

52 MS. GLASSER: No, the code does not allow
53 the wall on the property line.

54 COMMISSIONER HYMAN: Because you can't
55 landscape --

56 MS. GLASSER: You have to put the 75
57 percent of the landscape material on the other
58 side.

59 There was a previous variance request for
60 this. The difference in that particular case is
61 that -- and staff had supported it -- the
62 difference was that the adjacent property owner

1 and COWBRA insisted on the wall on the property
2 line for their reasons.

3 It's preferred aesthetically to the
4 adjacent property owners to be able to see the
5 landscape. That's why it has to have landscaping
6 on both sides of the wall.

7 COMMISSIONER HYMAN: So what these people
8 who live behind the property would have to do is
9 basically get permission to attach their side
10 fences and walls to this existing wall in order to
11 avoid any kind of alley effect.

12 MS. GLASSER: Correct.

13 COMMISSIONER HYMAN: It's not -- you know,
14 it's like they're both problems. Creating an
15 alley is not a good thing, and yet -- and I
16 understand the rationale, you know, for putting
17 the, you know, the walls out -- inside the
18 property line so you can get that landscaping.

19 What's there now? Does everybody have
20 like their own little fence or wall --

21 MR. MARIBONA: Everybody --

22 COMMISSIONER HYMAN: -- back side of their
23 house?

24 MR. MARIBONA: Everyone has either a
25 chainlink fence or a wooden fence. I told them
26 I'd put my fence about three inches from my
27 property line. Typically you put your fence on
28 the -- on the inside.

29 COMMISSIONER HYMAN: Right.

30 MR. MARIBONA: And if they want, they can
31 take down their fence and use my wall. I don't
32 have a problem.

33 It is a decorative wall painted on both
34 sides.

35 CHAIRMAN BARBIERI: Mr. Allen, are you one
36 of the residents?

37 Would you come up to the podium, please.

38 MR. ALLAN: I'm --

39 COMMISSIONER HYMAN: How much are you
40 requiring the wall to be inside of this property
41 line?

42 MR. ALLAN: -- not one of the residents.

43 MR. MARIBONA: The wall --

44 COMMISSIONER HYMAN: No. Carol, how much
45 are you requiring that the wall be inside of the
46 property line?

47 MS. GLASSER: They have latitude. They're
48 actually proposing a 20-foot buffer on the north
49 property line. The required is a 15-foot, and
50 they can place it anywhere along there as long as
51 they can get the 75 percent.

52 So you have to have a place for the roots
53 of the trees and the shrubs on the other side, and
54 that's the difference between a continuous footer
55 versus the post, which it gives them a little
56 better adjustment to plant material.

57 COMMISSIONER HYMAN: So if he put it like
58 five feet inside of his property line and then put
59 landscaping on -- within that five feet to his
60 property line?

61 MS. GLASSER: The difficulty is in
62 maintaining it because you have fences on both

1 sides, is getting in there and keeping that
2 maintained.
3 MR. JIMENEZ: And security.
4 MR. MARIBONA: And security, liability
5 issues with the insurance firms, and you're still
6 causing an alleyway with five feet, three feet,
7 two feet.
8 COMMISSIONER HYMAN: Sure you are.
9 MR. MARIBONA: You really need to have
10 a -- your fence on the property line.
11 COMMISSIONER DAVIS: Mr. Chair.
12 MR. MARIBONA: To be protected.
13 COMMISSIONER HYMAN: Well --
14 CHAIRMAN BARBIERI: Commissioner Davis.
15 COMMISSIONER DAVIS: We're talking about
16 maintaining -- you know, the difficulty in
17 maintaining vegetation, but if you run that wall
18 right up next to the other people's property, it's
19 never going to get painted again. It will never
20 be maintained again.
21 It will be a dilapidated looking thing in
22 someone's back yard.
23 MR. MARIBONA: I don't -- you know, I
24 don't -- I don't believe in that, due to the
25 factor is it's like any other wall.
26 COMMISSIONER HYMAN: Yeah, but you won't
27 be able to get onto their property.
28 COMMISSIONER DAVIS: You will -- you'll
29 have to go on private property in order to
30 maintain that wall, and you don't know who's going
31 to be living there and whether they're going to
32 allow you to do that.
33 MR. MARIBONA: So let's say me and my
34 neighbor, we both have a concrete wall dividing --
35 I'm using his wall, he's using my wall, I use his
36 side, he's using my side. I paint my side. If he
37 doesn't want to paint his side, he doesn't have
38 to, but I know there's a fence there right now,
39 and the side dividers of each residence,
40 everybody's sharing the fence line.
41 COMMISSIONER DAVIS: Well, I don't think
42 it's appropriate to expect the people who's --
43 who's -- own the adjacent property to maintain
44 your wall.
45 MR. MARIBONA: They won't -- they won't
46 have to. They --
47 COMMISSIONER DAVIS: No, they could let
48 it --
49 MR. MARIBONA: -- told me they want to
50 take theirs down.
51 COMMISSIONER DAVIS: They could let it
52 fall down if they wanted to, but --
53 MR. MARIBONA: They're -- the ones that
54 are there are all falling down. They want me to
55 put mine up for them to use mine. That's what
56 they told me.
57 COMMISSIONER DAVIS: Well, I'm looking --
58 I'm -- I'm thinking 10, 15, 20, 50 years ahead --
59 MR. MARIBONA: Yeah.
60 COMMISSIONER DAVIS: -- when there may be
61 totally different people living there, and, you
62 know, what we're potentially creating here is a

1 non-maintained piece of concrete that you can't do
2 anything with.

3 COMMISSIONER HYMAN: You know, I
4 understand and I think Joanne's right, I mean that
5 you can't go on other people's property, but I
6 also -- this situation is -- comes up all the time
7 everywhere.

8 I mean I have a wall between my house and
9 my neighbor's, not sure whose wall it is, I think
10 it's his, but I maintain my side, and if I don't
11 maintain my side, it's my tough luck because I'm
12 going to be looking at an ugly wall --

13 MR. MARIBONA: But that's the way --

14 COMMISSIONER HYMAN: -- but I'm getting
15 the benefit of a wall that I didn't have to pay
16 for or build.

17 You know, this is a tough situation, and
18 so long as we can do it legally, I would allow --
19 I don't think we should promote making these
20 alleyways between the properties.

21 I don't think that's -- I don't -- and as
22 long as they've got the consent from the
23 homeowners and -- I'd have to figure out how you
24 do this, but, you know, and you give an easement
25 for the adjacent homeowners in the back to hook
26 into that wall and you do provide landscaping on
27 the outside of the wall.

28 Maybe it's the type of landscaping that
29 doesn't require a lot of water, 'cause I think
30 we're also required to irrigate it, don't we? I
31 think we require irrigation every time you have
32 landscaping.

33 So the people are going to get the benefit
34 of an irrigated landscaped wall without paying for
35 it.

36 If we can do it and they've approved it on
37 the other side, I think we should do it. It's
38 a -- it's been a -- it's better than having the
39 alleyway.

40 MS. HERNANDEZ: Commissioner Hyman, they
41 won't have the landscaping. They're asking for a
42 variance not to have landscaping on that side of
43 the wall.

44 COMMISSIONER HYMAN: I think you have to
45 landscape it. I think if you build a wall, you
46 have to landscape it.

47 MR. MARIBONA: Yeah, but we're putting the
48 wall on the property line.

49 COMMISSIONER HYMAN: Well, I think it
50 should be off of the property line just enough to
51 provide you with -- require some landscaping.

52 MR. MARIBONA: Yeah, and then we need to
53 be the 10 feet 'cause we have to access that
54 property in order to maintain the landscaping.

55 It's like the property -- the homeowners
56 that live right next to the storage facility
57 there, they have a six-foot chainlink fence. They
58 share it. The fence comes down, whoever put it up
59 has to repair it.

60 CHAIRMAN BARBIERI: Commissioner --
61 Commissioner Anderson.

62 VICE CHAIRMAN ANDERSON: I think the

1 biggest problem with putting a wall right on the
2 property line currently exists. All the existing
3 homeowners have a wall on the property line. They
4 don't have access to get to the other side of the
5 property to maintain the fence there.

6 If there's fences all along the wall now
7 and the property owner puts his fence, then the
8 owners of the homes can't see the fence because
9 it's on the other side of their fence.

10 If they choose to --

11 MR. MARIBONA: Take down their fence.

12 VICE CHAIRMAN ANDERSON: -- take down
13 their fence, then they're seeing a nicer solid
14 wall which they could paint. If they don't want,
15 they could contact the property owner and allow
16 him access onto his property to come and maintain
17 it.

18 I don't see any difference because the
19 only people that are going to be seeing it are the
20 homeowners.

21 If they -- if you put the fence in the
22 middle of the easement and landscape on both
23 sides, then you have the homeowners with their
24 dilapidated fence that is going to be unsightly,
25 too, so -- and I don't like the idea of an
26 alleyway.

27 You can't really allow the homeowners to
28 run their fences to connect to the wall up in the
29 alleyway because then the homeowners would have to
30 maintain that landscaping.

31 So, in essence, you're creating a problem
32 where they'd be going on the petitioner's property
33 to maintain landscaping and creating their own
34 little -- so I personally like the -- like what
35 the petitioner is requesting, to put their wall
36 right on the property line and have all the
37 landscaping on the interior of the wall.

38 I think the homeowners want it. The
39 petitioner wants it. We're the only one that's
40 saying we can't do it. So, I mean I'm in favor of
41 it.

42 CHAIRMAN BARBIERI: Mr. Allan, you --
43 state your name and address for the record,
44 please.

45 MR. ALLAN: Name is John Allan. I'm at
46 6900 South 19th Avenue in Lantana here.

47 I'm not one of the people that are
48 adjacent. I'm just one house up. You can see
49 just a little portion of my house on the right-
50 hand side there. So I wasn't involved in being
51 able to respond to him.

52 But I did want to object to having a wall
53 10-foot away from everybody's fences because we
54 have had problems with homeless people living in
55 this property and around in this area and having a
56 homeowner's fence and then a 10-foot wall -- I
57 mean a six-foot wall 10 feet away is going to
58 provide a place for them to congregate or try to
59 live if they can.

60 So I did want to bring that up.

61 But also I wanted to see if anybody has
62 every looked up. Besides homeowners here, there's

1 a Florida Power and Light transmission line there
2 that has to be maintained somehow, and that's
3 another problem with the wall is -- hopefully, it
4 doesn't get in the way of those powerlines and
5 maintenance of the powerlines.
6 MR. MARIBONA: It doesn't get in the way.
7 MR. ALLAN: And also the vegetation --
8 MR. MARIBONA: No, we have a--
9 MR. ALLAN: -- was a concern I had that --
10 MR. MARIBONA: Yeah.
11 MR. ALLAN: -- people -- remember, when
12 you plant trees, if you plant them under the
13 powerlines, you're going to have outages, and we
14 don't want that in the area.
15 MR. MARIBONA: Yeah.
16 COMMISSIONER HYMAN: Well, does FP&L have
17 an easement?
18 MR. MARIBONA: Yeah.
19 COMMISSIONER HYMAN: Or is it one of those
20 places they just put their lines?
21 MR. MARIBONA: It's an aerial easement,
22 but those are -- really, those are about 35, 40-
23 foot concrete power poles. Those are really up
24 high.
25 COMMISSIONER HYMAN: Well, you have to
26 look at their easement document because sometimes
27 they don't allow any type of improvements like
28 walls underneath it.
29 They may say they have to get truck access
30 to it. It may -- this may be a no decision.
31 MR. MARIBONA: No, they have access
32 through our road back there, and --
33 COMMISSIONER HYMAN: Right.
34 MR. MARIBONA: -- the planting, you
35 could put your planting, you could not just put --
36 it's not an underground utility. They have access
37 to the property through our --
38 COMMISSIONER HYMAN: You have to look at
39 their easement document to see what it says.
40 MR. MARIBONA: We have.
41 COMMISSIONER HYMAN: So you -- you have,
42 what, like a 20-foot easement on the back side of
43 your property or 10-foot?
44 MR. MARIBONA: It's either 15 or 20.
45 No -- no structure or buildings. You can put
46 landscaping, parking and your fence on the
47 property line.
48 COMMISSIONER HYMAN: Well, what about a
49 wall? I don't think --
50 MR. MARIBONA: No, you could put a wall on
51 the property line.
52 COMMISSIONER HYMAN: You know, I'm not
53 sure.
54 MR. MARIBONA: No, it is. I checked that
55 out.
56 VICE CHAIRMAN ANDERSON: But if you build
57 the fence 10 feet in --
58 MR. MARIBONA: Then --
59 VICE CHAIRMAN ANDERSON: -- then you have
60 to have all the landscaping --
61 COMMISSIONER HYMAN: I agree. That's a
62 problem.

1 VICE CHAIRMAN ANDERSON: -- put on the
2 outside, it's actually putting the fence in the
3 middle of the property creates more of a problem
4 for FP&L than putting it right on the property
5 line.
6 COMMISSIONER HYMAN: Except that the
7 property line is probably, I'm sort of guessing
8 here, but it's probably in the middle of that FP&L
9 easement, and if they want vehicular access to
10 maintain their poles, you probably can't put a
11 wall.
12 Why don't you find out about that?
13 MR. MARIBONA: The easement's inside the
14 property. It's from the property line in.
15 COMMISSIONER HYMAN: It's from the
16 property line in.
17 MR. MARIBONA: In.
18 COMMISSIONER DAVIS: I would be more
19 comfortable seeing something from FPL to that
20 effect.
21 COMMISSIONER HYMAN: We need to see
22 something. That's right.
23 COMMISSIONER DAVIS: And I also have the
24 fundamental question of, you know, staff has said
25 that it does not meet the requirements of code,
26 this variance.
27 So, again, we're back into, you know, is
28 this worthy of a Type II variance, and it isn't.
29 COMMISSIONER HYMAN: Well, I think if --
30 if we determine that it satisfies the seven
31 criteria, we can grant the variance.
32 It's obviously something against code, but
33 we can grant the variance. That's why it's before
34 us today, if we're satisfied that it meets those
35 seven criteria.
36 But before, I mean, we do that, I think
37 it's -- I didn't know that there was an FP&L
38 easement right there. I think we should know if
39 granting it is even feasible.
40 MR. BANKS: If there's an easement, FP&L
41 will be required to sign off before they build it.
42 There are easements over property all the
43 time, so --
44 COMMISSIONER HYMAN: Sure.
45 VICE CHAIRMAN ANDERSON: This a very
46 common situation.
47 MR. BANKS: -- and FP&L enforces their
48 easements and allows various things to be built in
49 their easements, and we really don't -- I don't
50 think that should be the dispositive factor --
51 COMMISSIONER HYMAN: Okay.
52 MR. MARIBONA: Yeah, the --
53 MR. BANKS: -- regarding this area.
54 MR. MARIBONA: The easement, is inside my
55 property, the same thing in front of Hypoluxo have
56 an easement, a utility easement.
57 What you cannot do is put no buildings, no
58 solid structures, including concrete fences.
59 The only way you can put a concrete fence
60 is on the property line.
61 COMMISSIONER HYMAN: So you're saying you
62 would put the wall on the property line, but it

1 would not encroach obviously into the neighbors in
2 the back.

3 MR. MARIBONA: No.

4 COMMISSIONER HYMAN: It would be from the
5 property line inward, whatever you needed for
6 footers or whatever --

7 MR. MARIBONA: Yes.

8 COMMISSIONER HYMAN: -- installation
9 you're talking about.

10 And that means, also, like Joanne was
11 saying, you wouldn't be able to ever maintain the
12 other -- the back side, but the people would be
13 responsible for maintaining the back side
14 themselves.

15 MR. MARIBONA: I believe everyone has a
16 responsibility. It's the same thing as the
17 people's driveways in their right-of-ways in front
18 of the roads. Everybody cuts the grass. It
19 doesn't belong to them.

20 COMMISSIONER HYMAN: Did staff take a look
21 at the consent forms by the homeowners in the back
22 side?

23 MS. GLASSER: We have not seen that. He
24 just got this this past weekend. If we could
25 receive and file?

26 COMMISSIONER HYMAN: Can we see those?

27 VICE CHAIRMAN ANDERSON: So moved.

28 COMMISSIONER DAVIS: Second.

29 CHAIRMAN BARBIERI: Motion made by
30 Commissioner Anderson, second by Commissioner
31 Davis.

32 All in favor.

33 COMMISSIONERS: Aye.

34 CHAIRMAN BARBIERI: Opposed.

35 (No response)

36 CHAIRMAN BARBIERI: Motion carries, 7-0.

37 MR. MARIBONA: I told them if they wanted
38 the fence on the property line or away 10 feet, so
39 I gave them an option.

40 COMMISSIONER HYMAN: This is from the
41 property owner -- I've seen the plans of the new
42 fence wall being placed on the -- this will act as
43 a buffer between both parties. Please place the
44 wall on the property line as per plans.

45 Please place the wall 10 feet.

46 Okay. Did everybody sign that?

47 VICE CHAIRMAN ANDERSON: All but one.

48 COMMISSIONER HYMAN: Well, what about
49 providing the people with some landscaping, even
50 though you're never going to be able to maintain
51 the landscaping, but at least giving them the
52 landscaping initially so that they have it 'cause
53 I think most of the people are going to want to
54 landscape your wall.

55 MR. MARIBONA: I -- I did tell them that.
56 No one wants the responsibility of basically
57 causing the alleyway, that's one.

58 The major thing that --

59 COMMISSIONER HYMAN: No, no, no. What
60 about if you put the wall on the property line but
61 got their consent to putting landscaping on the
62 outside of the wall, so at least you provide these

1 people with a landscaped wall that would then be
2 up to them to maintain.

3 MR. MARIBONA: I'll give them that option
4 if they really want. It's -- it's up to the
5 people. I don't believe anybody wants to do that
6 and steal more of their back yard, basically just
7 for landscaping.

8 They have a fence there right now, and
9 they probably got their own landscaping in place
10 right now.

11 I'm going to come up to their existing
12 fence.

13 I asked one person there -- their fence is
14 falling down. I told him you want me to take it
15 down for you and put my new fence up. They told
16 me don't you touch my fence. You put your fence.
17 I don't have a problem. My fence stays.

18 Everybody has, you know, their privacy,
19 the way they like to look at things, and no one
20 wants me to basically trespass into their
21 property. I can tell you that.

22 I've spoken to each individual personally
23 except for one person.

24 COMMISSIONER HYMAN: Okay. All right.
25 Well, I think I -- I think I'm convinced that the
26 property -- the wall needs to go on the property
27 line because an alleyway is not going to benefit
28 anybody.

29 MS. HERNANDEZ: I want to just point out
30 the survey that staff has does not include an
31 easement on that north property line, and staff
32 did not review it as an easement on the property
33 line.

34 It would cause problems with easement
35 overlap and the ULDC and additional variances.

36 COMMISSIONER HYMAN: Okay. Then I think
37 this needs to come back to us after you look at
38 that. Okay.

39 Let's take a look at the -- I'm going to
40 move to postpone this.

41 COMMISSIONER DAVIS: Second.

42 MR. MARIBONA: It's an aerial -- just
43 one --

44 COMMISSIONER HYMAN: I mean they could
45 have put their lanes without an easement.
46 That's -- it wouldn't be the first time.

47 MR. MARIBONA: No, I -- for the record,
48 it's an aerial easement.

49 MS. HERNANDEZ: The code doesn't
50 distinguish between an aerial easement or one
51 that's on the ground, so --

52 COMMISSIONER HYMAN: And if staff doesn't
53 know about it and they need to address it, then --

54 MR. MARIBONA: Okay.

55 CHAIRMAN BARBIERI: Okay. We have a
56 motion by --

57 COMMISSIONER HYMAN: I move to postpone.
58 CHAIRMAN BARBIERI: -- Commissioner Kaplan
59 [sic], second by Commissioner Davis.

60 COMMISSIONER HYMAN: 'Til the next month.
61 MS. HERNANDEZ: October 2nd.
62 COMMISSIONER BRUMFIELD: And before we

1 vote, I'd ask staff to -- in all of the seven
2 variance standards staff, except for one,
3 indicated that they did not meet the variance
4 standards.
5 So I'd like something towards that end as
6 to the merits in which they felt that they could
7 be alleviated [sic] with lighting, the height of the
8 fence and so forth with regards to the concerns
9 that the residents are putting forward, as well.
10 So if there's any way that we can address
11 those issues by the next 30 days, I'd appreciate
12 that, too.
13 MS. HERNANDEZ: Okay.
14 CHAIRMAN BARBIERI: All right.
15 All those in favor of the postponement.
16 COMMISSIONERS: Aye.
17 CHAIRMAN BARBIERI: Opposed.
18 (No response)
19 CHAIRMAN BARBIERI: Motion carries, 7-0.
20 Would everybody give me back the letters
21 that the gentleman submitted so I can make sure
22 they get to the staff.
23 Jon.
24 MR. Mac GILLIS: That's the end of the
25 agenda.
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38 CHAIRMAN BARBIERI: All right. Does
39 anybody have any -- yes, sir.
40 MR. ROGERS: Mr. Chairman, I have some sad
41 news and some good news for you.
42 After 35 years of service -- no, not for
43 me, wishful thinking, I understand.
44 COMMISSIONER HYMAN: Oh, no.
45 MR. ROGERS: But after 35 years of service
46 with Palm Beach County and after approximately 27
47 years of service to this Commission, Jim Choban is
48 leaving --
49 COMMISSIONER HYMAN: No.
50 MR. ROGERS: -- his employment with Palm
51 Beach County.
52 COMMISSIONER HYMAN: You're kidding.
53 MR. ROGERS: And --
54 COMMISSIONER HYMAN: What, he's teaching
55 traffic school for like ever or doing that full
56 time?
57 MR. ROGERS: He -- we're not sure what
58 he's going to do. He's being close-lipped about
59 it.
60 COMMISSIONER HYMAN: You're kidding.
61 MR. ROGERS: No. However, we have some
62 good news, and that is I'd like to introduce to

C E R T I F I C A T E

THE STATE OF FLORIDA)
COUNTY OF PALM BEACH)

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

DO HEREBY CERTIFY that the above-entitled
and numbered cause was heard as hereinabove set
out; that I was authorized to and did report the
proceedings and evidence adduced and offered in
said hearing and that the foregoing and annexed
pages, numbered 4 through 51, inclusive, comprise
a true and correct transcription of the Zoning
Commission hearing.

I FURTHER CERTIFY that I am not related to
or employed by any of the parties or their
counsel, nor have I any financial interest in the
outcome of this action.

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 26th day of September, 2008.

Sophie M. Springer

Sophie M. Springer, Notary Public



SOPHIE M. SPRINGER
MY COMMISSION # DD 817468
EXPIRES: September 13, 2012
Bonded Thru Budget Notary Services