

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, October 4, 2007
9:05 a.m. - 10:45 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, Chairman
William F. Anderson, Vice Chairman
Alexander Brumfield, III, Commissioner
Don Dufresne, Commissioner
Allen Kaplan, Commissioner
Sherry L. Hyman, Commissioner
Kelley Armitage, Commissioner
Richard Bowman, Commissioner

Barbara Alterman, Executive Dir. PZ&B
Bob Banks, Assistant County Attorney
Jon Mac Gillis, Zoning Director
Wendy Hernandez, Principal Planner, Zoning
Anthony Wint, Planner II, Zoning
Sandra Gonzalez, Planner II, Zoning
Joyce Lawrence, Planner I, Zoning
Donna Adelsperger, Zoning Tech
Bryce Van Horn, Planning Department
Bryan Davis, Senior Planner, Planning
Ken Rogers, Director, Land Development Division
Jim Choban, Land Development
Allan Ennis, Asst. Director Traffic Division
Kenny Wilson, Health Department
Bob Kraus, ERM
Michael Owens, School Board Rep.
Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

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

Staff, would you take roll, please.

MR. Mac GILLIS: Good morning, Commissioners.

CHAIRMAN BARBIERI: Microphone's not on, Jon.

MR. Mac GILLIS: Sorry.

Commissioner Bowman.

COMMISSIONER BOWMAN: Here.

MR. Mac GILLIS: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MR. Mac GILLIS: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: Present.

MR. Mac GILLIS: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MR. Mac GILLIS: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MR. Mac GILLIS: Commissioner Dufresne.

COMMISSIONER DUFRESNE: Here.

MR. Mac GILLIS: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MR. Mac GILLIS: We have a quorum.

CHAIRMAN BARBIERI: All right. Then the record should reflect that Commissioner Feaman is absent, and Commissioner Armitage will be filling in as a voting commissioner today.

Would everybody please rise for the Pledge of Allegiance and the prayer.

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

CHAIRMAN BARBIERI: Would everybody please check your cellphones.

Is Commissioner Anderson -- he's coming? Okay.

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

The Commission may take a final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing at 301 North Olive Avenue, West Palm Beach, Florida, in the Jane M. Thompson Memorial Chambers, 6th Floor, at 9:30 a.m. on Thursday, October 25, 2007, to take final action on the applications that we're going to discuss today.

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

This means that any communication with commissioners which occurs outside of the public

hearing must be fully disclosed at the hearing.

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

In this regard, if any group of citizens or other interested parties wish to cross-examine witnesses, they must appoint one representative from the entire group to exercise this right on behalf of the group. Any person representing a group or organization must provide written authorization to speak on behalf of the group.

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

Staff, do we have proof of publication?

MR. Mac GILLIS: Yes, Mr. Chair.

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

COMMISSIONER HYMAN: So moved.

CHAIRMAN BARBIERI: Motion made by

Commissioner Hyman.

COMMISSIONER DUFRESNE: **Second.**

CHAIRMAN BARBIERI: Seconded by

Commissioner Dufresne.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0, 7-0, with Commissioner Anderson voting on that.

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

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: Do any of the commissioners have any disclosures?

Commissioner Armitage.

COMMISSIONER ARMITAGE: None.

CHAIRMAN BARBIERI: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: No disclosures.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: No.

CHAIRMAN BARBIERI: I have none.

Commissioner Hyman.

COMMISSIONER HYMAN: I don't think so.

CHAIRMAN BARBIERI: Commissioner Dufresne.

COMMISSIONER DUFRESNE: None.

CHAIRMAN BARBIERI: Commissioner Kaplan.

COMMISSIONER KAPLAN: No.

CHAIRMAN BARBIERI: Okay. Staff, it's all yours.

MR. Mac GILLIS: Okay.

MR. Mac GILLIS: Go to Page 2 in your agenda. We'll start with the postponements which are on Pages 1 through 3.

The first item is Item 1, Z/CA2006-022, Colonial Lakes, requesting a 30-day postponement to Thursday, November 1st.

We'll need a motion on this.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on Item Z/CA2006-022?

(No response)

CHAIRMAN BARBIERI: Staff.

COMMISSIONER HYMAN: Move for a postponement to November 1st.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: **Commissioner Hyman** made the motion. Commissioner Anderson seconded it.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Next item is Item 2, CA2007-205, Lake Harbor Quarry.

On your add and delete there's a change in the motion. It's to be postponed 30 days to November 1st, 2007.

CHAIRMAN BARBIERI: Is there anybody here from the public to speak on CA2007-205?

(No response)

COMMISSIONER HYMAN: Move for postponement.

VICE CHAIRMAN ANDERSON: Second.

MR. Mac GILLIS: Motion made by **Commissioner Hyman**, seconded by Commissioner Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: That brings us to item 3,

D0A2006-1694, Friendship Baptist Church.

We need a postponement for 30 days 'til Thursday, November 1st, 2007.

COMMISSIONER HYMAN: Again this is the same one, right?

CHAIRMAN BARBIERI: Yeah.

MR. Mac GILLIS: Oh, I'm sorry.

Page 3 of your agenda, Item No. 4 --

COMMISSIONER HYMAN: Wait. What?

MR. Mac GILLIS: Oh.

CHAIRMAN BARBIERI: Ignore Commissioner Hyman's comment.

MR. Mac GILLIS: Okay.

CHAIRMAN BARBIERI: Anybody here to speak on 2006-1694?

(No response)

COMMISSIONER HYMAN: Move for postponement.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Okay. Page 3 of your agenda, Item No. 4 is ZV/PDD/R2007-519, postponement 30 days, November 1st, 2007.

CHAIRMAN BARBIERI: Anybody here to speak on ZV/PDD/R2007-519?

(No response)

COMMISSIONER HYMAN: Move for postponement.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Next item is Item 5,

ZV2007-1010, postponement for 30 days to November 1st, 2007.

CHAIRMAN BARBIERI: Is anyone here to speak on ZV2007-1010?

(No response)

COMMISSIONER HYMAN: Move for postponement.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Item 6, ZV2007-1181, Bramley Variance, postpone 30 days to November 1st, 2007.

CHAIRMAN BARBIERI: Anybody here to speak on ZV2007-1181?

(No response)

COMMISSIONER HYMAN: Move for postponement.

VICE CHAIRMAN ANDERSON: Second.

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

Discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. Mac GILLIS: Brings us to Page 4,

consent agenda.

Item No. 7, Z2007-892, Southwest County Transfer Station, found on Page 4 through 19.

There are 12 voluntary conditions found on Page 17 through 19.

There's one motion on this item. There is also add and delete conditions.

CHAIRMAN BARBIERI: All right. We have two cards on this -- on this petition.

Both of the -- both of the people that submitted the cards are in support, and say they wish to speak.

This is on consent. Did you still want to speak to this? If you do want to speak, we'll pull it off consent.

Mr. Kleiner, did you want to speak?

MR. KLEINER: Good morning, Commissioners. I represent the Alliance of Delray Residential Association. We have over 65 communities, over 60,000 people.

This particular plot of land came up about two or three years ago, and the commissioners suggested that it be postponed. They were looking for another area. Evidently they haven't found one.

We thought at that time it was the right spot, and we think it's the right spot now, and we're hoping to go forward because looking at your papers they're talking about 876 trips a day in this installation.

I wouldn't want them rumbling through our city streets, and I don't think anybody else would.

So I'm hoping you send it forward with a solid seven to zero approval.

Thank you.

CHAIRMAN BARBIERI: Ms. Shutt, did you want to speak?

MS. SHUTT: I want to speak on Item 7.

CHAIRMAN BARBIERI: This is Item 7.

MS. SHUTT: I apologize. I wasn't listening.

Hi. My name's Thuy Shutt. I represent the Westgate CRA, and I just want to represent our Board's action that was pretty much passed this past October meeting.

As you know, the County is embarking on a redevelopment effort for the County. We are not in a position anymore to start going westward.

Westgate is one of the few areas in the County that has all the infrastructure in place, other than some of the -- excuse me. Oh, I'm sorry.

MR. Mac GILLIS: She wants to speak on --

MS. SHUTT: Okeechobee Place is the one.

CHAIRMAN BARBIERI: Okay.

MS. SHUTT: Sorry.

CHAIRMAN BARBIERI: That's all right. We all do mistake.

That's the end. Does anybody else want to speak on 2007-892?

COMMISSIONER BOWMAN: Mr. Chair, I'd like

to disclose a conflict to the Board, even though I'm not voting.

CHAIRMAN BARBIERI: Okay. Mr. Bowman has a conflict, even though he's not a voting commissioner on this.

MR. BANKS: Since he sits and participates in the meeting, I advised him to disclose the conflict.

CHAIRMAN BARBIERI: Okay. All right.

COMMISSIONER HYMAN: I'm going to move approval of Z2007-892, subject to all the voluntary commitments as modified.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. WALTER: Thank you very much.

COMMISSIONER HYMAN: Yeah, you accept all the conditions, right?

CHAIRMAN BARBIERI: I'm sorry. Forgot all about you.

MS. WALTER: Yes. Collene Walter, with Kilday & Associates, here on behalf of the Solid Waste Authority of Palm Beach County.

We do accept all of the conditions. There are two that have been modified on the add/delete memo, and we look forward to moving forward on this project.

CHAIRMAN BARBIERI: Thank you.

MS. WALTER: Thank you.

MR. Mac GILLIS: That will bring us to Item 8 on the agenda, ZV2007-1191, Hawkins Residence, Pages 20 through 30 of your backup.

One condition. Staff is recommending approval of this variance for a minor structure encroach into an easement.

We'd ask the applicant to come to the podium to agree to the condition.

MR. HAWKINS: I agree.

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

MR. HAWKINS: Lawrence Hawkins.

CHAIRMAN BARBIERI: Okay. Is there

anybody here from the public to speak on ZV2007-1191?

(No response)

COMMISSIONER HYMAN: Mr. Hawkins, I don't recall, but are -- do you accept all the conditions of the variance, if there are any?

MR. HAWKINS: Yes.

COMMISSIONER HYMAN: Okay. Then I'm going to move approval of ZV2007-1191, subject to those conditions.

COMMISSIONER DUFRESNE: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. HAWKINS: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Brings us to Page 5 of your agenda, Item No. 9, PDD/R2006-953, the Morgan Hotel, found on Pages 31 through 57.

There's 14 conditions found on Pages 50, not 51, through 53.

There is one motion on this.

We'd ask the applicant to -- or actually there's two motions on this.

Staff would ask the applicant to come to the podium, state their name and agree to the conditions.

And the add and delete, there's some modified conditions.

CHAIRMAN BARBIERI: Petitioner.

MS. BRINKMAN: Yes, my name's Joanie Brinkman, agent for the applicant, Spots, Inc.

We're in agreement with the conditions contained in the staff report and the two revisions on the add/delete.

There is a Condition E.4 in the engineering section which I believe Engineering is modifying. We have not yet seen that. I don't know if they have it to read in the record, or if we're going to work on it between now and the BCC.

MR. CHOBAN: Is E.4 the median?

MS. BRINKMAN: Yes.

MR. CHOBAN: I believe we're going to end

up deleting that.

MS. BRINKMAN: Deleting the requirement for the median?

MR. ROGERS: There is a confusion as to what cross section could be approved on that local road.

For whatever reason, it was proposed that a median be constructed on that local road. We do not allow medians on local roads.

Unfortunately, we did not get it on the add/delete sheet. We did not think it was a big enough issue to take it off of consent. We will correct that before the Board of County Commissioners, but it's typically a technical situation where it does not meet a typical cross section.

CHAIRMAN BARBIERI: Okay. Thank you.

Is there anybody here to speak on PDD/R2006-953?

(No response)

COMMISSIONER HYMAN: Move approval of PDD/2006-953 for the zoning map amendment from General Commercial, Neighborhood Commercial and Single Family Residential to the Multiple Use Planned Development District, subject to all those conditions as modified.

VICE CHAIRMAN ANDERSON: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the requested use to allow the hotel, subject to the conditions.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. BRINKMAN: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Next item on your add and

delete, Item 11, was moved to the consent agenda.

That's DOA2007-723, Appolonia Farms PUD, found on Pages 93 through 138.

There are 51 conditions found on Page 113 through 132, and there are some add and delete conditions.

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

CHAIRMAN BARBIERI: Mr. Kilday.

MR. KILDAY: Kieran Kilday, representing the petitioner.

The conditions are acceptable.

I do want to note that we've agreed to delete a Condition 3 which regards to a timing of platting; however, we are going to be meeting with Engineering between now and the County Commissioner [sic] to see how to work through that issue.

Thanks.

CHAIRMAN BARBIERI: Engineering, okay with that?

MR. CHOBAN: It's acceptable.

CHAIRMAN BARBIERI: Okay.

MR. BOWMAN: Mr. Chair, I would also state that I have a conflict, even though I'm not voting on this issue.

CHAIRMAN BARBIERI: Okay. Did you get that? Okay.

Is there anybody here from the public to speak on DOA2007-723? It's Item No. 11.

(No response)

COMMISSIONER HYMAN: No, it was 10.

MR. KILDAY: Eleven.

MS. HERNANDEZ: Item No. 11.

COMMISSIONER HYMAN: Oh. Oh, we're --

MR. KILDAY: Eleven.

CHAIRMAN BARBIERI: Eleven.

All right. There's nobody here to speak on it. We need a motion.

COMMISSIONER HYMAN: We're doing 11, Appolonia?

CHAIRMAN BARBIERI: Yeah. They're taking it off the regular and putting it on consent.

COMMISSIONER HYMAN: Oh, okay.

MR. Mac GILLIS: The motion's found on Page 6 of your agenda.

VICE CHAIRMAN ANDERSON: Make a motion to approve a development order amendment to reconfigure master plan, relocate the civic site, increase and relocate recreation area, relocate an access point, reduce portion of the buffer along the north and south property line and add one unit on DOA2007-723.

Are there conditions of approval that --

MR. KILDAY: Yeah.

VICE CHAIRMAN ANDERSON: -- you agree to?

MR. KILDAY: Yeah.

VICE CHAIRMAN ANDERSON: Subject to all conditions of approval.

CHAIRMAN BARBIERI: All right. Do we have a second on Commissioner Anderson's motion?

COMMISSIONER HYMAN: Second.
COMMISSIONER KAPLAN: Second.
CHAIRMAN BARBIERI: Second by Commissioner

Hyman.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. KILDAY: Thank you.

MR. Mac GILLIS: That brings us to Page 6 of your agenda. We'll begin the regular agenda. First item is No. 10, ABN/ZV/CB/2007-335, Okeechobee Place, Pages 58 through 92, 29 conditions on Page 75 through 79.

Anthony Wint is the project manager. He'll present this item.

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

We will now turn to Item 10, which can be found on Page 58 of today's agenda.

Proposed is a Class B conditional use to allow a Type I restaurant. The site was previously approved on July 21, 1981 for a special exception which allowed a commercial new and used automobile sale and repair facility under Resolution R-81-877.

The applicant is proposing to abandon this approval. The proposed site plan indicates three buildings totaling 16,200 square feet.

In addition, the applicant is requesting two variances, to reduce the side setback from 20 feet to 15 feet and to allow increase in the required setback from the building -- from the build-to line requirements.

A total of 57 parking spaces will be provided, and access to the site will be from Okeechobee Boulevard.

Staff has received one letter of approval from the public, and staff is recommending approval, subject to conditions of approval.

Before I hand it over to the applicant, Zoning manager, Wendy Hernandez, will read changes to Landscaping Condition No. 5 into the record.

MS. HERNANDEZ: Okay. Based on some changes, on Page 76 landscaping along Oklawaha Avenue, Item No. 5.a, will say, "A divider median shall be provided on the west side of Oklawaha

Avenue a minimum of eight feet in width, excluding sidewalk, adjacent to Building No. 1."

And 5.c will read, "Foundation plantings along the west side of Retail II building shall be a minimum of eight feet in width, except where the building provides recesses and projections in compliance with Article 5.c along 100 percent of the facade and contain the same plant material described in 5.b above."

COMMISSIONER HYMAN: Don't you have a median in a local road there again? Isn't that the same situation as the hotel?

MR. CHOBAN: I would have to ask Zoning if that -- where you're talking about the divided median, is that part of the roadway, or is that --

MS. HERNANDEZ: No.

MR. CHOBAN: Okay. So it's not part of the roadway.

COMMISSIONER HYMAN: Where's the median? It's not on the road?

MS. HERNANDEZ: It's within the site. It's -- if you look at your site plan on Page --

MR. CHOBAN: It's this -- it's this median right here (indicating).

COMMISSIONER HYMAN: Oh, so the road goes into the site?

MS. HERNANDEZ: There's an easement that goes into the site; correct?

MR. CHOBAN: That's correct.

MS. HERNANDEZ: -- called Oklawaha Avenue, and on the -- when you look in the site plan on Page 65, on the left side there's a --

COMMISSIONER HYMAN: Oh.

MS. HERNANDEZ: -- a divider median which includes a sidewalk adjacent to the Type I restaurant.

COMMISSIONER HYMAN: Oh, so that's not a dedicated street or anything?

MS. HERNANDEZ: No. It's an easement, correct?

MR. ROGERS: Yes.

MR. CHOBAN: Yes.

CHAIRMAN BARBIERI: Okay. Petitioner.

MR. CHOBAN: But the median won't be in the road?

MS. HERNANDEZ: No, it's not in the road, it's not in the easement.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Petitioner.

MR. TUMA: Thank you. If I may, for the record, Ken Tuma, Urban Design Studio.

We're really excited about this project today. Okeechobee Place is the first project along Okeechobee Boulevard that's really going to do and bring the Westgate plan into effect, and we've been dealing with this over the last couple months with staff and the Westgate staff to work our way through this, and obviously there's a lot of testing that's going on with new Westgate Overlay.

We're really excited because it brings the building out to the roadway. This creates

something really nice and something really exciting when you drive down Okeechobee Boulevard.

Give you just a quick background information, show you a few perspectives, and we're going to ask staff just clarify just a couple conditions, and I won't take much of your time.

The site, of course, as Wendy had -- or as Anthony had mentioned, is west of I-95, and as you can see over to -- on the east side is the area that's used as a contractor's area, and to the west of that, that's the Cingular building, BellSouth building, AT&T building, whatever it's called today, and, of course, this is Aleyda's restaurant.

So the site's 1.89 acres located just on the south side of Okeechobee Boulevard.

Anthony has already gone through the requested actions. I won't take our time up on that, and we'll just do a -- one of the issues that we'll be talking about as we go through this thing is Oklawaha Avenue is an easement.

One of the early issues that we had is was it a road -- road or an easement, and we determined that it is an easement, and that's one of the conditions we're going to want to clarify today.

I'm going to go ahead and jump right to those conditions after we take a quick look at the site plan.

This is a 2,000 square foot, let's say, national coffee chain facility with a drive-through, and that's the reason why we have a conditional permit.

This is an 8600 square foot retail building, and then we have a third building in the back which is 5600 square feet of retail building, also.

And just some quick looks at some of the perspectives. This is a view from Okeechobee Boulevard. As you can see, this becomes that coffee-style restaurant, and then on the other side -- this is the building behind, and you'll notice that we have all the great architecture components going through.

This is building number three, which is south of the retail -- the national retail coffee chain, and then here's the exciting building. This is along --

COMMISSIONER HYMAN: He loves that stuff.

MR. TUMA: Sorry. This is along Okeechobee Boulevard, and we're bringing that building all the way up to the build to line, within 10 feet, and that's going to create that great street edge that Westgate has really tried to implement, and we're excited about this thing, and we're looking forward to your approval today on this, and this is going to be a great facility.

It's going to make a great drive-in every morning, and now I think when you're driving, going eastbound into work, you might be able to stop and get some coffee, too.

We do have a couple conditions that we need to talk about, and they're just clarifications. We agree with staff almost 100 percent on the conditions. We want to go ahead and clarify.

This condition, Site Design Condition No. 1, references, and I'm just going to read you a part of it here real quick. It says, "The applicant shall submit legal documents regarding Oklawaha Avenue. If the status of this 25 foot private roadway easement -- private roadway has been determined by the Engineering Department to be a street as defined by ULDC, then the site plan would have to be revised."

Well, in the last couple of days we've worked really hard with staff, and we've got them the proof that this is actually an easement, and it's not -- it is not a roadway, and we just want to clarify that. And I'm sure Mr. Rogers and Mr. Choban will agree that this is an easement, and that we just want to go ahead and clarify that for the record.

COMMISSIONER HYMAN: Not saying anything?

MR. CHOBAN: I wrote a memo stating that it is an easement.

MR. TUMA: The other condition that we have, and this is -- has to do with the Westgate code. It's prior to final approval by the development review officer, the site plan and the building foot print shall be revised to meet the Westgate requirements for a minimum frontage on the build-to line.

The Westgate code requires 60 percent of the buildings to come up to the front, and we were able to achieve about 54 to 55 percent on this site plan, and -- however, the Westgate regulations allow some flexibility, and we want to go ahead and clarify that just for the record that we will achieve that by -- be able to do this, and in the code the Westgate allows frontage requirements may be reduced for lots with no rear access to the required parking to accommodate a drive aisle to the rear of the lot and the required landscaping.

Well, obviously, Oklawaha Avenue is our drive aisle. We don't have rear access to the site. So, therefore, we believe that we won't need any variances for this. So we just wanted to go ahead and clarify that and talk about that today.

And those are the only two issues that we have.

CHAIRMAN BARBIERI: Staff, clarify that.

MR. Mac GILLIS: If a variance is not required, then they'll be able to proceed to DRO.

So I think there's -- I have to meet with the executive director. I think that's why Thuy is here. She's the assistant director of Westgate.

So as he stated these are new regulations that were recently adopted so staff is massaging stuff so if there's any interpretation, I will

render that, and then they won't need to come back.

That condition just says if they do need a variance, that they understood in order for this to proceed today they might have to come back for a variance on that building.

And the whole thing is, is to a certain amount of your building has to be under the new provisions up to the street and a certain amount of the building to create that presence on the street.

So there's a question of whether or not there's latitude in the language we drafted that I can interpret it that it already complies with that, so --

CHAIRMAN BARBIERI: Can we save time and give them the variance or discuss the variance today and -- no?

MR. Mac GILLIS: It was not -- we -- it was not advertised.

CHAIRMAN BARBIERI: Okay.

MR. Mac GILLIS: I think their position was the latitude was built into the code. Staff's position is -- I haven't really looked at the detail of it. It only came to light as of recent, so --

CHAIRMAN BARBIERI: Okay.

Thuy, you want to come up now?

COMMISSIONER DUFRESNE: I have --

CHAIRMAN BARBIERI: I'm sorry.

COMMISSIONER DUFRESNE: No, that's okay. We can listen to here first.

MS. SHUTT: I do apologize. I have a preliminary agenda that has the wrong item.

CHAIRMAN BARBIERI: That's okay.

MS. SHUTT: Again, for the record, Thuy Shutt, from the Westgate CRA, and I do want to thank staff and the Board for hearing us.

This is one of the first project going through the Westgate CRA. Our Board is very supportive of it, one, being that it is going to address redevelopment of a very bad eyesore in this area.

We know this is not within a main street, like Westgate Avenue in the core; however, we do expect to have projects make a presence known on Okeechobee Boulevard.

We know it's not pedestrian-friendly; however, we would want to have the maximum potential pedestrian accessibility as possible, and one of the ways is to try to make a continuous facade along the street, and any, you know, any help that we can get from the Board with respect to variances, that would be greatly appreciated.

You will be seeing a lot more intensive development coming in through the pipeline, and we would ask your patience for -- as we -- for us as we go through the process and try to coordinate with the Zoning Division.

Thank you.

CHAIRMAN BARBIERI: Thank you.

Commissioner Dufresne.

COMMISSIONER DUFRESNE: Maybe you guys can explain to me.

Is this curb cut shown the same curb cut that you use to get into the shopping center to the west, Alida's and all that?

MR. TUMA: It's not -- let me be sure. Let me see what you're looking at.

COMMISSIONER DUFRESNE: There's a curb cut --

MR. ROGERS: Commissioner, no, it is not.

MR. TUMA: No.

COMMISSIONER DUFRESNE: That's a different curb cut.

My concern is twofold. One, because of the drive-through and because if it's the nationally known coffee chain, I don't care which one it is, they tend to get backed up.

If you eliminated the location of the drive-through, maybe pushed the building to the back, you can get your percentage of square footage required along the street, and you can also eliminate a potential traffic hazard for vehicles backing up onto Okeechobee Boulevard and people trying to make that curb cut into the center.

I think you're looking for a nightmare there. It's tough enough to get into the shopping center to the west, which is even further west of '95, but a second curb cut there to get into this center plus the drive-through, and it -- and it even anticipates in the site plan vehicular backups.

MR. ROGERS: Commissioner, that graphic --

UNIDENTIFIED SPEAKER: Same curb --

MR. ROGERS: -- which shows a median opening opposite the entrance to this project is inadequate --

COMMISSIONER DUFRESNE: Inaccurate.

MR. ROGERS: -- inaccurate.

COMMISSIONER DUFRESNE: Okay. So there will not be a curb cut.

MR. ROGERS: There will not be a median opening there.

COMMISSIONER DUFRESNE: Okay. So now we'll have even more traffic at the other curb cut.

MR. ROGERS: It will be a right in, right out driveway, that's correct.

COMMISSIONER DUFRESNE: Okay. Yeah, and a U-turn at the other curb cut. Okay.

But I think that maybe rethinking this you can eliminate two problems, one a traffic issue and your need for a variance.

MR. TUMA: The variance -- the -- it's a Type I conditional use for a drive-through.

We actually have stacking for 11 cars. The entranceway into that facility is 100 feet off the road, and as Mr. Rogers and Mr. Choban just said, the curb cut is a little further west than we initially said.

COMMISSIONER DUFRESNE: I know where that curb cut is.

What I'm saying is that if you have a problem meeting the percentage of linear feet on the -- on the road, you can move the building up to the road and reconfigure -- I'm not sure how you'll work your drive-through, but I think even 100 feet is not a lot of distance at 9:00 o'clock in the morning or 8:00 o'clock in the morning on Okeechobee Boulevard.

And those are -- those are just my thoughts.

COMMISSIONER HYMAN: Can I ask something?

CHAIRMAN BARBIERI: Sherry.

COMMISSIONER HYMAN: On the site plan you have -- first of all, I don't understand where the median's going to go 'cause it's not shown, I don't think, on this site plan, but there is a line that delineates the left portion of the site plan. What does that represent?

What's going to separate the entranceway, the Oklawaha Avenue entranceway, from the drive-through?

MS. HERNANDEZ: That's where the -- there's a sidewalk and an eight-foot divider median will separate that Oklawaha Avenue and the -- the --

COMMISSIONER HYMAN: So it's just a --

MS. HERNANDEZ: -- backing for the drive-through.

CHAIRMAN BARBIERI: Petitioner's showing with the arrow up there at the top. That's the median --

MR. TUMA: It's an eight-foot --

COMMISSIONER HYMAN: You call that a median? Okay.

MS. HERNANDEZ: Yes.

MR. Mac GILLIS: It's a landscape divider median.

COMMISSIONER HYMAN: Okay. And you determined that cars can make that very sharp turn to go -- to initiate the drive around the Starbuck's or whatever that is.

MR. CHOBAN: The site plan depicts -- depicts the radius on it.

COMMISSIONER HYMAN: Oh, and that's okay?

MR. CHOBAN: Yeah, perhaps it would be better to show you the site plan.

COMMISSIONER HYMAN: Aren't I looking at the site plan?

MR. CHOBAN: The full one?

MR. ROGERS: Here's a good --

COMMISSIONER HYMAN: Is this the site plan?

MR. ROGERS: That -- that radius has been --

COMMISSIONER HYMAN: That's okay?

MR. ROGERS: -- reviewed, yes.

COMMISSIONER HYMAN: I thought the project looks great.

MR. TUMA: Thank you.

COMMISSIONER HYMAN: Nobody's going to be walking there, but I think the project looks great.

MR. TUMA: It's a start.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Just regarding the stacking, is there any statistics on that type of stacking or comparison to other, you know, fast food restaurants or coffee national chains where -- I mean I don't -- I don't drink coffee so I don't go to these places --

COMMISSIONER HYMAN: You don't drink coffee?

VICE CHAIRMAN ANDERSON: -- so I don't know what kind of stacking we would have.

Is there --

MR. TUMA: It's funny, I'm not a coffee drinker, either, but my wife is so I get stuck in the line waiting for coffee, and we live up north, and there are -- it seems like that, you know, 11 cars seems to be a fairly significant amount of stacking for coffee in the drive-through lane in the morning.

You also have a lot of parking spots, too.

People will park and walk in. They're not going to wait in line.

Just like when you go to McDonald's -- I live off of PGA -- or off Indiantown Road. McDonald's lines backed up, I pull in and walk in and go and get -- go and get my drink.

VICE CHAIRMAN ANDERSON: Okay.

COMMISSIONER DUFRESNE: And maybe one of the solutions is that landscape median comes down further, runs further south so that cars are not going to be trying to make an immediate right turn and stack because there's no escape if cars start to stack and there's going to be an ingress issue, so maybe extending that will prevent cars from making that hard second right turn and getting in line and allow people to get into the center a little bit easier.

That can be an easy solution.

COMMISSIONER HYMAN: Well, then you'll only have --

COMMISSIONER DUFRESNE: You follow me?

COMMISSIONER HYMAN: Then you only have --

MS. HERNANDEZ: To make that first drive aisle one way then?

COMMISSIONER DUFRESNE: In other words, you take -- you take the right off of Okeechobee Boulevard, okay, and let's pretend that there are 11 cars stacked up there, which is not hard to imagine if you get stacked up in northern suburbia.

We're talking about Okeechobee Boulevard, so you've got -- where that landscape median comes down on the west side of Oklawaha, extend that down so cars cannot take another right immediately into the drive-through and force them to come into the center.

If cars start stacking up toward Okeechobee Boulevard, nobody can get in the center.

COMMISSIONER HYMAN: He's talking about closing this.

COMMISSIONER DUFRESNE: Not closing it, just extending it.

MR. TUMA: We do have -- I went and looked at the site plan. We do have 118 feet. That's room for another additional car, too.

COMMISSIONER DUFRESNE: Okay. And then we'll have that many more cars stacked up on Oklawaha and not be able to get into the center or start stacking out onto Okeechobee. You don't even have a decel lane there.

COMMISSIONER HYMAN: Are they going to get where?

COMMISSIONER DUFRESNE: So -- I mean I hate to micromanage the site plan, but I think we're asking for a lot of trouble there.

COMMISSIONER HYMAN: Well, I love my fellow commissioner here, but I don't think you could do that, and I don't -- because it doesn't -- doesn't work, and you'd just -- then you'd just close off half of the parking lot, and it's just like some of those shopping centers you go in, and you're lost in the parking lot, and every -- it's a maze, and every end ends up closed, and you can't get out, so --

COMMISSIONER DUFRESNE: Well, I think what's going to happen is --

COMMISSIONER HYMAN: -- I'm going to leave it to these guys -- yeah.

COMMISSIONER DUFRESNE: I think --

COMMISSIONER HYMAN: This is a valid concern, so I don't -- maybe there's some other way to address it, but closing off the parking lot I don't think is the way.

COMMISSIONER DUFRESNE: Well, I'm not closing it off necessarily, just extending it down and maybe move that other median so that people can't start to stack, continue the stacking line back up Oklawaha.

Wow. Sounds almost Hawaiian. So, anyway.

MS. HERNANDEZ: Can I clarify? The code requires that there be four spaces prior to the menu board and then at least seven after the menu board.

MR. CHOBAN: And they have 11.

MS. HERNANDEZ: And they have -- so it'd be 11 total.

CHAIRMAN BARBIERI: None of those would be on Oklawaha.

MS. HERNANDEZ: None of them, no.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER DUFRESNE: They may not be there, but have you been to the Chic-Fil-A on Palm Beach Lakes Boulevard? You can't get into that center to go anywhere else because cars come around the back of Chic-Fil-A out onto the -- and you have a service road there, and it's still stacked up.

COMMISSIONER HYMAN: You eat Chic-Fil-A?

COMMISSIONER DUFRESNE: So -- but I'm concerned that you're going to have the same exact situation here, except there is no service road, and it's out onto Okeechobee Boulevard.

CHAIRMAN BARBIERI: I guess, Engineering, it's your call on this. I mean if you guys --

MR. ROGERS: This -- this meets our minimum Code requirements, which is -- as staff, which is what we review it against.

If the -- and we have not received any -- we've not seen any literature which would indicate that this type of use would require a stacking lane that's any greater than what our Code requires.

We can investigate that, but right now this meets our Code requirements.

CHAIRMAN BARBIERI: Okay. All right. Is there --

COMMISSIONER HYMAN: Any cards?

CHAIRMAN BARBIERI: Is there anybody else here to -- other than Thuy to speak on this issue from the public?

(No response)

CHAIRMAN BARBIERI: Are there any other comments from the commissioners?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of the resolution approving the Type II zoning variance to allow the reduction in the setback and increase the required setback from the build-to line requirement.

COMMISSIONER BRUMFIELD: I will second that.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER KAPLAN: Aye.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER DUFRESNE: Aye.

CHAIRMAN BARBIERI: Motion carries, 7-0

[sic].

COMMISSIONER DUFRESNE: No. I oppose.

CHAIRMAN BARBIERI: I'm sorry.

Commissioner Dufresne was opposed.

Motion carries, 6-1.

COMMISSIONER HYMAN: And I move for -- recommend approval of the Class B conditional use to allow the Type I restaurant, subject to all the conditions as modified.

COMMISSIONER BRUMFIELD: I second that.

CHAIRMAN BARBIERI: Commissioner Hyman made the motion, second by Commissioner Brumfield.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER KAPLAN: Aye.
COMMISSIONER ARMITAGE: Aye.
CHAIRMAN BARBIERI: Aye.
 Opposed.
COMMISSIONER DUFRESNE: Aye.
CHAIRMAN BARBIERI: Motion carries, 6-1,
 with Commissioner Dufresne opposing.
 Thank you.

MR. Mac GILLIS: That brings us to Page 7 of your agenda, Item 12, DOA/R2007-074, Shoppes of Cresthaven McDonalds, Pages 139 through 164, 33 conditions of approval found on Pages 155 through 160.

There are two motions on this. We'd ask the applicant to come to the podium.

MS. HERNANDEZ: Present?

MR. Mac GILLIS: Wendy Hernandez will present this.

MS. HERNANDEZ: The application before -- Wendy Hernandez, for the record.

The application before you consists of a development order amendment and a requested use for the Shoppes of Cresthaven.

The subject property contains a total of 21.29 acres and is located at the northwest corner of Military Trail and Cresthaven Boulevard as seen on the aerial located on Page 145 of your packet.

On November 20th, 1980, the Board of County Commissioners approved the development for 180,094 square feet as a large scale shopping center.

The applicant is requesting to replace the existing 4600 square foot retail building located in Outparcel C shown on Page 146 and 147, with a 3,990 square foot Type I restaurant.

On June 7th, 2007, the Zoning Commission recommended approval of the zoning variance, ZV2007-073, which allowed 100 percent encroachment of a utility easement in a right-of-way buffer, a reduction in width of a right-of-way buffer and a reduction and deviation in the number of shrubs and planting pattern for the Outparcel C.

Staff has received three letters from the public, two in support, one in opposition.

Staff has evaluated the project and request based on the nine review standards and recommends approval, subject to 33 conditions of approval.

CHAIRMAN BARBIERI: Good morning.

MR. TERRY: Good morning. Brian Terry,

with Land Design South, on behalf of the applicant.

We -- I think Ms. Hernandez addressed most of the primary issues. I do not have a PowerPoint for this afternoon. I do have a couple graphics if we need to look at the plan itself.

Basically, we are -- we're placing a fast food, it is a McDonald's on this site on an existing outparcel. We're working basically within the parameters of the existing outparcel, and I think that we've -- we worked with staff over the past few months in DRO making sure that we get this -- we got a design in there correct, making sure we had all our stacking, as well as our pass by and bypass lanes created in an effective manner.

We did receive the variance. The variance is, of course, for the right-of-way buffer. That buffer was -- it's an existing buffer against an existing outparcel. We were trying to work within those parameters so, therefore, that's why the variance was required, but we weren't imposing anything new that was further impacting that.

We do agree with the conditions of approval. There is one Engineering condition that we have met with staff on. It has to do with -- it's an old condition that required the right turn lane to be built at the northernmost entrance.

We believe that -- we've been in negotiation with staff. We do believe we're going to come to a resolution. We ask your leniency to allow us to continue that negotiation until prior to the Board of County Commissioners.

I think there was an option that was laid on the table by the County. I have been in contact with the property owners of the center to restrict the access at the northernmost entrance to be an egress only.

Again, we're working with the property owner to do that. They have not been able to fully confirm that with us prior to today's hearing.

But, once again, we don't foresee that there's going to be an issue with this in the long term that we will get this resolved.

Other than that, again, we're in agreement with all the other conditions of approval, and we would request your approval of this application.

CHAIRMAN BARBIERI: All right. Is there anybody here to speak on this? I have no cards.

(No response)

CHAIRMAN BARBIERI: All right. Commissioners. Anybody?

COMMISSIONER HYMAN: There's not an issue with signage or anything on this project, is there, since it's an old shopping center?

MR. Mac GILLIS: No.

COMMISSIONER HYMAN: I'm going to move approval of the development order amendment to reconfigure the site plan, modify/delete the conditions of approval.

This is DOA/2007-074.

VICE CHAIRMAN ANDERSON: Second.
CHAIRMAN BARBIERI: Motion made by
Commissioner Hyman, second by Commissioner
 Anderson.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Recommend approval of
 the requested use to allow the restaurant, Type I,
 subject to all the conditions.

VICE CHAIRMAN ANDERSON: Second.

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

Discussion.

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MR. TERRY: Thank you.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: That'll bring us to our
 last item on the agenda, Item 13, ZV2007-1013,
 Pages 165 through 174.

Staff is recommending denial on this
 variance request.

Sandra Gonzalez will present this.

Just -- Sandra hasn't -- this is her first
 presentation down here. She's our new Planner II.

I'd like to introduce her to the Board.

CHAIRMAN BARBIERI: Welcome to the jungle.

MS. GONZALEZ: Good morning, Commission.

For the record, this is Sandra Gonzalez, Site
 Planner II.

I am presenting case ZV2007-1013. This is
 a Type II variance, Evenden Garage.

It's a request to allow the proposed
 accessory structure in the front yard. This is a
 garage consisting of 1,338 square feet, a detached
 garage.

This is located at 6622 Paul Mar Drive in
 the single family residential district.

Staff base it on the seven criteria.

Staff is recommending denial because, first, there

are no special conditions and circumstances related to this piece of land. The special conditions and circumstances are self-imposed by the applicant.

In granting this variance this will confer a special privilege to this applicant denied to other parcels of land. The literal interpretation and enforcement of the terms and provisions of this Code will not deprive the applicant of rights enjoyed by other parcels and is not creating unnecessary and undue hardship to the applicant.

Granting the variance is not the minimum variance that will make possible their reasonable use of this piece of land.

Granting this variance will not be consistent with the purposes, goals, objectives and policies of the Comp Plan.

And, finally, granting the variance will be injurious to this area and might become a nuisance for the adjacent properties.

We received -- we received one letter in opposition to this from a resident in this area.

Thank you.

CHAIRMAN BARBIERI: Thank you.

MS. HERNANDEZ: Do you want to go through your PowerPoint?

Staff had presented a PowerPoint.

You want to walk through it, describe the photo.

These are the photos of the site in question.

Can you go -- can you go back?

This is a survey of the proposed. If you look to the top portion of the property, that is the main, primary structure. That includes the single family home, and to the south is the proposed accessory garage.

And then you go to the next page.

This is just an aerial that we included for what the surrounding neighborhood looks like.

The location of the star is the site in question.

Part of the application, they had submitted some other documentation that shows clearly that there are other design options available for them.

COMMISSIONER HYMAN: I had one question on that.

If you had the garage in the back of the property as shown, how do you get there?

MS. HERNANDEZ: Along the side.

COMMISSIONER HYMAN: Okay. That one, you'd have to build another driveway around the front and the back?

MS. HERNANDEZ: You just -- you could continue the driveway that they have and go around.

The one in the --

COMMISSIONER HYMAN: That one you can't get to?

MS. HERNANDEZ: Yeah. That one you could get to. The one on the right side you could get to. That one would probably be a little bit more

difficult.

COMMISSIONER DUFRESNE: On the depiction, that depiction there where the arrow is right now, that's just showing it attached to the house?

MS. HERNANDEZ: Right.

COMMISSIONER DUFRESNE: And that eliminates all of these problems?

MS. HERNANDEZ: Uh-huh.

COMMISSIONER DUFRESNE: Okay.

CHAIRMAN BARBIERI: Okay. We have some people that want to speak. Would you please come up to the podium.

Eugene King.

MS. HERNANDEZ: Would you like the applicant --

CHAIRMAN BARBIERI: Yeah, where is the --

MS. HERNANDEZ: -- to make a presentation?

CHAIRMAN BARBIERI: Is the applicant here?

MR. DOSCH: Yes. Good morning. My name is Michael Dosch. I'm the architect on the project, and we represent the Evendens in this particular application.

This is a very small simple issue. Unfortunately, what has happened is that when we submitted the detached structure, we have to go through this process.

The options available to the owner, which he first looked at, to attach the garage to the existing building.

If you can point up to the middle drawing in the -- on the top layer there, those are not potential locations of the buildings. What that is, is that according to the building Code we're not here just for a front yard variance. We are here for three particular issues.

The first one is that you can only build an accessory structure to a width that is 25 percent of the width of the property, and also it can be no -- it cannot be any deeper than 25 percent of the depth of the property.

You can also not build an accessory structure in front of the existing structure, no matter where it's built.

The existing front yard setback in this neighborhood is 25 feet. This house happens to be built 35 feet back.

You can see by the three representations there that those are potentials if you built according to the 25-foot rule and the 35-foot setback.

If you look at the neighborhood, which staff has had the pleasure to go through, you'll find out that there are no garages built on the back of any of these properties. That's a very simple reason. It's waterfront.

As a good neighbor you would not construct something like this on your back property line so that your neighbors cannot enjoy the view to the waterway.

The only option that was available to us, and we looked at all of this, was to prepare a site plan where the building would be located in

the southwest corner of the property.

The only problem we have there is in the southwest of the existing house is the bedroom and a closet. The existing house is wood frame, built with wood veneer.

The reason our client wanted to do this is he collects, has restored and has in his possession very, very exotic cars, a 1903 Autocar, one of four in the world, a Stevens Doulier (ph), 1906, a 1910 Model Ford. These were stored in a warehouse that were damaged during the hurricanes.

Owner said gee, I'd rather have them on my property. Unfortunately, you have to design a structure to house the vehicles, as well as a small trailer that carries them.

We felt that the best thing to do would be to come up with a program that would allow us to put these cars in a building.

We came up with an L-shaped type structure, which is illustrated on the lower left-hand side. There's also a septic tank to the right, which allows us not to really go further to the east.

We've also, not being a big fan of asphalt, we're going to change all of the existing concrete drives to brick pavers and construct a two-car garage. Originally, the owner wanted a three -- excuse me, a two-door garage -- a three-door garage. We said it wasn't compatible with the neighborhood, plus the little L, the extra depth is needed to house the trailer inside, versus having it in the street or in the front yard setback of the existing building.

The size that would be allowed by Code would be 1,255 square feet, square. We're building approximately 1459, eight percent larger.

We're about four percent over the width -- excuse me, the depth, and about 15, 16 percent over the width of the building in the front of it.

The building will be -- is proposed to be brick with two garage doors that are similar to all of the other garage doors in the neighborhood.

If you come into the neighborhood, you will find out, and on the very newest structures, that there is a so-called -- a double garage and a single portal and a double garage and a single portal way down at the other end of the street, basically to house six vehicles.

The houses directly across the street a little bit to the north both have detached garages in the front yard. Staff said there was nothing like that in the neighborhood.

One of the gentlemen that is here owns one of those residences. The two buildings that are where the star is, if you go to the right, that one and the one above that are detached structures.

Also, this is the lot that our client has is one of two double lots. They built the house in the middle of the lot.

If you do a little analysis and you look at some of the FARs, you'll find out that the FARs

go from 18 to 24. If we had this garage, we'll be right around 20. We'll be consistent with the rest of the neighborhood as far as scale, as far as design and as far as location.

Many of the houses are built either to the front 25-foot setback, or many people decided to build to the rear setback.

The other thing that's very important as why we chose this location was the inconsistency between what we like to build and the existing house.

As I stated originally, these buildings, the building that housed these cars originally suffered some damage during the hurricanes. The owner wants to construct a building that will stand a Category 5 hurricane, a little bit different construction than wood frame and brick.

The linkage between the two doesn't make any sense because who attaches a garage to a house that you have to go through a bedroom and a closet to get to? Functionally it didn't make any mistake [sic].

When we came up with the program, or the owners came up with the program of what they'd like to do, we looked at the ordinances. We went to the County. They said the only way you could do this was to come in front of this Board and do it.

The fallback, which we can always say, is we could always attach it, yes, that's true. It doesn't make any sense. It is an economic hardship to the client to do it.

Structurally, it's very, very -- it can be done. Anything can be done, but it's very, very difficult to do it.

COMMISSIONER HYMAN: Can I ask you one question? I don't mean to interrupt you.

You said that in order -- if you connected it -- if you attached it to the house, that the access from the house would be through the bedroom and the -- and a closet, but what if you just attached it to the house and didn't have an accessway between the garage and the house, and you just continue to use the garage doors as you're asking for now?

MR. DOSCH: Well, that could be done. The scenario that comes up, though, is once you do an attachment to a building under the building Code, we're doing basically two types of construction. We're doing masonry construction with brick veneer against wood. The trusses that we're designing are going to stand 160-mile an hour winds.

When you connect these things together, there's always these tendrils that go into the existing building, not just the little --

COMMISSIONER HYMAN: So if there's a hurricane --

MR. DOSCH: -- through the wall. If there's --

COMMISSIONER HYMAN: -- the garage is going to stand, and the house is going to fall?

MR. DOSCH: If there's a hurricane and you

have to connect them, you have to really -- and I do a lot of historical preservation work, and there's always tendrils that go back. Once you connect buildings, you're also subject to upgrading the older residences.

The Evendens have lived there for 30 years, and we find that the building is consistent with the other houses in the neighborhood.

He has one of the two double lots. If you slid his building over and put it on one lot, of which you could do, you could build another house there. He could build a two-story house.

I could add four or 5,000 square feet to this house and not have to come in front of this Board. So I find it almost absurd the County's planners would say it's not consistent with the texture or the scale and the character of the neighborhood. This building is.

We also have copies of the elevations if you'd like to take a look at them. Also have pictures of the cars that will be stored there, and the owner will be more than happy to come up and give you the 25 letters of support that he has from his neighbors, all that live on the street.

CHAIRMAN BARBIERI: Commissioner Hyman, you had another question.

COMMISSIONER HYMAN: Well, I think that the argument that you have a double lot cuts both ways, and the negative, of course, is that since you have a double lot, there is more space available and more options for the garage. So I think that somewhat hurts you.

I am interested. You said that the houses -- the two houses across the street have the same situation.

And, staff, you know, first is that true? How did that happen? Do those two houses have the same situation?

MS. GONZALEZ: When I did the site visits, I don't recall that I saw similar structures, and I -- at least not that size. That's what I recall.

MR. Mac GILLIS: There was a time in the zoning Code, probably 15 years ago, and then the Code was actually amended because there were so many complaints from residents with people putting accessory structures in their front yard that the Code was amended.

So this -- those older homes could have had it when it was permitted or through a variance, but it's not -- it's not -- under today's Code it's prohibited to putting accessory structures in your front yard.

COMMISSIONER HYMAN: Okay.

COMMISSIONER DUFRESNE: Are there any plans to put any living quarters or anything in this garage?

MR. DOSCH: No. The only thing that's in the garage is a small powder room. The rest of it is just to store vehicles.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Could a wall

connecting the two buildings that's under the eave and under the truss, would that consider an attachment?

MR. DOSCH: We looked at that. There's two different interpretations. According to the Building Department we could just build a wall and attach it. According to Zoning it has to be enclosed roof structure. That was the opinion we received from staff.

MR. Mac GILLIS: That is correct. We don't -- what would happen, people would circumvent the Code. The intent is that it's an integrated part of the same house if you want to consider it attached.

People would come in and they use trellis breezeways and consider themselves to be able to have the structure and say, well, I'm attached, and we would say no, there's no common footer, there's no common roof, there's no common walls, but a piece of trellis that they would go out and tear down potentially or through a hurricane, and you have a detached structure not meeting the Code.

VICE CHAIRMAN ANDERSON: What if -- what if the two buildings were connected just at each corner so there was only a minimal roof connection?

MR. DOSCH: Well, the problem with the roof connection is at the corner is that this is -- the existing building is a hip roof, and the new construction has gables, and this is hip, and you have things that are going like this (indicating) that have to be connected at a point, and, you know, that's something we explored originally, you know, to connect it.

Obviously, that would have been the easiest solution, was to connect it, but we found out that when you connect it, you're almost encroaching at that -- the corner on the septic tank system which we know it's in the ground. We've identified it approximately.

We just don't want to get that close to the existing system and the lines that are there, and we felt that based on staff's recommendation that the only way we could detach the building would -- get a variance. We could not do it with the other criteria; otherwise, like we've indicated on the drawing that was up there, on the corner, you know, there's -- there's what you're looking at, the attachment at the very corner.

VICE CHAIRMAN ANDERSON: Correct.

MR. DOSCH: That's just a big rectangle, and we found that a little -- the only reason we're adding that extra square footage there was for the attachment. We really don't need it.

So we felt that it would be easier to keep the scale of the building smaller by cutting the L out and by moving it a little bit away. Also, detached buildings can be five feet from the property line.

We're adhering to the initial 7.5-foot setback. We don't want to encroach and do

anything that would not be consistent with an attached building. Attached building could be 25 feet from the front yard, seven and a half feet from the side. We've done that.

We've adhered to a reasonable building separation so you can get access, which is fairly standard, and many of the cities we work in, they have a six or seven-foot separation between buildings.

And, again, this is a suburban lot. We've done three of these other structures for car enthusiasts in the County, but they've all been on large acreage, and the front part was not a problem.

Plus every car aficionado's wife said if you're going to build a garage, it's going out there in the back of the lot away from the house.

Again, this is just for storage. Cars are not going to be worked on except to be polished and be fine tuned. This is not a garage. It's not a storage structure. It's really a residential garage to store cars.

Matter of fact, this morning when I read the Post, Porto Sol, four-car garage is the standard that's being issued -- offered to the public, three-car garage.

People have a tendency to live in this part of the country to have a few more vehicles just because of the nature of the development and this is fairly consistent.

COMMISSIONER KAPLAN: Mr. Dosch -- I'm sorry.

CHAIRMAN BARBIERI: Go ahead.

COMMISSIONER KAPLAN: Mr. Dosch, you said you had a letter of 25 signatures. May I see that, please? It was not in the papers you submitted.

CHAIRMAN BARBIERI: Yes, sir.

MR. WILSON: I believe I can solve this. My name's Ken Wilson, Palm Beach County Health Department.

COMMISSIONER KAPLAN: Thank you.

MR. WILSON: If the garage does have a powder room in it, that would be an addition to the septic system. They would be required to meet current standards, which would be 75 feet from the lake.

So if they encroach on this, they are going to probably have to upgrade their septic system and go with current standards.

According to the site plan I have, 75 feet is about where that garage is going to start. You're going to encroach on the drainfield. We would not allow this.

MR. DOSCH: Based on the survey we do not encroach on the drainfield or the septic tank. The surveyor has located those for us.

MR. WILSON: Well, your drawing doesn't show this. If you can prove that they're 75 feet away, drainfield and all, you're going to have to do that before you can do anything with it.

MR. DOSCH: You're saying 75 feet from the water?

MR. WILSON: From the water, yes.

MR. DOSCH: The building is -- it's within the 75-foot criteria.

MR. WILSON: All of the drainfield?

MR. DOSCH: The drainfield is -- is -- if you show the drawing -- the drainfield -- if you go back one.

The drainfield is located on the bottom right-hand drawing.

Go back to the five site plans.

Right there, bottom right-hand drawing, there -- well, and also that was located on all three of them.

MR. WILSON: Currently.

MR. DOSCH: Yes.

MR. WILSON: Do you know that that's 75 feet away from the water?

MR. DOSCH: The existing --

MR. WILSON: Existing, it may have already been allowed at 50.

MR. DOSCH: This is not --

MR. WILSON: But you would have to bring it up --

MR. DOSCH: It's not 75 feet from the water, that's correct.

MR. WILSON: Then you would not be allowed to do this.

MR. DOSCH: We'd have to relocate the drainfield, is what you're saying?

MR. WILSON: Yes, sir.

COMMISSIONER HYMAN: Or take -- take the bathroom out.

CHAIRMAN BARBIERI: There is a bathroom.

MR. DOSCH: Relocation of the drainfield, regardless of where we build, is a scenario we have to address.

MR. WILSON: Fair enough. You need to know that before you go to put a building in --

MR. DOSCH: We're aware of that.

COMMISSIONER DUFRESNE: For the building or for a building with a powder room?

MR. WILSON: Because it has a powder room, that would be additional flow into the septic system.

COMMISSIONER DUFRESNE: Right, right. I understand that.

MR. WILSON: So that is what requires everything to be brought up to current Code.

MR. DOSCH: Well, we looked at the size of the septic tank and the amount of bedrooms that are in the residence and the flow, and the addition of the powder room does not require an increase in the capacity of the existing --

COMMISSIONER DUFRESNE: But that's not --

MR. DOSCH: -- 1250-foot septic tank.

COMMISSIONER DUFRESNE: -- his issue. His issue is the --

MR. DOSCH: We understand that. If we -- the option would be if we have to eliminate the powder room, that would be an option that we would

consider, versus spending a lot of money to move the septic tank system.

CHAIRMAN BARBIERI: Thank you.

Mr. Ciklin, you want to come up?

MR. CIKLIN: Good morning. My name's Alan Ciklin. I represent the property owner immediately adjacent to this house.

He's seven and a half feet away -- well, actually, 15 if you give his -- add his setback in, as well.

You're going to meet him in a moment. He's a great guy. He hates to oppose something like this, but the fact of the matter is this is a warehouse for, we think, up to eight antique cars and a trailer, in somebody's front yard of a single family dwelling immediately adjacent to my client's home.

If somebody comes to me and says, "I want to store antique cars and I want to shine them and buff them, and I want to make sure that they're protected from the hurricane, and I want to put my trailer in there, as well," I say to them you need to find a really secure industrial park and store them there. This does not belong in a single family residential district.

Also, and I don't know whether you've been provided copies of the letters that I've submitted, but let me just go over briefly what I said in those letters.

We have a real question as to whether something like this is allowed, anyway. Garages are accessory uses according to the Code, and keep in mind, also, this already has a two-car garage.

This house of about 1700 square feet under air has a two-car garage that exists.

And the definition -- and I know I -- you hate when lawyers give you these Code citations and definitions, but I think it's important.

The definition in the Code is an accessory use is one customarily associated with the principal use, is clearly incidental to the principal use and is subordinate in area, extent or purpose and serves only the principal use.

Well, the existing house, as I said, already has a two-car garage. With this proposed garage, and we have asked the planner that did some graphics for us to compute how many cars can be in here, we think it's eight.

So you have -- you're adding eight, and you have two, so on less than a half an acre of property you're asking to put 10 cars.

We don't think that that's clearly incidental. We don't think it's subordinate, and if you take the size of the proposed garage, or warehouse, the existing garage, it's bigger than the house itself.

So we had a question, and it's not for you to determine here today whether we're right or wrong, I guess, but we had a real question.

If your garages are bigger than your house, is it really an accessory use anymore? It seems to me that the garage has become the

principal use and are no longer accessory.

Having said all of that, the real issue is does he meet the criteria for a variance, and as staff indicated and as the Code indicates, you have to meet all the criteria.

Staff has come to the conclusion that he didn't meet any of them.

You've heard Mr. Dosch speak, and, listen, he's very honest and straightforward. He says, "It's a real convenience for my client to be able to have his antique cars in this warehouse. He doesn't have to go to a storage facility. He doesn't have to worry about his antique cars. He can put his trailer in there. He can have the little powder room."

That's great, but that doesn't meet the criteria for a variance.

Just briefly on the criteria. One, is this a special condition peculiar to this parcel and not others? As staff has indicated, all the properties in this area are single family. There are -- this one's a little larger, perhaps. It's less than half an acre, and, no, it's the same.

Are there special circumstances that don't result from the actions of the applicant? Well, they all result from the actions of the applicant because he wants to put -- he wants to warehouse six, seven, eight cars in his front yard next to my client.

Will this variance confer a special privilege to the applicant? And we think yes. Yeah, there -- I went to the neighborhood. I drove there. There are some three-car garages. Maybe they can squeeze four cars, but there's no freestanding warehouse buildings where people store antique cars and trailers. So we think, yes, it will be a special privilege.

Does the Code provision he seeks a variance from deprive him of rights enjoyed by others and is an undue hardship? Well, it's not an undue hardship. It's -- and if it is, it's self-created. You know, go to a warehouse facility like most people that store antique cars.

And does it deprive him the rights enjoyed by others? I promise you that there are no eight-car front yard garages, slash, warehouses in this neighborhood.

Is it the minimum variance to make possible a reasonable use of the property? Well, he has a home. He has a two-car garage already. He has a reasonable use of his property today as we speak. This -- he doesn't need the variance for a reasonable use.

Is it consistent with the goals and objectives of the Code and Comp Plan? You've heard Mr. Gillis say -- Mr. Mac Gillis say that the reason this was added to the Code, at some time people were putting these kinds of facilities, probably smaller, in their front yard, and everybody was complaining, and I got news -- no, I got news. It's not real news.

If somebody did this to me, I'd be

complaining big time, and I suspect that each and every one of you, if your neighbor decided to put a storage facility for antique cars, you'd be complaining, too.

Will it be injuries to the area involved?

Let me show you the graphics we had done by Mr. Gentile's office, and this is the first one.

What we did was we took the dimensions. These are based on the survey and the dimensions supplied by the applicant. We superimposed them.

This is the existing residence. This is my client's house here (indicating).

And when I first looked at this, I said oh, man, you're -- this is exaggerated, you know, that's -- you got to come be real because I'm going to show this to the Zoning Commission, and they're going to say come on.

And they started laughing because this is the real situation.

Now --

COMMISSIONER HYMAN: Is your client -- Alan, is your client on --

MR. CIKLIN: He's to the south. This is -- if you're looking at it straight on, he's to the right.

COMMISSIONER HYMAN: He is to the right? So he's immediately adjacent to where the garage would be?

MR. CIKLIN: Oh, yes. Uh-huh, uh-huh.

So they indicated to me after laughing that this is the real circumstance.

Now, this is, I think, at 10 feet. In reality he could go higher, but we don't suspect that that would be the case. But, you know, you look at this, and you say ah, come on, you know, give us all a break. This just doesn't belong here.

Here's another perspective that from my -- this is my client's residence here. This is the Evenden residence here (indicating), and this is how the garage would look.

You know, listen, at the end of the day does this -- is this something he wants? Absolutely. Is it a convenience for him to have his cars right there? Absolutely. I understand that.

Does he meet these criteria? I think absolutely not, and he's got to meet them all, all the criteria, not just the majority or six out of seven. He's got to meet them all.

So if you find -- if you think -- well, and he didn't present any evidence or testimony, really, about his hardship and the criteria, but if you find that it's injurious to the area or that it's a special privilege or that he already has a reasonable use of his property or any of those, then he is not entitled to the variance.

Having said that, I'd like to introduce you just very briefly to Mr. Johnson, the neighbor. As I said, he's a -- he's a great guy, and he'll just tell you a little about why he lives here and what this would do to him, which is

more about the injurious to the area criteria.

MR. JOHNSON: Good morning, ladies and gentlemen. My name is J. Albert Johnson. I am a lawyer, but I'm not fool enough to represent myself.

I listened very carefully to Mr. Dosch's commentary. I listened very carefully to Mr. Ciklin's commentary.

I came to Florida some 26 years ago. I have some strong roots in Florida. I am on the Board of overseers of Lynn University where I've been for 20 years. I was formerly on the Board of the Florida Symphonics Pops Orchestra, and I'm the president of the Highland Beach and Boca Raton Condominium Association which represents some 60,000 people in Palm Beach County.

I am -- would offer to say to you that I travel a great deal around the country in pursuit of my occupation, try cases in some 33 states. I'm a member of the Supreme Court of the United States, as many are, and I find that at this stage of my life I have to begin to look for a place where I'm going to settle down.

Three years ago, unfortunately, my wife died of cancer and caused me to look to someone who I could share my life with in the area where I love, and that is Palm Beach County. My son lives in Lantana. Indeed, I am the president of the Lantana Airport Advisory Board where he works.

And I moved some two years ago into this beautiful neighborhood, and it is a beautiful neighborhood, and there are some very, very fine neighbors, including, but not limited to Mr. and Mrs. Evenden, who I've gotten to know quite well.

Significantly, I bought that house because it suited my purposes. It was a two-bedroom, two-bath house, had some beautiful views out over a canal onto conservation land and also some views to the left of my house as you look at it, as you saw in the diagram or the rendering, which showed some beautiful trees and some beautiful flora and fauna, including a very large royal oak which is going to come down if Mr. Evenden builds his warehouse.

It is significant, I think, that if this property were to be built, if this warehouse were to be built, it would create a 38-foot wall, solid wall with no windows, a 38-foot wall along the northerly side of my house, completely eclipsing -- seven and a half feet away from my boundary line, complete eclipsing any view I have to the north; 38 feet by 20 feet warehouse.

Now, not so coincidentally, I assume, I have some antique cars myself, and I pay \$289 a month to a Lantana warehouse facility to store them. I would love to have my cars on my property. I would love to have that. I have a single garage with my home. Mr. Evenden has a two-car garage.

That's fine, but to build a warehouse of this magnitude, which is shown to you I think best by this photograph, what you can see where my

house is to the right, which is completely eclipsing the quiet enjoyment of my home, air, light and sight.

I think that it would be extraordinary for this Board to grant a variance which would be so contradictory, in my opinion, in my humble opinion, to what the Code envisions.

I am aware of the fact that there are some 25 letters submitted to you by neighbors, and I am probably the most unpopular guy in the neighborhood right now, and that's okay. I've been unpopular before.

Let me say this, that none of those neighbors, none of them, are impacted by this structure as I am. It will completely destroy not only my quiet enjoyment of my home, but the value of my home, and I spent an awful lot of money fixing it up several years ago because I plan to live there for the rest of my life, whatever that brings to me.

I would simply conclude by saying that I think Mr. Ciklin has laid it out. I think that the staff has indicated to you that it simply does not meet any of the criteria which I have examined for a variance, but much more importantly I do not believe -- and I'm certainly not an expert in this field -- I do not believe that an accessory use for the construction of this building is met in accordance with the Palm Beach County Code, building Code, when the accessory use is 38 by 20 feet, and it is an enclosed building with no windows.

I don't think that's an accessory use to a home where it's going to be used to house up to eight automobiles. I think that's the number that fit in it.

I don't think he intends to put eight in there from what I understand. I think he intends to put a trailer in there and five or six vehicles, but in any event, it simply is injurious to me, destroys my property, and I hope that you will deny the variance.

And I thank you for your time.

CHAIRMAN BARBIERI: You're welcome. Thank you.

I have two more cards. One of them is Mr. Evenden. I don't know if you wanted to speak to the Commission. And the other one is Mr. King.

Mr. King, would you come to one podium if Mr. Evenden comes to the other one.

We're going to limit you to three minutes at this point. We think we've heard quite a bit already from both sides.

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

MR. EVENDEN: Somebody left their glasses. My name is William Evenden. This whole case is about me and my planned garage. I have to say that I'm very disappointed in what I've heard here today.

I've never -- I didn't realize -- this is my first experience at this. I'm not a lawyer,

and I never expected to be confronted by so much misinformation that's been put out here today.

Let me start with the eight-car garage. That is ludicrous. When I laid out the plans for this -- for the floorplan about how much space I would need, I can just get my trailer in there and the four cars I own.

Now, these cars -- I don't know if you've got pictures of them, but we have -- I have a couple photos here that I can show you.

COMMISSIONER KAPLAN: We have those.

MR. EVENDEN: Okay. We're not talking about what a lot of people call antique cars today. We're talking about real historical vehicles.

Now, it's been said that I could go down and rent a warehouse to house these. I did that, and I don't know if any of you have looked at warehouses around here, but there are virtually none that will allow you the ability to back a trailer into the existing facilities.

I have one down in Boynton that meets my criteria, and when Hurricane Wilma came along, the roof was destroyed. We had a leaky roof, and they -- the door was damaged, and they replaced the door with a very flimsy metal door right now.

I don't know how it -- it can't possibly meet Code, but somehow it got put there.

In any case, it's been -- we bought this house in 1977, it was already existing, and the previous owner put it in the middle of his double lot. One of the reasons we bought it was we said someday we'd like to expand in order to have an opportunity to -- I've had this hobby for 50 years, and we want to preserve these cars.

Our warehouse down there has no air conditioning and no climate control. I had to kill a rat in there the other day.

So there's a secondary issue here. It's not just a garage for our cars, which we want to preserve. It's also going to be our hurricane shelter. I've done everything I can to upgrade my present structure so it will meet the hurricanes, hopefully.

Wilma came by -- came right over our house. Fortunately, we didn't have any damage to our house. It was 130 mile an hour we've been told.

I want a structure that'll go up to 160 or better.

I went down to the -- Deerfield Beach has a disaster survival house. I don't know if any of you have been there, but I recommend it. It's a demonstration house on how you can build a building to make it hurricane proof up to a Category 5, and my architect is incorporating all those features into this building so it -- if the big one comes, we're going to be able to go out there and feel safe, and the only reason we decided to put a toilet and washbowl in there was that if we are out there for a longer period of time, we'll have a place to go.

And, actually I went out to the County Zoning group and buildings, and I met with a Mr. Lombardo from the Health Department, and he told me that I needed to locate my structure at least five feet away from my present septic tank, and I discussed -- only my wife and I live in that house, and if we're not in the house and we're in the -- in our garage and going to the bathroom, we have no increased capacity or overload to our septic tank, and it's -- it'll be just fed right into the present pipe that goes into the septic tank.

Now only that, but by -- the present septic tank is more than 75 feet from the water.

There's been a lot said about -- and your staff wrote in there that there were -- that this would be a structure that was completely different from everything else in the neighborhood or wouldn't blend in.

Well, I invite you to look at these -- I don't know how you get these up here -- can I pass these up to get you to look at these? CHAIRMAN BARBIERI: Mr. Evenden, try and wrap it up for us, please.

MR. EVENDEN: Okay. These are photographs of other properties on my street, and as you can see, only the houses -- most of the houses on our street were built in the early -- late '60s, early '70s, and they all are typical either bungalow, some are two-story, type of house that was typical for that time.

In the '90s, late '90s, there was a big tract of land up at the beginning of the road where you turn into it off of Hypoluxo that shows a -- well, it was a wooded area. That was all broken down into new lots, and the houses that have been built there since are completely different from anything that's in the house -- in the street now from the -- from the '70s.

So when the staff says that -- do not have -- sorry, where was it -- the image would be deteriorated by allowing the construction of a -- houses which are not the same as what's there.

If you look at all of these newer houses, you can see that they all have great big archway entry doors, very high, high windows and so on. It's typical type of construction being built today.

Now, if anything doesn't fit into the neighborhood, it's those houses, and I want you to particularly look at the big pink one. That man has six garages right there on the street side, and he is holding a big -- another parcel of property next door, and he personally told me that he plans to build an eight-car garage there with a living quarters above it because he owns 20 cars or something like that.

In any case, I'm not going to be the only garage facing the street.

In addition, I think you ought to see a sketch of what this looks like. My neighbor showed you a rendering which is completely wrong.

And, by the way, he keeps calling it a warehouse. I'm not allowed to build a warehouse in a residential area. This is not going to be a warehouse.

There's essentially what it's going to look like (indicating).

COMMISSIONER HYMAN: Yeah, we have that in our materials.

MR. EVENDEN: Okay. So the other thing is that I am a person who believes in being prepared, and I see a lot of apathy here in Florida about people not putting up shutters and things like that. Most of them I guess have never been in a hurricane. I grew up in Florida so I know what it's about.

And I have done everything I can with my house present, and I wanted this building to put my valuables in it if we have a big one come.

And we talked about hardships here. The hardship to me will be on the day that a hurricane blows down the warehouse I've got my cars stored in presently and all my cars are destroyed or -- and my present two-car garage is not air conditioned, and it's not environmentally controlled, and it's not a proper environment to preserve these automobiles.

And, again, I just want to restate that there are only four cars. I only own four cars. I'm not going to buy any more at my stage of life, and I'm going to have some other collectibles in there that I'm going to put on the walls for display, and it will house my trailer.

It wouldn't be any point in having a garage if leaving my trailer outside for the next hurricane come along and blow it away. So the trailer goes back in the back and the four cars inside, and it only comes out when I go off with one of the cars in the trailer to a car show.

I won't be doing any restoration work in there. I've already restored all my cars, and you can see the condition from the photos, and that's my main -- this has been a dream of mine. I don't intend to move, I just want to spend the rest of my life there, as well.

So that's basically what I wanted to say about that.

And my architect would like to have a few more words, please.

CHAIRMAN BARBIERI: All right. We gave you extra time, Mr. Evenden, because you're the petitioner.

Mr. King, is it?

MR. KING: Yes.

CHAIRMAN BARBIERI: We're going to limit you to three minutes.

MR. KING: Okay. My name's Eugene King. I live at 6601 Paul Mar Drive, which is just across the street from Bill and one lot north.

What I wanted to say was I am one of the ones that has a detached garage in front of my house. It's about 20 by 24. I put three cars in there. It was built in '76, and it was allowed at

that time.

In addition, in front of that garage I have a parking area for another three cars, and it's been that way since I built it in '76.

I want to say something about the drawings that you were shown. It's going to be brick veneer and everything. The -- making it look white, making it white in the drawings and everything like that that were shown to you by Mr. Ciklin makes it stand out and everything like that. It's going to blend very well.

And if I might say, the Evendens are meticulous in their upkeep of their home and their property and everything like that. If a pine cone falls from their tree, it's going to be gone in 10 minutes, and they're that type of people, and everything looks -- always looks wonderful.

And as far as the six -- six-car garage down the street in this house that was built within the last year or two, it is six-car garage.

There is also a little attachment to the front which will hold five or six motorcycles, and what he puts in this garage are muscle cars. His daily transportation, he has three cars that they use daily. They're always in the driveway. There's no room for them in the garage.

So, I just thought of the hurricane-proof portion of it. I -- most of our homes were built in the '70s, and we don't meet the current Codes, and we never will, but Bill has said that if -- anybody's welcome if they need to get out of their home and get into this shelter that he has, that he will have, we're welcome, and I can't fault that. That's for sure.

So it's not a warehouse. It's a garage. This gentleman does not store museum pieces, although they are -- could be museum pieces. He drives them. He'll go up and down the street, testing it out before -- they go on rallies and this type of thing with these old cars, and they're ancient.

They're turn of the century cars, and they go on rallies with these, and they go up and down the street, taking neighbors for a ride and everything like this. They use it, and it's not just a -- for just storage.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

MR. DOSCH: I have an issue here with this totally inaccurate document.

Seven point five foot building separation.

It's not true. It's 15 feet, seven and a half on this gentleman's side, seven and a half on this side.

The other thing, if you look at the aerial up there, you'll notice that this structure is built at 25 feet from the front setback or 25 feet from the property line.

This perspective shows this building, which will be constructed at 25 feet, actually in front of this. It's not accurate. It's

additional deception. Thirty-five foot maximum height is just a Code thing.

We're showing you what we want to build. The documents you have are part of the construction documents that we're preparing to build.

In reference to Mr. Ciklin's comments about meeting the criteria here, very, very important. Again, if we want to attach the building, we can make this thing larger, and it would look exactly the same.

We've always felt that the zoning is just not the technical part of these ordinances, but the -- what it will actually do to the physical environment. We feel that the proposal that we're doing is a better solution than what the zoning mandates.

We realize they're -- we know what you have to do. I've sat on boards before like this, but we think we can go through every one of these issues and say yes, we meet them in opposition to what staff has concluded, plus staff has made some -- just like this, some errors, detached garages across the street. They say there are none on the block.

The lot is not unique. It's only two out of 30 of double size lots. That is unique, and that is why, because it's in the center of the building -- excuse me, in the center of the lot that the literal interpretation of all of these things comes into play.

This is just not about zoning, even though I know that's your purview, but I think you have to think outside of all of these particular issues and look at what the greater good would be.

COMMISSIONER HYMAN: Can I ask a question? When they apply for the variance, they have to set forth the seven standards and how they satisfy those standards.

MR. Mac GILLIS: Correct.

COMMISSIONER HYMAN: But we don't get a copy of their application.

MR. Mac GILLIS: We should be supplying that to you. I apologize. That should be included.

COMMISSIONER HYMAN: Yeah, could you do that?

MR. Mac GILLIS: Yes.

COMMISSIONER HYMAN: Because I'd like to see what their --

MR. Mac GILLIS: Historically we've done that. I --

COMMISSIONER HYMAN: Yeah.

MR. Mac GILLIS: I'm sorry that's not in there.

COMMISSIONER HYMAN: It's okay. All right. Is he done?

CHAIRMAN BARBIERI: Mr. Dosch, are you finished?

MR. DOSCH: Yes. Thank you.

Well, obviously, we'd like you to approve this project.

Thank you very much.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Okay. I personally have no problem with storing cars and no problem storing beautiful historic antique cars. If left to my husband, he would store them all day long. And I have no problem with a garage storing cars as an accessory use.

And I have no problem with building a hurricane shelter. I'd like to be able to do that myself, and I do think that the elevations that we were shown are misleading. I'm glad that the gentleman pointed it out. I mean the building is not going to be white. It would be further back. It would be a little further away.

Having said that, this garage will remain after the present users are gone, so regardless of his use, and if he's using it for four cars and a trailer, it's certainly large enough for the next person to use it for something else, for other purposes.

It, to me, even with the misrepresentation in the drawings, it still seems to me to be as a detached structure out of scale, and I have to believe the Health Department that they're not going to be able to put the bathroom in.

I now understand why they want it because of the hurricane shelter, and all the neighbors would use it, also, so you probably won't be able to do that, and that probably nixes this whole idea, anyway.

But, most importantly, when we review the variance standards, I don't know how -- I just -- I can't see how the petitioner does satisfy those standards, not when you can attach this garage to the house and not have it as an accessory use.

So to me there are no special conditions and circumstances that exist that are peculiar to the parcel. The special circumstances and conditions do result from the actions of the applicant.

It's -- I mean the applicant certainly is responsible for the problem that he's asking the variance for.

The grant of the variance would confer upon him a special privilege that would be denied other people in the area because it's not allowed by the Code.

The literal interpretation of the Code would not deprive the applicant of the rights commonly enjoyed because I still think he can have this garage. He can store his beautiful cars. It just needs to be done differently, and as the petitioner's architect said, I mean he could attach it to the house, and I personally wouldn't have a problem with that.

And the granting of the variance is the minimum that would be possible, we've seen that that's not true.

And the granting of the variance will be consistent with the purposes, goals and objectives of the Comp Plan. I don't think that's true. I

don't think that the Code is, you know, would -- looks well upon an accessory use of this magnitude separate from the building.

And the last standard being that it's not injurious to the area. Well, clearly, it's injurious to his neighbor by his neighbor's testimony, perhaps not injurious to anybody else, but to the gentleman directly to the -- on that other side of the house.

So I'd like to see this petitioner, you know, come back and, you know, not before us, but redesign, put in a garage for his beautiful cars, but not come before us with the need for a variance.

And so I'm going to support the denial, the recommendation for denial.

CHAIRMAN BARBIERI: You're making a motion?

COMMISSIONER HYMAN: I will make the motion if there's no other comments.

VICE CHAIRMAN ANDERSON: Second.

COMMISSIONER HYMAN: The motion is to adopt a resolution denying the Type II zoning variance to allow the accessory structure in the front setback.

CHAIRMAN BARBIERI: All right. The motion was seconded by Commissioner Anderson.

Any discussion?

(No response)

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

MR. Mac GILLIS: No.

CHAIRMAN BARBIERI: All right.

All those in favor of Commissioner Hyman's motion.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion for denial passes, 7-0.

MR. EVENDEN: Can I ask a question?

CHAIRMAN BARBIERI: Yes, sir.

MR. EVENDEN: From a purely common sense point of view, what is the difference -- if I'm going to build this anyway attached, and it's going to be exactly the same thing, what's the big thing against having it detached?

CHAIRMAN BARBIERI: The difference is the Code -- the Code provides that there are seven factors that we have to find you meet in order to allow you to get a variance, and you don't meet those factors.

You don't need a variance if you do it the other way so there's not an issue with the Code.

MR. EVENDEN: Well, it's unfortunate that you didn't get to read the -- my architect's -- what you said you didn't see, our response to those issues, and if you read those, you'd see a slightly different view on it.

COMMISSIONER HYMAN: I do want to say that, you know, I think that both you and your architect made excellent presentations. You were

given a tremendous amount of time, and I think you presented all the arguments that you must have presented in your written materials, but I wish you a lot of luck. I hope you build a beautiful garage for your home, but not with a variance.

CHAIRMAN BARBIERI: All right.

Staff, do you have anything else?

MR. Mac GILLIS: No, that's it, Commissioner.

CHAIRMAN BARBIERI: Motion to adjourn?

COMMISSIONER DUFRESNE: No, I have one comment.

CHAIRMAN BARBIERI: Go ahead.

COMMISSIONER DUFRESNE: That's okay.

Today is going to be my last meeting between this Board's Commission and the activities we have with the Wellington Equestrian Overlay I've got a lot on my plate, but I wanted to say thank you very much to all my fellow commissioners and to staff and Commissioner Santamaria for allowing me to serve for the last two years, and that was it.

COMMISSIONER HYMAN: Well, I'll miss you.

COMMISSIONER DUFRESNE: Well, I'll miss you guys, too.

COMMISSIONER HYMAN: I hope they get somebody else. COMMISSIONER KAPLAN: Me, particularly.

COMMISSIONER DUFRESNE: Thank you.

CHAIRMAN BARBIERI: Yeah, we wish you good luck.

COMMISSIONER DUFRESNE: All right. Thank you, everybody.

CHAIRMAN BARBIERI: Enjoyable having you with us.

COMMISSIONER DUFRESNE: Thanks.

CHAIRMAN BARBIERI: Okay. Meeting's adjourned.

(Whereupon, the meeting was adjourned at 10:45 a.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA)

COUNTY OF PALM BEACH)

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

DO HEREBY CERTIFY that the above-entitled
and numbered cause was heard as hereinabove set
out; that I was authorized to and did report the
proceedings and evidence adduced and offered in
said hearing and that the foregoing and annexed
pages, numbered 4 through 47, 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 22nd day of October, 2007.

Sophie M. Springer, Notary Public