

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, November 1, 2007
9:00 a.m. - 11:30 a.m.
Jane M. Thompson Memorial Chambers
301 North Olive Avenue
West Palm Beach, Florida

Reporting:

Sophie M. (Bunny) Springer
Notary Public

A T T E N D E E S

Frank Barbieri, Chairman

William F. Anderson, Vice Chairman

Alexander Brumfield, III, Commissioner

Allen Kaplan, Commissioner

Sherry L. Hyman, Commissioner

Kelley Armitage, Commissioner

Barbara Alterman, Executive Dir. PZ&B

Bob Banks, Assistant County Attorney

Jon Mac Gillis, Zoning Director

Maryann Kwok, Chief Planner, Zoning

Wendy Hernandez, Principal Planner, Zoning

Ora Owensby, Senior Planner, Zoning

Ron Sullivan, Senior Planner, Zoning

William Cross, Senior Planner, Zoning

Anthony Wint, Planner II, Zoning

Carol Glasser, Planner II, Zoning

Douglas Robinson, Planner II, Zoning

Bryce Van Horn, Planning Department

Ken Rogers, Director, Land Development Division

Jim Choban, Land Development

Allan Ennis, Asst. Director Traffic Division

Kenny Wilson, Health Department

Bob Kraus, ERM

Jon Pancoast, Monitoring Section

Elizabeth Murray, Zoning Secretary

I N D E X

<u>Petition</u>		<u>Page</u>
1	CB2006-947(Control 2006-361)	6
2	Z/CA2006-1914(Control 2006-551)	6
3	DOA/R2007-528(Control 2005-597)	7
4	CA2007-205(Control 2007-054)	7
5	ZV2007-1181(Control 1996-084)	8
6	ZV2007-1177(Control 2007-284)	8
7	ZV2007-1411(Control 2007-259)	9
8	ZV2007-1403(Control 2007-350)	9
9	ZR-2001-006	10
10	ZV2007-1010(Control 2005-575)	10
11	DOA2007-526(Control 1999-048)	12
12	ZV2007-1399(Control 2003-035)	13
13	ZV2007-1503(Control 2005-454)	14
14	Z/CA2006-022(Control 2006-010)	17
15	DOA2006-1694(Control 1979-077)	20
16	ZV/PDD/R2007-519(Control 1977-148)	21
17	Z/CA2007-184(Control 1979-044)	26
18	ZV/DOA/R2007-886(Control 1974-104)	31
19	ZV2007-1405(Control 2006-529)	41
20	ETHICS PRESENTATION BY MR. BANKS	61
21	WORKFORCE HOUSING BY MS. ALTERMAN	64
	CERTIFICATE OF REPORTER:	66

P R O C E E D I N G S

CHAIRMAN BARBIERI: If everyone will take their seats, we'll get started, please.

Staff, would you please take the roll.

MR. Mac GILLIS: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MR. Mac GILLIS: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MR. Mac GILLIS: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MR. Mac GILLIS: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MR. Mac GILLIS: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

MR. Mac GILLIS: We have a quorum.

CHAIRMAN BARBIERI: All right. The record should reflect that Commissioner Armitage will be a voting member of the Commission today.

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

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

CHAIRMAN BARBIERI: The Zoning Commission of Palm Beach County has convened at 9:05 a.m. in the Jane M. Thompson Memorial Chambers, 6th Floor, 301 North Olive Avenue, West Palm Beach, Florida, to consider applications for Official Zoning Map Amendments, Planned Developments, Conditional Uses, Development Order Amendments, Type II Variances and other actions permitted by the Palm Beach County Unified Land Development Code and to hear the recommendations of staff on these matters.

The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing at 301 North Olive Avenue, West Palm Beach, Florida, in the Jane M. Thompson Memorial Chambers, 6th Floor, at 9:30 a.m. on Thursday, November 29th, 2007, to take final action on the applications we're going to hear 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 KAPLAN: Second.

CHAIRMAN BARBIERI: Seconded by

Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

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

I'm sorry. That vote was 5-0.

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: Are there any disclosures by the commissioners?

Commissioner Kaplan.

COMMISSIONER KAPLAN: I spoke to the petitioners on Item 16 and 19.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: I spoke with the petitioner's representative on Item No. 19.

CHAIRMAN BARBIERI: Commissioner Armitage.

COMMISSIONER ARMITAGE: No disclosures.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I spoke to the petitioner on Item No. 19.

CHAIRMAN BARBIERI: I spoke to two petitioners. I'm trying to find them. One was on the Boca Grove, and the other one was on the project that -- Northlake, is that it? Northlake, yes. Okay.

VICE CHAIRMAN ANDERSON: Yeah, I -- also on that one, too.

CHAIRMAN BARBIERI: Okay. Staff.

MR. Mac GILLIS: We'll begin on your --
Page 2 of your agenda, postponements.

Item No. 1, CB2006-947, recommend 60-day
postponement to Friday, January 4th, 2008.

CHAIRMAN BARBIERI: Is this requested by
the petitioner?

MR. Mac GILLIS: Yes.

CHAIRMAN BARBIERI: Okay. We need a
motion?

MR. Mac GILLIS: Yes.

COMMISSIONER KAPLAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

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

Is there anybody here from the public to
speak on Item No. 1, CB2006-947?

(No response)

CHAIRMAN BARBIERI: All right. We have a
motion on the floor.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Item 2, Z/CA2006-1914,
The Residences at Haverhill, we have a request to
postpone 60 days to January 4th, 2008.

CHAIRMAN BARBIERI: Is there anybody here
that would like to speak on Item 2, Z/CA2006-1914?

(No response)

COMMISSIONER KAPLAN: Hearing none, I'll
move to postpone that item to January 4th, 2008.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Item 3, DOA/R2007-528, Yamato Court MUPD, postpone 30 days to December 6th, 2007.

CHAIRMAN BARBIERI: Is there anyone here that wishes to speak on Item 3, DOA/R2007-528?
(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I move to postpone to December 6th, 2007.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Brings us to Page 3, Item 4, CA2007-205, Lake Harbor Quarry, postpone 30 days to December 6th, 2007.

CHAIRMAN BARBIERI: Is there anybody to speak on Item 4, CA2007-205?

(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I move to postpone to December 6th, 2007.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Item 5, ZV2007-1181, Bramley Variance, postpone to -- 30 days to December 6th, 2007.

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

(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I move to postpone to December 6th, 2007.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Item 6, ZV2007-1177, Fitzgerald Variance, postpone 60 days to January 4th, 2008.

CHAIRMAN BARBIERI: Any member of the public wish to speak on Item 6, ZV2007-1177?

(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I move to postpone to January 4th, 2008.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Item 7, ZV2007-1411 Northlake Value Place Hotel, postpone 60 days to January 4th, 2008.

CHAIRMAN BARBIERI: Anybody here to speak on ZV2007-1411?

(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I move to postpone to January 4th, 2008.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: Brings us to Page 4, Item No. 8, ZV2007-1403, Maher Residence, a postpone of 60 days to January 4th, 2008.

CHAIRMAN BARBIERI: Is there any member of the public to speak on Item 8, ZV2007-1403?

(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I move to postpone to January 4th, 2008.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. Mac GILLIS: That ends the postponed items. We'll move to Page 5 for the consent agenda items.

First item is Item 9, Status Report for Resolution ZR-2001-006, found on Page 8 through 11 of your materials.

The motion is to approve a time extension until August 19th, 2009.

We'd ask the applicant to come to the podium on this item.

MR. PANCOAST: Good morning. I'm Jon Pancoast of the Monitoring Section, and we're requesting a two-year time extension to allow the construction of Phase 2 of this project.

CHAIRMAN BARBIERI: Okay. Is there anybody here to speak on Item 9? It's --

COMMISSIONER KAPLAN: Hearing no opposition, move to postpone the item to August 19th, 2009 for ZR-2001-006.

COMMISSIONER HYMAN: It's a -- it's a motion to extend, not to postpone, extend. Time extension.

Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: I'm sorry. Was anybody here from the public to speak on that item? I don't know if I asked that already.

(No response)

CHAIRMAN BARBIERI: All right.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MR. PANCOAST: Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

MR. Mac GILLIS: Next item is 10, ZV2007-1010, found on Pages 12 through 21. There's conditions found on Page 19.

There's recommendation to approve a Type II variance for -- to allow a structure in the rear setback.

I'd ask the applicant to come to the podium to agree to the conditions.

CHAIRMAN BARBIERI: Who's doing this?

MS. ALTERMAN: I don't think that the

owner or the agent -- there, I guess she's coming forward.

MS. JIMENEZ: Good morning.

CHAIRMAN BARBIERI: Could you state your name, please?

MS. JIMENEZ: Daisy Jimenez. I don't speak English.

THE INTERPRETER: She doesn't speak English.

CHAIRMAN BARBIERI: All right. Do you understand that there's some conditions on this that you have to agree to?

MS. JIMENEZ: Yes.

CHAIRMAN BARBIERI: She said yes? All right.

THE INTERPRETER: She agrees.

MR. Mac GILLIS: Okay. There's three conditions just for the Board's -- on Page 19.

THE INTERPRETER: Yes, she agree.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Okay. All right.

Is there anybody here from the public to speak on Item 10, ZV2007-1010?

(No response)

MR. Mac GILLIS: Just for the record as well, we have one letter in support for the variance.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: I'm going to move approval based on the fact that there are special conditions and circumstances that exist that are peculiar to this parcel of land. There are special circumstances that do not result from the actions of the applicant.

Granting of this variance shall not confer upon the applicant any special privilege denied by the Comp Plan and Code, to other property in the same district.

A literal interpretation and enforcement of the terms and provisions of the Code would deprive the applicant of rights commonly enjoyed by others.

Grant of the variance is the minimum variance that make it possible for her reasonable use of the property.

Granting of the variance will be consistent with the purposes, goals and objectives and policies of the Comp Plan and the Code, and granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

COMMISSIONER KAPLAN: Second.

MS. JIMENEZ: Thank you.

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

For the record, Commissioner Brumfield is present.

Did you take part in the -- did you understand -- did you hear the discussion? Are you going to vote on this?

COMMISSIONER BRUMFIELD: I'm not familiar

with it.

CHAIRMAN BARBIERI: Okay. So he will not be voting on this. He came in in the middle of this.

Is there any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 5-0.

MS. JIMENEZ: Thank you.

MR. Mac GILLIS: Brings us to Item 11, DOA2007-526, Sundance Farms Tower, found on Page 22 through 40 of your backup material, conditions found on Page 34 through 36.

Staff is recommending approval on the Development Order Amendment and to delete conditions.

CHAIRMAN BARBIERI: Would the applicant come forward.

Commissioner Brumfield, do you have any disclosures to make?

COMMISSIONER BRUMFIELD: No disclosures to make.

CHAIRMAN BARBIERI: Okay. Thank you.

MR. MURRAY: Doug Murray, with Land Design South.

CHAIRMAN BARBIERI: Do you agree to the conditions?

MR. MURRAY: Yes, I do.

CHAIRMAN BARBIERI: Is there any member of the public here to speak on DOA2007-526?

(No response)

COMMISSIONER KAPLAN: Not hearing any, I'll move to adopt a resolution approving a Development Order Amendment to modify conditions of approval for a Class B conditional use and reconfigure site plan to add four additional radio towers with conditions as set forth.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, 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, 6-0.

MR. Mac GILLIS: Brings us to Page 6 of the agenda, Item 12, ZV2007-1399, Cobblestone Creek Variance, Pages 41 through 52, conditions found on Page 46.

Staff is recommending approval of this Type II variance to increase the number of certificate of occupancies permitted, to extend the time limitations for a temporary residential sign.

And just for the Board's information, I did bring this back to the Board of County Commissioners for direction at the BCC last month.

Industry did come to us because of the slowdown in selling homes, that this Code requirement would require them to take down signs for future sales of units.

So the Board agreed, rather than amending the Code, to -- that they did not have a problem that the Board was supporting variances on this.

So staff is recommending approval on this with conditions of approval limiting this until either all the units are sold or on a two-year time extension on these temporary signs.

CHAIRMAN BARBIERI: Okay. All right.
Your name, please.

MS. VAIL: Good morning. For the record, Jennifer Vail, with Land Design South, and we are in agreement with the conditions of approval.

CHAIRMAN BARBIERI: Okay.

Is there any member of the public here to speak on Item ZV2007-1399?

(No response)

COMMISSIONER KAPLAN: Not hearing any opposition, I'll move to adopt a resolution approving a Type II zoning variance to increase the number of certificate of occupancies permitted and extend the time limitation for temporary residential development sign with the conditions as amended.

VICE CHAIRMAN ANDERSON: Second.

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

Are there -- is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: Item 13, ZV2007-1503, the Carlyle CLF Variance, found on Pages 50 through -- 53 through 66, conditions found on Page 60.

Staff is recommending approval of a Type II zoning variance to allow a reduction of the required frontage for a proposed MUPD.

There were three letters of opposition on this request.

CHAIRMAN BARBIERI: All right. We have one card on this in opposition.

COMMISSIONER HYMAN: Well, since this is the last item on the consent agenda --

CHAIRMAN BARBIERI: Move it to the regular?

COMMISSIONER HYMAN: -- let's move it to the regular agenda.

CHAIRMAN BARBIERI: All right. We have a motion by **Commissioner Hyman**, seconded by --

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: -- Commissioner Kaplan to move it to regular agenda.

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: Okay. Ron Sullivan will give a brief presentation on this item.

CHAIRMAN BARBIERI: Okay.

MR. SULLIVAN: Good morning, Commissioners. Ron Sullivan.

Item 13 on the agenda, the Carlyle CLF Variance, begins on Page 53 of the packet.

It's a 10.22-acre site, and it's located on the west side of State Road 7, U.S. 441, about a quarter mile north of Lantana Road, and the applicant is requesting a Type II variance to allow an MUPD with less than 300-foot of frontage on a major arterial or collector. In this case they have 253 plus feet of frontage.

And contingent upon this approval is a request for rezoning to MUPD for this parcel and a request for a Type II CLF.

The ULDC requires the MUPD to have a minimum of 300 feet of frontage, and, as I mentioned, this site has 253.98 feet.

If you look at the preliminary site plan on Page 56, you can see that the parcel is roughly L-shaped in configuration with the narrow part of

the L fronting on 441, and that portion has the 253.98 feet of frontage.

This site, which consists of three parcels, has existed in its present configuration since back to at least 1984, and that is the hardship in this case, that the parcel does not have frontage because of its unusual shape.

There is a parcel adjacent to it to the south that has CG zoning, and at the time of purchase of this that parcel was not on the market.

So staff received three letters of opposition. Two of them didn't state a reason, and the third had to do with an objection to the commercial use of the property, which is not an issue with this variance.

So the staff does support the variance, subject to conditions of approval, and the conditions limit the approval to the MUPD, which is the -- going to come forward is this is granted.

If the MUPD does not pass, then the variance would be null and void.

At this time, Bradley, would you like to --

MR. MILLER: Sure. Hi. For the record, Bradley Miller, of Miller Land Planning Consultants and here representing the applicant.

The -- just to further clarify maybe in graphics, the frontage that we're asking for is this distance right here (indicating) that fronts on State Road 7.

Is the microphone working?

CHAIRMAN BARBIERI: Yes.

MR. MILLER: Okay. This comes out to the 253 feet that we have. The requirement is 300 feet for an MUPD.

One thing that struck me when I was going through the staff report that I didn't include into our justification that I probably should have, an interesting part here is Thoroughbred Lake Estates wraps around us on this side, and actually in their PUD plan they have a 50-foot strip that runs across here (indicating). So it's a strange thing that I've never seen before, but that's part -- part of it.

If you included that 50 feet into that property, then we would be beyond the 300-foot Code requirement.

So the variance that we're asking for is really just to establish that frontage for the PUD -- or the MUPD requirement of the 300 feet.

The -- I spoke with the gentleman who owns this property, who's here and who submitted the card, and what his concern is, I'm sure he'll speak for himself, but we're working with him.

My client is working with him on trying to establish some drainage outfall, which really doesn't have anything to do with the variance here, and we'll try to work that out before we come back to you with the rezoning application that we have in process as well.

CHAIRMAN BARBIERI: Thank you.

We have one card. Dennis Discount, would you please come to the podium and state your name for the record.

MR. DISCOUNT: My name is Dennis Discount.

I live in 9527 87th Place South, Boynton Beach, Florida.

I ask your help to prevent harmful impact to my property where I've been for almost 20 years located in the southeast corner of the subject property. These two properties were originally held under single ownership.

The primary subject of my concern is drainage. This could be easily resolved at a low cost if properly considered. Should development occur without such resolution, the cost in the future would be high and problematic.

Thank you.

CHAIRMAN BARBIERI: You're welcome.

You heard the petitioner state they'll work with you --

MR. DISCOUNT: I don't -- I don't oppose what they're doing, and I heard the petitioner state that we'll discuss it.

CHAIRMAN BARBIERI: Okay. Great.

MR. DISCOUNT: Thank you.

CHAIRMAN BARBIERI: Is there anybody else her to speak on Item No. 13?

(No response)

CHAIRMAN BARBIERI: Commissioners.

COMMISSIONER HYMAN: I'm going to move approval of the resolution for the Type II zoning variance to allow for the reduction of the required frontage for the MUPD based upon the criteria, again, that there are special conditions and circumstances that exist that are peculiar to the property. They don't result from the actions of the applicant, that the granting of the variance won't confer upon the applicant any special privilege.

A literal interpretation and enforcement of the terms and provisions of the Code would deprive the applicant reasonable use of the property.

Granting of the variance is the minimum variance possible for the reasonable use, and the granting of the variance is consistent with the purposes, goals and objectives of the plan and will not be injurious to the area.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: All right. Any discussion on Commissioner Hyman's motion, seconded by Commissioner Kaplan?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. Mac GILLIS: That brings us to Item 14 on the regular agenda, Z/CA2006-022, Colonial Lakes, found on Page 67 through 97.

Staff is recommending approval, subject to conditions found on Page 86 through 92, and there is changes on the add and delete for this application.

Just -- there were -- you've seen this application several times. The Board directed the applicant to go back and work on the architecture and deal with the City of Greenacres. They had concerns with this application.

So there were, when the original application came to you back in August, 58 letters of opposition.

Anthony Wint will give you an update on what's occurred since the last Zoning Commission hearing.

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

The applicant submitted a revised site plan dated September 27th, 2007, reducing the building height from 39 to 34 feet, adding a turnabout and also adding access points for emergency vehicles.

The applicant is prepared to show you the site plan, the revised site plan, as well as the building elevations.

If there are no questions for staff, I will turn it over to the applicant.

MS. GLAS-CASTRO: Good morning. I'm Kim Glas-Castro, with Ruden, McClosky, here on behalf of Colonial Lakes, LLC.

At the last meeting you felt that the building height was too high. Part of that was a function of the residential portion being raised so that an emergency truck could get underneath the cantilevered portion of the structure.

We revised the site plan to swap out where the buildings and the parking were located so that a circular drive could be placed at the southern end of the property.

This would allow emergency vehicles, as well as daily trips by residents and their guests, to get to this -- the far south end and make a looping turn, rather than entering into -- underneath a parking structure underneath the structures, underneath the buildings themselves.

In this plan we still accommodate emergency vehicle entry from Westview Street.

With the change in the design we were able to lower the buildings so that the overall building height is no more than 34 feet.

This is a colored artist's rendering of the site plan. This would be the view from the street looking south, the recreation amenity, looking between the buildings.

So the vehicle clearance height has been reduced to 10 feet, and the overall building height is 34 feet, which is consistent with the direction you provided at the last meeting.

Speaking with the fire/rescue staff, they

felt that the turning radius at the southern end was adequate.

We also ran it on the Auto Turn program to see that it would accommodate the City's fire truck. While fire/rescue could just use a T-turnaround type of stubbed out ending there at the southern end, we thought it was better to have a circular drive for the daily residents and their guests, rather than have them use a T-turnaround type maneuver each time they used that end of the site.

We agree with all staff's recommended conditions, and we're here to answer any questions you might have.

COMMISSIONER KAPLAN: Question for staff. Last time we had the City of Greenacres representative here. Have we met with them? What is their position now?

MR. Mac GILLIS: Their representative is here so I would ask him to come to the podium.

COMMISSIONER KAPLAN: Thank you.

MR. LANAHAN: Good morning. Thank you. My name is Thomas Lanahan, planning and engineering director for the City of Greenacres.

Just a moment of background, on July 16th, 2007, the Greenacres City Council directed me to present to you the City's objections to this proposed development which is located near the center of Greenacres adjacent to the City along the property's north and east sides and within our future annexation area.

There is a detailed letter that I provided at one of our many prior hearings on this item.

Just a quick overview of the objections, and the list is shorter now than it was the last time I was in front of you.

I think the changes that -- just for one moment, on the fire access issue, the changes that the applicants made to the site plan creating an open-to-the sky turnaround area at the south end of the site is a positive improvement. We're very pleased to see that.

And the side benefit of doing that, which allows the buildings to be shorter, is also a positive.

Our remaining concerns -- and basically they're the big picture issues. The proposal is inconsistent with the City's vision for the Lake Worth Road corridor as a commercial area. We feel that there should be commercial along the frontage of the site consistent with what's across the street and basically between Military and Jog on Lake Worth Road. That's the City's commercial core.

And also the proposed density of over 14 units an acre exceeds the Greenacres maximum of 10 units an acre is not compatible with the surroundings. So our City Council's asked that you recommend denial of this proposal.

I'm happy to answer any questions you might have.

CHAIRMAN BARBIERI: Thank you.

We have a card from -- oh, Mr. Lanahan.
Is there anybody else here to speak on
Item 14?

(No response)

COMMISSIONER HYMAN: I have a question.

I don't recall in the conditions. Have we
added conditions that ensure that the landscaping
and the architectural treatments on the building
will be a part of the project?

MR. WINT: Yes, Commissioner, we have, and
one of those conditions is on -- appears on the
add/delete sheet, increase foundation planting
around each building.

COMMISSIONER HYMAN: Right, right, right,
right. Okay.

I think they did a good job fixing the
site plan, and, you know, I don't know how often
it is that you have somebody recommending denial
'cause they'd rather see commercial than
residential, plus I think this gives us workforce
housing, right?

MR. Mac GILLIS: Fifty-nine units.

COMMISSIONER HYMAN: So I'm all for this
project, and I appreciate them modifying it to
make it better.

So I'm going to move approval of the
motion -- I'm going to make a motion to approve
the zoning map amendment from Agricultural
Residential Zoning to the Multifamily Residential
Zoning District.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: I'm going to move
approval of the Class A conditional use to allow
the transfer of development rights for the 35
units, subject to all the conditions 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, 6-0.

MS. GLAS-CASTRO: Thank you.

MR. Mac GILLIS: Brings us to Item 15, DOA2006-1694, the Friendship Baptist Church, found on Page 98 through 118.

Staff is recommending approval, subject to 41 conditions found on Page 113 through 118.

Just so the Board may recall, this item was on the September 6th where you recommended postponement for the applicant to provide architecture elevations to staff.

It was also postponed again on October 4th to give the applicant additional time and staff to draft architectural conditions, which are now found on Page 113 through 114, limiting the building height to 26 feet and the church spire to 35 feet.

And I'll turn it over to Doug Robinson to just briefly update you on the architecture.

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

The applicant was directed by the Board to provide architectural elevations, and staff has reviewed architectural elevations, and there are 11 conditions, and they're found on Page 113.

That's where the conditions start, on Page 113, and there were issues with parking and -- in the buffer, and the applicant has adjusted parking. With the expansion they will be allowed a larger parking lot for designated parking, and there'll be an upgraded buffer, 15-foot buffer, with additional plant materials.

And the applicant has submitted architectural elevations and conditions.

And I turn it over to the applicant. If you have any more questions for staff.

CHAIRMAN BARBIERI: Would you please state your name and address for the record?

MR. UPHOFF: My name is Ron Uphoff. I live at 4483 Willow Palm Road, West Palm Beach.

CHAIRMAN BARBIERI: Do you agree to the conditions that the staff is recommending?

MR. UPHOFF: Yes.

CHAIRMAN BARBIERI: Okay. Is there anybody else here to speak on Item No. 14 -- oh, excuse me, No. 15, DOA2006-1694?

(No response)

COMMISSIONER KAPLAN: Hearing no opposition, I'll move to recommend approval of a Development Order Amendment to reconfigure the site plan, add square footage and modify conditions of approval with conditions as outlined.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by Commissioner Kaplan, 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, 6-0.

Thank you.
MR. UPHOFF: Thank you.

MR. Mac GILLIS: Brings us to Page 8 on the agenda, Item 16, ZV/PDD/R2007-519, Casa de Restauracion, found on Pages 119 through 149, conditions found on Page 138 through 141.

There are three motions on this.

I'll turn it over to Carol Glasser to give you a presentation.

And there's also add and delete conditions.

There was four letters of support and five letters of no support.

MS. GLASSER: Good morning. Carol Glasser, with the Zoning Division.

The proposed application before you, Casa de Restauracion, includes three requests.

The first is a requested use, a place of worship with 700 seats in an existing 19,000 square foot building in the Polo Marketplace shopping center that's located at the southwest corner of Military Trail and Saturn Avenue.

The site is within the Urban Redevelopment Area and the Military Trail Priority Redevelopment Area.

The affected area is the east 2.47 acres of the 7.5-acre site.

The second request is a rezoning from the general commercial zoning district to the multiple unit -- multiple use planned development zoning district.

The third request are four variances to address existing conditions within the affected area. Please see the photos on Page 123 to view the existing conditions and description of the proposed buffers.

Staff has recommended conditions consistent with other recently approved place of worship projects.

The application complies with the shared parking requirements of the Unified Land Development Code.

Staff recommends approval, subject to 24 conditions of approval found on Page 138 through 141, as amended on Page 1 and 2 of the add/delete.

Thank you.

CHAIRMAN BARBIERI: Petitioner, please state your name and address.

MS. COTTRELL: Yes. Good morning. My name's Anna Cottrell, and I'm the agent for this

application.

I just wanted to make a couple of remarks to add to what the staff has had to say.

It appears from the staff report that there's a lot of elements to this 'cause there's a number of variances, but the application's pretty straightforward.

The church wants to go into an existing building that's in an existing shopping center that was built in the late 1970s. The center has struggled for years with vacancies.

This particular building has been unoccupied for at least four or five years, and although there's -- the shopping center's in good shape, the buildings are in good shape.

It struggled because there's really no exposure. You can see from the site plan that the exposure on Military Trail is very limited, and so it has struggled to find tenants.

In this -- the church is going to occupy a building that takes up nearly a third of the shopping center, so it certainly will bring some life to the center. It's certainly in conformance with the goals of the Urban Redevelopment Area.

There's no exterior changes that are proposed to the building except that there may be some building requirements, additional egress, for example, to accommodate a place of assembly.

There is, though, substantial improvements to the shopping center with respect to the addition of landscaping, particularly around this building, but the overall center will be upgraded to improve the appearance there.

The variances all relate to the -- either the existing conditions where they could not be modified or to the rezoning to MUPD, particularly the setback requirement.

David Reyes is a member of the church, and he's the project manager for this, and he would like to make a couple of remarks.

I do know that there was a couple of comments that came in from the public notices, and the -- those people may be here this morning, but we're happy to address those questions.

The conditions are all acceptable.

MR. REYES: Good morning. For the record, David Reyes. I'm a member of the church. I'm also the project manager, being a member of the church since it was established. I'm also one of the leaders.

And I'm just here to tell you that we've been searching for a place of worship for a long time. It's been over three years. This process has taken approximately a year.

I definitely want to commend staff and our agent and all the hard work, they put in a lot of hours of work in this project, and we feel that this project is a great project. We're looking forward not only to be here, because this place definitely suit our needs, but we know that we're definitely going to make a great difference on the surrounding community.

So we're here not just a place of worship, but we're going to make it different. We're going to make the plaza look good, and we're definitely looking forward to move in and start our place of worship.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

We have 11 cards. All are in support. Some of you didn't check whether you wanted to speak or not. Some of you did.

I'll call you up two at a time, if you would take the opposite podiums. If you wish to speak, we're going to limit you to three minutes.

If you don't want to speak, you don't have to, even if you checked you want to.

Gloria Colon, please come up to the podium there on your -- my right, your left.

And, Ivan Melendez, do you wish to speak?

Come up to the other podium, please.

MS. COLON: Good morning.

CHAIRMAN BARBIERI: State your name and address for the record, please.

MS. COLON: Yeah, Gloria Colon, 1806 Shadow Creek Road in West Palm Beach, Florida.

And I shop in this plaza frequently.

Right now there's not much going on in there, and I believe the church will be a great improvement to the area and to the community, and I appreciate your support.

Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

MR. MELENDEZ: Good morning. My name is Ivan Melendez. I live in the surroundings of the plaza at 1406 Red Apple Lane, West Palm Beach, and I really support and believe that the project of Casa de Restauracion will impact the community in a positive way, and it will improve the condition in that plaza, that I been living in that area, and I know that plaza in that area there is being vacant for a long time.

And I support the project, and I appreciate your support, too.

Thank you very much and have a good day.

CHAIRMAN BARBIERI: Thank you.

Euridice Benamu and Cortes, Ms. Cortes.

Please state your name and address for the record.

MS. BENAMU: My name is Euridice Benamu, and I live at 1681 Woodbridge Lake Circle in West Palm Beach.

And I'm here to support Casa de Restauracion. I believe it's going to make a major improvement to the area and to the plaza in particular.

So thank you for your support.

CHAIRMAN BARBIERI: Thank you.

Name and address, please.

MS. CORTES: Good morning. My name is Awilda Cortes, and I'm a neighbor of the area, 4079 Checker Drive, West Palm Beach, Florida.

I believe that the question that we have here is not to approve whether we want a church, but instead the added value that this institution will give, not only to the plaza, but to the area as a whole.

Any foreseeable traffic or parking concerns that you might have I can guarantee you, we have a very proactive team, and they will be addressed before it's a nuisance.

As a neighbor of the area I'm happy to see this addition coming because this plaza needs exposure. My mother had a business in here 20 years ago, and it went under because there's just no traffic. You can't see it from Military Trail.

So I believe that the exposure that Casa de Restauracion will give the Polo Market Plaza Place will be a valuable, not only to the present businesses, but to future businesses, and I think we're all trying to bring in things that will enhance our County.

I thank you for your time this morning.

CHAIRMAN BARBIERI: Thank you.

Raynee Perez, did you wish to speak? You indicated that you're in support. If you wish to speak, please come forward.

Ruben Arroyo, if you wish -- did you wish to speak? Okay. Just said you're in support.

Eladio Vega, wish to speak? Card says he's in support.

Ross Rucker, did you wish to speak? Okay.

Your comment is, "I believe the proposed project would be beneficial to surrounding area, merchants and residential areas."

The last card is Julia Rivero. It says, "I do not wish to speak. I support the church going at this location. This church is an asset to this community and any other."

So that leaves it up to you, ma'am. Your name and address for the record, please.

MS. PEREZ: Okay. Raynee Perez. Good morning. I live in 1681 Woodbridge Lake. It's very close to the plaza.

And one word. We need to impact the community. The plaza is right now a small place with a few stores, so it's very -- at night is very unsecure.

Having a church over there, having another issue to the community is going to impact a lot because I know that a community needs place to worship. It's place is to impact the society right now.

Thank you for your support.

CHAIRMAN BARBIERI: You're welcome. Thank you.

Is there anybody else here that I didn't call your name who would like to speak?

(No response)

CHAIRMAN BARBIERI: All right. We'll close the public portion at this point.

COMMISSIONER HYMAN: I'm going to move approval of the Type II zoning variance to allow the reduction of side setback, allow the

encroachment of the landscape buffers into the easements and to eliminate the trees in the incompatibility buffer and allow a reduction in the incompatibility buffer width.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: Move approval of the zoning map amendment from General Commercial to Multiple Use Planned Development Zoning District.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: I move approval of the requested use to allow the place of worship --

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: -- subject to all the conditions.

CHAIRMAN BARBIERI: Motion made by

Commissioner Hyman, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MS. COTTRELL: Thank you.

CHAIRMAN BARBIERI: You're welcome. Thank you.

MR. Mac GILLIS: That brings us to Item 17, Z/CA2007-184, the Florida Hindu Cultural and Religious Association, found on Pages 150 through 170. There's 22 conditions of approval found on Page 163 through 166.

There's two motions on this item.

There were two letters of opposition related to traffic.

Ora Owensby will present this item.

MS. OWENSBY: Good morning.

This project is located at the northwest corner of Pioneer Road and Benoist Farms Road.

Approximately half of this 2.74-acre property is encumbered by easements and preservation areas. So the rezoning from RE to RT for 2.74 acres would allow a church or a place of worship for 6,000 square feet and 84 seats.

Point six three acres of the property is an FP&L easement, 0.73 acres is a wetlands and an uplands preserve.

The parking is 31 spaces, and access is off of Benoist Farms Road. No access is proposed on Pioneer.

The surrounding uses are to the north across the 160-foot FP&L easement is a fire station. To the south is large lot single family residences and to the east is Mounts PUD, which is proposed for zero lot line houses fronting on -- I'm sorry, backing up onto Benoist Farms Road, and to the west is vacant property which is heavily wooded.

The staff recommends upgraded buffers along Benoist Farms Road and Pioneer Road for additional palms and pines; however, we do not recommend berms due to the existing native vegetation.

One sign is proposed of 60 square feet, six feet in height.

And I believe the agent could answer your questions.

Thank you.

CHAIRMAN BARBIERI: How is it that we had two other churches and you weren't here?

COMMISSIONER HYMAN: Yeah, really. You're slipping.

MR. MCGINLEY: It's God's will.

Good morning. Kevin McGinley, an equal opportunity consultant.

This is my first Hindu place of worship, and I'm proud to be associated with it. It's been a great bunch of people.

I could go through a small presentation. We agree to all the conditions. We agree with the staff report.

I'm not sure what the residents want to say, but I could -- I could go through a quick presentation, and that is this.

CHAIRMAN BARBIERI: You know, why don't we do this. Let's -- we have two cards in opposition. Let's see what their comments are, and then you can address those.

MR. MCGINLEY: Sure.

CHAIRMAN BARBIERI: Okay.

Ben Ellis, Sr., would you please come up to this podium, and, Mark Davis, did you wish to speak?

Would you please come up to the other podium?

Good morning. Would you state your name and address, please?

MR. ELLIS: Ben Ellis. I'm at 8620 Wendy Lane East.

CHAIRMAN BARBIERI: Okay. Can you move a little closer to the microphone?

MR. ELLIS: Is that better?

CHAIRMAN BARBIERI: That's good.

MR. ELLIS: I own the property directly to the west of this piece of property, and I have some questions. I don't have a -- he might have -- a presentation might have answered them for me, but I have a problem with a place of worship because I planned on moving there, and I don't necessarily want the car and the traffic in the morning.

I bought the property because it was wooded and private, and it's going to destroy what will -- what exists now.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Kevin, can you show us where he lives?

MR. MCGINLEY: I don't believe he lives there now, but you said immediately west?

MR. ELLIS: I own the property next door.

MR. MCGINLEY: He owns the property next door.

COMMISSIONER HYMAN: So you're going to build a house there?

MR. ELLIS: Yes.

COMMISSIONER HYMAN: Where?

MR. ELLIS: I haven't -- I haven't applied yet. I just bought it about two years ago.

COMMISSIONER HYMAN: You bought it two years ago? Where? How big is the property?

MR. ELLIS: Two and three-quarter acres.

MR. MCGINLEY: Somewhere in here (indicating).

CHAIRMAN BARBIERI: Okay. After he gives his presentation, if you have any questions, we'll get you back.

Go ahead. Your name and address, please.

MR. DAVIS: Mark Davis, 8152 Pioneer Road.

My concerns are the traffic increase that this is going to cause, especially with the zero lot line houses going in right there where the PUD is.

I live right along Pioneer Road. I understand they bought this with the intention of doing this, but I've also bought my house with the intention of the safety of my kids.

The increased traffic along Pioneer and Benoist Farms, also with the South Florida Fairgrounds right around the corner with all the concerts they have. Palm Beach Central's down on Lyons road. They also have a religious

establishment within that school.

So the increased traffic with that, South Florida Fairgrounds, the zero lot line homes and now with this place.

I also have a concern with the parking. There's 31 parking spots. You're talking about 85 seats. They're also proposing having meditation classes and yoga classes, which they don't use seats for. How are they going to accommodate the increased parking with those classes and stuff like that?

I also have a question with the RT. Are they allowed to have daycare, or are they allowed to home the -- house the homeless? We have some places here in the County that are currently doing that within a residential area. That's one of my -- another one my concerns.

Are they allowed to have major events and how many a year? Where are they going to supply the parking for these major events that they're going to have?

And the increase in population, as the Hindu population increases, how are they going to go forward with that and with the parking spots that they are proposing, with 31 parking spots?

Those are my concerns, that and the safety of my family.

CHAIRMAN BARBIERI: Okay. Thank you.

See if the petitioner can address some of those.

MR. MCGINLEY: Thank you, Mr. Chairman.

First off, the location of the structure is at the northern end of the property abutting the FP&L easement. Right to the north of us, that is the fire/rescue station.

The residents we heard from are on Pioneer Road. We have no access to Pioneer Road. Our access is restricted to Benoist Farms Road.

The PUD across to the east of us also has no direct access to Benoist Farms Road. Everybody else is on Pioneer Road.

We envision that most of our people coming will be coming down Benoist Farms into our site, exiting and going back up to Southern Boulevard.

There may be some members in the community that will come from maybe this direction, but majority of our traffic is going to be coming from Southern Boulevard down into the site and back out again.

This is a wetland preserve on this side buffering our resident to the west immediately. Wherever his house is going to be, there's going to be a wetland preserve untouched by us.

To the south here protecting these residents is the upland preserve, and we're not -- we're not coming through that.

I don't know if you can come up with a better design for this than what we've come up with for this, and to think that we're going to have an impact on Pioneer Road, I think is unwarranted. I think the project is good. The size certainly fits.

They bought the property seven years ago with a vision of building this, and this would be the first that I know of in central Palm Beach County, and I think it serves its purpose there.

Thank you.

CHAIRMAN BARBIERI: Questions, Commissioners.

COMMISSIONER HYMAN: I think -- I think the site plan's great, it's totally buffered from everybody around it. I can't imagine a lot of noise from a meditation class.

So I'm going to move approval of the zoning map amendment from Residential Estate Zoning District to the Residential Transitional Zoning District.

COMMISSIONER KAPLAN: Second.

CHAIRMAN BARBIERI: Before we vote on the motion, one of the -- one of the gentlemen asked a question about day -- you don't have any kind of daycare facilities there?

MR. MCGINLEY: No, sir, no daycare, no housing, nothing along those lines. This is strictly a place of worship, as I said, meditation.

It's not even your typical place of worship where you have morning activities, services or mass in the morning or things like that.

It's basically some, you know, short evenings and weekends.

CHAIRMAN BARBIERI: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: I just had a quick question maybe for staff.

Near Lake Charleston across from the entrance there was a road on a -- year or so ago a church came in and we turned them down because it was too much of a residential.

How do you determine at what a point a church isn't in a location that is near a main road versus one that is a main road?

Are there a lot of other of these types of uses on this, or is this the first?

MR. Mac GILLIS: I mean there is a criteria in the Code if you're over a certain amount, 15,000 square feet, the facility has to be located on an arterial collector road, so that is a supplementary requirement.

So this one's less than that, plus there's other supplementary requirements that we look at, but I mean a church is generally allowed in any zoning district currently.

We did go back to the Board about two years ago looking at, especially possibly limiting larger facilities, and that was not something the Board wanted to --

VICE CHAIRMAN ANDERSON: Okay. I was just --

MR. Mac GILLIS: -- look at at that time.

VICE CHAIRMAN ANDERSON: I was just in my mind trying to get a difference between that prior application and this one just to see where to define the line. It seems like this is fine.

MR. Mac GILLIS: I think like in this case, as Kevin's indicated, because of the excellent job they did on the site plan mitigating it and the access onto Benoist Farm Road, it's not impacting the community.

It's on the outskirts of the -- any residential, so it's -- that's something staff takes into consideration and the size. Obviously, it's 6,000 square feet so it's much in keeping with, you know, the -- it's not a mega-church or something very --

VICE CHAIRMAN ANDERSON: Okay. Okay. That answers my question. I was just curious. Thank you.

CHAIRMAN BARBIERI: Jon, if the petitioner wanted to come back in the future and increase the size of the church, would it be another public hearing process with additional parking and --

MR. Mac GILLIS: Yeah, that would be a Development Order Amendment.

CHAIRMAN BARBIERI: Okay. All right. Great.

COMMISSIONER ARMITAGE: Mr. Chairman.

CHAIRMAN BARBIERI: Yes.

COMMISSIONER ARMITAGE: The question that the second speaker asked was regarding the zoning in particular, whether or not the zoning allowed for the concerns that he addressed. I don't think anyone's addressed those concerns.

CHAIRMAN BARBIERI: Okay.

MR. McGINLEY: The -- if I may, the zoning had to do with whether it allows daycare and whether it allows a shelter, and it does not. That is a specific request we would have to make.

We've made no request, nor do we have the room for it. So there will be no shelter -- there will be no shelter, and there will be no daycare associated with this.

CHAIRMAN BARBIERI: Okay. Thank you.

COMMISSIONER KAPLAN: Move the question, Mr. Chairman.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: Move approval of the Class A conditional use to allow a place of worship, subject to all conditions.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. MCGINLEY: Thank you very much.

MR. Mac GILLIS: That will bring us to Page 9 of the Agenda, Item 18, ZV/DOA/R2007-886, the Shops at Boca Groves, found on Page 171 through 201.

There's three motions on this item. We had 10 letters of opposition specifically related to concerns from surrounding residents regarding traffic.

There is a, on the add and delete, an amendment to Condition No. 1.

I turn it over to Carol Glasser to give you a presentation on this item.

MS. GLASSER: Good morning. Carol Glasser, Zoning Division.

This application is a Development Order Amendment to reconfigure the site plan to add a one-story 1,780 square foot building for a requested freestanding Type I restaurant use.

The 6.31-acre site currently supports 75,483 square feet in two two-story buildings for commercial use.

This site, known as commercial pod of the Via Verde Planned Unit Development, is located at the northwest corner of Powerline Road and Boca Grove Boulevard.

The residential pods of the Planned Unit Development have been annexed into the City of Boca Raton.

Also concurrently four variances are requested to allow the existing right-of-way buffers to remain as installed within the 0.67-acre affected area at the northeast -- I'm sorry, at the southeast corner of the site.

Please see the photos on Page 175.

The application complies with the Unified Land Development Code minimum parking requirements of a Planned Development District, and staff recommends approval, subject to the 38 conditions of approval on Pages 187 through 192, as amended on Page 2 of the add/delete.

COMMISSIONER HYMAN: Is this -- Ken, is this your project, Ken Spillias? Oh.

I have a disclosure. I did meet with the petitioner's representative, the petitioner on this. I forgot.

MR. MILLER: Hi. Good morning. Bradley

Miller, Miller Land Planning, for the record.

If you can give me a minute here, we have technical difficulties.

MR. Mac GILLIS: You do have Allan Ennis here from the Traffic Division in case there's any questions from the Board related to the traffic issues that were raised by the resident.

CHAIRMAN BARBIERI: Mr. Spillias, while they're getting that organized, would you like to come up and address the Commission?

MS. HALPERIN: Ellie Halperin. I'm representative of the petitioner. Mr. Spillias represents the homeowners association, for clarification, and if you wouldn't mind, we'd like to make our presentation first.

CHAIRMAN BARBIERI: As long as you're going to do it, sure.

I'm sorry, Mr. Spillias.

MR. MILLER: Let me grab some boards.

CHAIRMAN BARBIERI: Okay.

MR. MILLER: Sorry about that. Again, for the record, my name's Bradley Miller, Miller Land Planning Consultants, and here representing the applicant, which is Woolbright Development.

Just to give you a little tidbit, you may already know about Woolbright Development, but they are a commercial developer here in the county through the state and then elsewhere in the country, and their typical approach to these developments are to take centers that have been around awhile.

They come in, they revitalize them with architecture, with landscape and with new tenants, which is really the approach to our application here today.

This is located at the northwest corner of Powerline Road and Boca Grove Boulevard, and this is -- is this one working? Hello. Okay. This one's not because of me.

CHAIRMAN BARBIERI: If one of the technicians back there can figure out what's wrong with the mobile mic here for us, please.

MR. MILLER: And that wasn't intended to give us time to get our PowerPoint --

CHAIRMAN BARBIERI: Sure, sure.

MR. MILLER: -- but I think that's going to work now.

CHAIRMAN BARBIERI: We saw you kick the plug down there.

MR. MILLER: Anyway, while that's waking up -- this is going great so far.

The center, you'll see on my PowerPoint when we get it up here -- this has been around. The original approval, it's kind of interesting, goes back into the '70s.

This was a commercial pod of a much larger PUD, the Via Verde PUD, and the rest of the residential component of the PUD has all been annexed to Boca Raton except for this commercial piece.

So it stays within the jurisdiction of the County, and it has been there.

CHAIRMAN BARBIERI: It's your worst fear, isn't it, Brad?

MR. MILLER: You know, I've learned this -- I've learned this the hard way, and my staff asked me why do we have to do the boards, you have the PowerPoint.

So if they're back in the office watching, now you know.

To continue with it, this is showing our proposed site plan which is the existing center as you can see in the aerial photograph. The change is highlighted here in red, and what our proposals are, are twofold essentially.

One is the variances, and the second pertains to the development order amendment to amend the site plan and include the requested use for a Type I restaurant.

When you're modifying an old approval like this, the Code indicates that we address the affected area, and you've heard that in this presentation and some others from staff about the affected area, which is the red line.

So that's the area of our application. That's what we're focusing on here today.

The variances that we're asking for pertain to the buffers along Powerline Road and along Boca Grove Boulevard. They're existing nonconforming situations that I have some beautiful photographs to show you of, of the new landscape that's there.

On the Powerline Road side the variance is a reduction from 20 feet down to 14 feet in width.

It also includes -- there's a berm requirement in today's Code that wasn't there in the original approvals that we're asking be eliminated.

Same way along Boca Grove Boulevard. It's a reduction from 15 to five feet, and I'm forgetting one of them here.

With those variances the staff has indicated throughout -- you're fully aware of the seven criteria of the variances. There's four in total, and if you multiply that out, we're looking for 28 yeses in the staff report, and there is 28 yeses there, so they're in full support of that.

The other part of the application pertains to the Type I restaurant and what we're proposing there.

This is -- you may have heard through the discussions here in the last week, there's been phone calls going all over the place. We've been meeting with the HOA representatives of Boca Grove, which Ellie's going to touch on here in a minute, but our proposal is to add this Type I freestanding restaurant.

It's a Starbucks, is what it's intended to be, 1780 square feet. There's 30 seats, maximum of 30 seats, which includes some of the outdoor seating that we're required to show, no drive-through related to the restaurant.

We've been able to address the site plan issues. One of the -- back to the variance, one of the items that we started out with was

including the elimination of some of the interior islands within the parking.

We've added those back in. It does two things. One, is it adds for some landscaping, additional landscaping along the perimeter here (indicating), these islands along Powerline Road, as well as Boca Grove Boulevard, and it also takes one variance out of the process that we had originally contemplated.

So maybe with that, if I could ask Ellie to come up and speak a little bit with our discussions with the HOA, and then I'll try to summarize.

MS. HALPERIN: Good morning. Again, Ellie Halperin, representative of Woolbright Developers, and we appreciate staff's support of this project.

We reached out to the homeowners association that is immediately adjacent to the project. We have had some ongoing discussions. We followed up with some research that was asked.

We've met with staff, as well, and we are at a point in time where I believe we've begun to mitigate any of the concerns that they have, and I believe that you'll hear from Mr. Spillias that that's what we're doing, and between now and the BCC we're pretty positive that we will have alleviated their concerns of the addition of the Starbucks to the shopping center.

If there are any other comments from the public regarding that, we'd like to reserve some time at the end to reply, and, of course, we're all available to address any questions you might have.

CHAIRMAN BARBIERI: Okay. Thank you.

Mr. Spillias, would you please come up to the microphone.

MR. MILLER: If I could just wrap up, it'll be one minute.

The -- as indicated, staff report -- I thought Carol did a wonderful job with the staff report, and I thank her for that.

There's one condition that we're working with the Engineering Department on. It's Condition 13. We've gotten them some new information here just recently so they're going over that.

Our goal there is to actually eliminate that condition as part of the application, but I, too, if there's any questions from you or if there's anything that we can address after the public speaks, I'd be happy to do so.

CHAIRMAN BARBIERI: Thank you.

MR. MILLER: And then I'll show you your PowerPoint.

COMMISSIONER HYMAN: Yeah, right.

MR. SPILLIAS: Good morning, Mr. Chair, members of the Commission. My name is Kenneth Spillias, of the law firm of Lewis, Longman & Walker. My address is 1700 Palm Beach Lakes Boulevard, West Palm Beach, Florida.

I do have written authorization to act on behalf of the Boca Grove Plantation Property

Owners Association. I'm not sure --.

As Ms. Halperin indicated, the property owners association has had some significant concern over the impact of this petition and the variances and actually the redevelopment of the entire center on a traffic basis, and particularly some ingress and egress issues on Boca Grove Boulevard.

We have been meeting with the developer, with the property owner. As Ms. Halperin indicated, we also had a meeting with Mr. Ennis of County staff, and we've discussed some potential avenues of amelioration of those issues.

We haven't finalized those recommendations or those suggestions, but we feel that we're far enough along the process that between now and the County Commission meeting on November 29th that we hope to have those suggestions and recommendations finalized.

So on that basis I'm authorized to represent today that the property owners association does not object to the approval of the petitions as they've been submitted to you today.

CHAIRMAN BARBIERI: Commissioner Hyman.

COMMISSIONER HYMAN: Okay. Well, first, I apologize to Ellie. I didn't meet with her. I -- obviously, I met with you.

Just what is the proposal that you're working on to ameliorate the traffic issue that you talked about?

MR. SPILLIAS: I don't think I can go into details yet because a lot of it is going to depend on some further evaluation by both the property owner and the County Engineering, but the issue has to do with the ingress-egress on Boca Grove Boulevard.

COMMISSIONER HYMAN: Right.

MR. SPILLIAS: And the impact of the additional traffic and the redevelopment of the center.

COMMISSIONER HYMAN: You're talking about closing that access point?

MR. SPILLIAS: At this point we've still got options on the table.

COMMISSIONER HYMAN: Okay.

CHAIRMAN BARBIERI: Okay. Would --

MR. SPILLIAS: Thank you.

CHAIRMAN BARBIERI: You're welcome.

Steven Mash, would you please come up to the podium, and Norman Liebman, will you be next.

MR. MASH: Can I speak here?

CHAIRMAN BARBIERI: Yes, that's fine.

MR. MILLER: I'll get myself out of your way.

MR. MASH: My name's Steven Mash, and I'm the president of the Pradera Homeowners Association. Apparently, we have not been involved.

I think Pradera homeowners are going to be far more affected by this proposal than will Boca Grove.

I have a photograph. I don't know if --
CHAIRMAN BARBIERI: Mr. Mash, you need -- you need to pick up the hand mic there. You can use that.

MR. MASH: Yes, I don't know if I can use their drawing, but --

CHAIRMAN BARBIERI: You can use theirs if you'd like.

MR. MASH: Here is the proposed area for development. They're planning on the Starbucks down in here (indicating).

This is my community right here (indicating). We're directly across the street.

We have a lot of concerns. These berms that are built here are beautifully done. It's a very tasteful area. Character of the street has been extremely attractive for years and years and years. We have some major child school crossings down here (indicating).

In Hurricane Wilma a lot of our -- some of our ficus trees still show here. I'm not sure of the date of this photograph, but we lost a lot of major ficus trees. We have new growth in there, but it hasn't really caught on yet.

A lot of our concerns are that, number one, the removal of these berms is going to open up the center right into the street changing the character of this completely, creating a very commercial look and allowing a lot of the lighting to come through across Powerline Road affecting our residents, and this is only a partial picture.

Pradera extends way, way down in through here (indicating), so by putting this restaurant right here in the corner they're basically throwing it in our lap, and any lighting that comes out of here from headlights, signing or from the store itself is going to come right across the street.

So we're concerned about the removal of the berms, the change of the character, and we don't know -- they haven't been talking to us. They've been talking to another homeowners association, but we don't know what they're going to do to cut down this light that's going to come across the street.

And there are other issues we would like to discuss with them. I know that Starbucks uses a Wi-Fi system. I don't know whether that's going to contaminate any of the people who use Wi-Fi on this side of the street. I'm not enough of an expert at that right now to talk about it.

So I've submitted a letter of objection, and I'm open to questions.

CHAIRMAN BARBIERI: Mister -- Mr. Mash, was it?

MR. MASH: Yes.

CHAIRMAN BARBIERI: Do you have a letter that says you represent Pradera?

MR. MASH: Yes, I left it with the clerk.

CHAIRMAN BARBIERI: Okay. Great. Thank you. Thank you.

COMMISSIONER HYMAN: Can I ask --

MS. GLASSER: Excuse me.

COMMISSIONER HYMAN: What?

MS. GLASSER: I'm sorry. Can I clarify? There's a misunderstanding as to what the variance is.

The -- there is no existing berm there. There is no changes proposed to the landscape buffers along Powerline Road. There was an approved 2006 landscape plan where they removed some queen palms, put in more appropriate vegetation, planted the three tiers within the Powerline right-of-way buffer, and those are to remain as currently installed, according to the variance request.

The two variances that Bradley Miller did not mention in his presentation, there is 100 percent utility easement encroachment. You can see the Florida Power & Light power pole in the first photo there, and the reduction of shrub material relates to the Boca Grove Boulevard.

There is a ficus hedge, and there's actually a differential between the sidewalk and the property, so it provides an effective hedge there, and that is on the 2006 approved landscape permit, and they're just requesting that it remain as currently approved and installed.

There is additional vegetation that is in -- the subject of your conditions for foundation plantings, additional trees around the proposed Type I restaurant.

So there are no changes proposed to the berm on Powerline Boulevard.

CHAIRMAN BARBIERI: Thank you.

Mr. Liebman. I thought he -- Mr. Liebman here, Norman Liebman?

(No response)

CHAIRMAN BARBIERI: He checked the box and said, "I'm opposed to an outparcel at Boca Grove and Powerline Road." He's a Pradera homeowner.

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

(No response)

CHAIRMAN BARBIERI: Mr. Ennis, are you here? I'm sorry, you're right in front of me.

I know that one of the conversations I had with a couple of the people in Boca Grove was the issue with the stacking. They were concerned that the stacking on Boca Grove Boulevard from this project with the King's Market would pose a problem for them.

Have you looked at that situation with respect to the stacking requirements?

MR. ENNIS: Well, we've looked at it just from a theoretical standpoint to try to project the amount of traffic that would be there with the opening of all the businesses in that shopping center.

As you know, a lot of that shopping center is vacant at the present time --

CHAIRMAN BARBIERI: Right.

MR. ENNIS: -- and the calculations that we've reviewed have not indicated a problem with

the stacking; however, we believe that, you know, we definitely would need to do a study once the center is fully occupied to look at the -- not only the stacking, but also the signal timing on the Boca Grove Boulevard approach, and that was one of the things that I agreed that we would do as part of our meeting with the homeowners yesterday.

CHAIRMAN BARBIERI: Okay. So if there was a stacking issue after everything's open, you can adjust the light to take care of that?

MR. ENNIS: That would be certainly one alternative because our calculations also show that there's probably some capacity available on Powerline Road during the peak hours to adjust the signal timing to allocate more green time from Powerline over to Boca Grove Boulevard.

CHAIRMAN BARBIERI: Okay. Thank you.

Is there anybody else here to speak on Item No. 18?

Yes, ma'am.

MS. HERNANDEZ: Yes. I would like to point out that Condition No. 13 of Engineering is still under review with the department, and should that condition remain on this, additional variances would need to be sought with regards to the landscape buffers.

CHAIRMAN BARBIERI: So --

MS. HERNANDEZ: They're proposing a turn lane --

CHAIRMAN BARBIERI: Right.

MS. HERNANDEZ: -- in that condition of approval, and so if that turn lane would need to be installed, additional variances would be needed to eliminate landscape buffer on that Powerline Road right-of-way.

CHAIRMAN BARBIERI: So are we not taking this recommendation of approval with Item 13 as part of the conditions?

MS. HERNANDEZ: It wasn't a request at the -- the applicant didn't make the request. It was a -- it's a proposed condition that they're evaluating.

MR. Mac GILLIS: When the application came in, everything worked out. This condition was put on after the item was certified by Engineering to meet their requirements.

Staff -- Zoning identified it, Engineering, it was going to conflict with the original application that we certified. So there is still negotiation going back and forth whether or not that condition was coming on.

We're just putting it on the record so the applicant's aware if that condition remains on there, that Engineering doesn't delete it, it will cause conflicts with them meeting the Code as being presented to you today. They would need additional variance.

CHAIRMAN BARBIERI: Mr. Rogers.

MR. ROGERS: This condition requires additional right-of-way. The additional right-of-way would have to come out of the landscape

buffer, and they -- which would mean that the landscape buffer would not meet Code requirements and, therefore, the need for those additional variances.

The applicant is confident that the information that was submitted to the Engineering Department recently would be sufficient for the Engineering Department to modify our condition and not -- and remove that condition from the recommendation.

We've not had adequate time to fully analyze the information that was given to us, and so at today's time we are recommending that these be moved on with this recommendation, and if -- in intervening couple weeks if we have the ability to remove this condition, then everything will be fine.

The applicant is willing to take that chance and that risk. They're fully aware that if the condition stays, they have to come back through the process for additional variances.

CHAIRMAN BARBIERI: Okay. Thank you.

MR. MILLER: Just to back that up if I could, I agree with that, and it was -- once we found out about the condition, we had to do some additional traffic work, and we did just get that information to them a few days ago.

So our reports on our side are showing that the turn lane isn't warranted by that traffic study, but we're giving them time to review that and concur with our analysis.

CHAIRMAN BARBIERI: Okay.

MR. MILLER: If I could address just one more thing that -- on Mr. Mash's comments.

First of all, I apologize for not getting with them. We didn't think that there was an impact there, and we'd be happy to sit down with him.

But in addition to Carol's comments about that we're not -- we're not altering the buffer, it's really just applying what's there today, we also have a condition through this approval to landscape the median there on Powerline, which will also add some additional landscape aesthetics, as well as he was concerned about some of the light. So I think that'll help, as well.

Other than that, I'm here and available for any questions for you.

CHAIRMAN BARBIERI: Okay. Thank you.

Are there any questions by the commissioners?

(No response)

CHAIRMAN BARBIERI: Any further comments by staff?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of the Type II zoning variance to allow the easement encroachments into the right-of-way buffer, to allow the reduction of the right-of-way buffer widths, to allow the reduction of shrubs in the right-of-way buffer and to allow the elimination of the berm in the right-of-way

buffers.

The variance does show that there are special conditions and circumstances that do exist peculiar to the parcel. They don't result from the actions of the applicant.

Granting the variances will not confer upon them any special privileges.

Literal interpretation and enforcement of the provisions of the Code will deprive them of rights commonly enjoyed by others.

Granting the variances, the minimum variance, to make it a reasonable use of their property. And the granting of the variance is consistent with the purposes, goals and objectives of the Comp Plan. And the granting of the variance is not injurious to others, based on that.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion on that motion?
(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: And recommend approval of the Development Order Amendment to reconfigure the site plan, add square footage, subject to the conditions as modified.

And I would just add with regards to 13 that if the traffic study provided by the applicant is approved by the staff, that this condition will be eliminated.

COMMISSIONER KAPLAN: Second.

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

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER HYMAN: And move approval of the requested use to allow the Type I restaurant.

COMMISSIONER KAPLAN: Second.

COMMISSIONER HYMAN: Motion made, Commissioner Kaplan -- Hyman, seconded by Commissioner Kaplan.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 6-0.

MR. MILLER: Thank you.

CHAIRMAN BARBIERI: Nice presentation you have up there.

MR. Mac GILLIS: That brings us to Item 19, ZV2007-1405, 112th Terrace and Northlake Boulevard MUPD, found on Pages 202 through 207.

Staff is recommending denial on this in your add and delete.

Note there was -- the motion that's in the actual -- on your agenda is not correct. Staff has been recommending denial of this.

Turn it over to Bill Cross. Bill Cross, this is Bill Cross' first presentation down here.

Bill is my senior planner in the Code Revision Section, so he's helping out with the variance on this agenda.

Bill.

CHAIRMAN BARBIERI: Before you -- Bill, before you start, Brad, would you make sure you get with Mr. Mash between -- thank you.

Sorry. Go ahead.

MR. CROSS: Nice to be back here again.

Just to reintroduce myself again, Bill Cross, Senior Site Planner with the Zoning Division. I know most of you, exception to Mr. Brumfield.

I'd like to just reiterate that I'm very hard of hearing. If I ignore you or don't respond quickly, it's 'cause I didn't hear you.

So I want to thank Commissioner Kaplan for pointing out my error on the agenda and changing my recommendation to denial. I appreciate that.

COMMISSIONER KAPLAN: Well, just want to prove that we commissioners do read staff reports.

MR. CROSS: Yes, sir. Okay.

Before you you have a request for a stand-alone Type II variance from Article 7, specifically Article -- I'm sorry, Table 7.c, the Managed Growth Tier System Compliance Table.

This table has many factors in it that ensure landscaping compliance with the Managed Growth Tier System. There are other textural factors in Article 7 as well.

The specific variance request is for reduction from the requirement in the Rural Tier for a 50 percent pervious surface area, meaning areas that are open and can percolate, and water can drain back into the ground.

The applicant is proposing a 42 percent pervious surface area for a deviation or increase in non-pervious surface area of eight percent.

Now, as you'll notice on Page 204 there is a site plan here. I want to point out quickly that the applicant and the property owner-developer has been in the development process for quite some time. They spent most of 2006 in the land use process culminating with a two -- November 13th, 2006, adoption by the Board of County Commissioners of a land use approval to the commercial low office designation.

They subsequently applied to the Zoning Division in December of 2006 for a site plan approval and a rezoning to an MUPD.

In doing that, they have been in the

process, I will say near to 12 months now, and the Zoning Division has been working with them. They have one or two certification issues. One is legal positive outfall. The other is this issue regarding site design, which they are now before you requesting the variance relief.

Regardless of what happens today and what your decision is, I would hope that we have this site plan back to you as soon as possible so that you can get it forwarded to the BCC, and this person can get on to making his development.

With that being said, the property is located on the south side of Northlake Boulevard in the Rural Tier, unincorporated Palm Beach County, and it is at the entrance of 112th Terrace, which is the entrance to a development commonly known as Kramer Subdivision, or I believe there's another term that the applicant may point out.

This entrance is actually an easement across the western portion of the applicant's property, and to the south is this development, Kramer Subdivision. There is also a street to the south of the development called 90th Street. That is also an easement that the applicant is proposing to convey to Kramer Subdivision for their ingress-egress rights.

To the north is a small entrance to a larger PUD that has a roadway entrance, and then to the back a larger PUD.

Across the street is also an MUPD that's been approved as a self-service storage facility with a limit of 6,000 square feet of office space, so it's a very low intense use along the corridor.

To the east is a rural-looking piece of property with approval for a cell tower on it.

To the west is another property and similar in size to this parcel that is, if it hasn't already had an application, it's very soon due for a future land use amendment to commercial, as well. It was, I think, a previous request which was denied at the time by the Board of County Commissioners.

The subject site, and I want to point out that the site as shown on Page 204 there's a site plan, and if you will notice, and I want to point out that if this were in the Urban-Suburban Tier, this would be a pretty good-looking development. The buildings are placed up to the street, good building distribution, got a nice parking lot, some nice features, and the point here is that this property is in the Rural Tier.

And the Rural Tier has very specific requirements in the Comprehensive Plan and subsequently in the Unified Land Development Code to ensure that the development of the site is architecturally rural.

That is not the issue of this variance. That will be addressed by staff through the building permit process, et cetera, but it also has additional requirements that the landscaping be rural.

That's partially addressed by the standard requirements of the Code, how many trees have to be planted, how many terminal islands, what kind of landscaping, perimeter buffers, foundation plantings on all four sides of the building, 12 feet in width, et cetera.

But there's other landscaping provisions that include a requirement to utilize open space in conjunction with those landscape areas to use natural footpath materials, et cetera, specifically stated on the plan in the Code.

Thirdly, you have provisions of the plan and the Code that regulate site design and that specifically state that the site design shall be naturalistic, shall be -- the building shall be disbursed. Parking shall be disbursed.

Then you get to the fact that we're talking about today, and that's the 50 percent pervious surface area.

If you look again on Page 204, the applicant has a site plan, a proposed site plan, mind you, that's in front of the Zoning staff, and if you look on the bottom of the sheet, you'll see the roadway, 112th Terrace, written upside down. That roadway had a 60-foot easement.

Now, whether or not by prescriptive rights the roadway has meandered more onto the property, and you'll see in the bottom right-hand corner, it kind of starts to come up.

You'll also see to the right-hand side of the site plan 90th Street North. That is not an easement. That is a road that the development, Kramer's Subdivision, just started to use, and the applicant will point out that in both circumstances, whether granted by easement existing or whether by prescriptive rights, the Kramer Subdivision applied paved surfacing to those roadways.

That is the subject of this request. That is the request for their hardship. They are saying that that paved surface reduces the amount of the pervious surface area that's available to them for their development, but I also want to point out that they're using this land area to calculate their 20 percent FAR, which is the maximum FAR allowed by the plan, therefore, by the Code, in this tier.

Now, the hardship is potentially that they allow prescriptive rights to occur on the property, whether by former owners or by current owners.

This is a hardship that I believe is shared by many parcels in the rural tier of unincorporated Palm Beach County, all land development subdivisions, illegal subdivisions, whatnot. You have a lot of easements for ingress-egress.

Granting this variance would convey rights that may not be available to those other persons that have similar problems that -- existing or as development starts to grow out west.

Now, I mentioned that there's some Code

requirements, and that there's some Comp Plan requirements.

The Comp Plan also refers to the Western Northlake Corridor Land Use Study Area. This is a 1998 study. I will not deny that it is outdated.

I will not deny that the Board of County Commissioners has asked the Planning Division to update it.

I will just ask that you consider the statements that I put in the staff report as being the will of the people in 1998 as to what they wanted to see in the rural tier or along Northlake Boulevard, and that being they stated they want to see naturalistic site design, limited square footage, smaller buildings, a rural feeling, compatibility with the rural area.

Now, that being said, there are a few other items on Page 206. I provide for you the Code language and some reference to the Comp Plan, as well as the entire Table 7.c.

On the right-hand column you will see Rural Tier. You'll see where I bolded many elements that are much more restrictive than the Urban-Suburban or the Agricultural Reserve Tier. That's intended to partially address providing that rural standard of development.

Now, in closing, there's a few other variables. I've asked the applicant to justify some of the site design issues. They could convey outright through Land Development's process these easements to Kramer Subdivision and make it road right-of-way.

There may be provisions in the plan that would allow them to retain their 20 percent FAR calculation by voluntarily conveying that road right-of-way but not having it in the site, therefore, not reducing their pervious surface area, but, again, they'd lose the overall amount they used to calculate that number from.

Other issues. They say they have to do one-story buildings to the south of the site. So on the site plan you see two-story buildings fronting Northlake Boulevard, one-story buildings to the south.

They have provided a document that I do not know if it is legal or not, but it was attached to the justification statement, that indicates that they've made agreements with Kramer Subdivision for various site design issues, no more than one-story building as long as it doesn't prohibit their using the 20 percent FAR.

They agreed to provide a wall of some sort along the south property line that's defined as precast. They also agreed to provide a berm along the west property line adjacent to this roadway to help buffer the buildings.

The site plan shows two-story buildings already. That appears to be in conflict with that agreement. A precast wall is not allowed in the rural tier by Code. It has to be natural materials, brick, stone, or whatever matches the area. A berm's not allowed unless it's on

alternative landscape plan.

None of those last two items are even shown on the proposed site plan, so whether or not they've worked with the neighborhood, I don't have anything that really tells me. I've not had any calls from the residents. I don't know, but I do know that I have the '98 study, and I have Comp Plan requirements and Code requirements that this be more rural in nature.

The granting of this variance would give them the ability to develop a more Urban-Suburban site in the Rural Tier, and it would set the precedent for future development along the Northlake corridor.

One last item before I close, and that is that the applicant has researched in an attempt to address their site planning issues with pervious surface area, proposed the use of pervious concrete.

Now, they've not gotten this approved by the Building Division. The Zoning Director has determined that it is not able to be applied to their pervious surface area. That is why they're here for the variance today.

This is a request for a 42 percent pervious surface area, only eight percent non-pervious variance.

The applicant is proposing to use this pervious concrete to just kind of garnish some support. They recognize that there's still more research to be done.

I'd like to compliment Mr. Brian Terry who is presenting on behalf of the applicant, for working with us on pervious concrete because it's a very exciting topic. We will be looking at it in the future and amending the Code, most likely to adopt its use whether as a good thing or whether even to allow reductions in pervious, but most likely not in this tier. It doesn't belong here because it affects the site design.

With that being said, my staff report shows that they did not meet any of the seven criteria of the variance, and I'm recommending denial.

If you should choose to recommend approval, we'd ask that you look at -- towards the back of the staff report. On Page 210 there are some suggested conditions of approval.

With that, unless you have any questions, I'll let you go with this.

COMMISSIONER KAPLAN: Mr. Chairman, I have some questions, if I may.

Bill, I'm very interested in this pervious concrete application that they have made with substantial documentation, and reading from Page 207, staff conclusion and summary, what you say here is a little disturbing to a certain extent.

Unfortunately throughout the years most building departments, developers are not current with technological advances which certainly we need.

You have a statement here that I'm

concerned about, and it says that even if determined the County's pervious requirements shall be met, staff has additional concerns that the porosity of the material will become clogged over time.

Is that based upon a gut feeling, or is this based upon engineering report?

MR. CROSS: It's partially based on some input from our landscape staff, but it's also based on -- Mr. Terry and I both attended a conference, a green building conference, that the Treasure Coast Regional Planning Council put on a couple weeks ago, and that was mentioned as one of the topics when pervious concrete was presented.

Since that time we met earlier this week with Mr. Terry. He provided some ordinances from, example, from the City of Titusville or Town of Titusville where they allow 75 percent of areas covered with pervious concrete to be counted as pervious; however, they have to have a management plan, and it has to be checked every year.

Now, we said to Mr. Terry, of course, if we do that, we don't want staff to have to manage it. We want the property owner to have to demonstrate that it maintains its porosity.

So he's working towards that. It is not going to be something that's 100 percent. I don't know what happens if it does become clogged, 'cause it can, but it seems like a management plan and a method of cleaning and maintaining the material would allow it to maintain its porosity.

COMMISSIONER KAPLAN: Well, Bill, was the substantial documentation submitted, did that address the issue of clogging from the engineering standpoint that was submitted to you by the petitioner?

MR. CROSS: I cannot answer that, and I also state that the documentation they provided didn't specifically address porosity in Palm Beach County where we have very pervious soils. It was more northern-type developments.

Again, I don't have the exact answer to that.

COMMISSIONER KAPLAN: All right. What I will do then, I'll wait 'til the petitioner gets on and ask him those questions because I think that if we do have a pervious concrete which is, engineering-wise, acceptable, we certainly should give serious consideration, not only to this particular case, but in the future because that would have a definite effect upon the development.

Thank you.

CHAIRMAN BARBIERI: All right.

State your name, please.

MR. TERRY: Brian Terry, with Land Design South.

Good morning, everyone, and I'm here representing the applicant with this petition, and I appreciate the questions and the interest in the pervious.

I have a gentleman, Diep Tu, he's a director of engineering from Florida Concrete and

Products Association, who's going to, hopefully, tag on at the end of this presentation.

I want to speak directly about the variance specifically, but we've brought someone here who can talk about pervious material, and, you know, there are some steps that we need to move through, and we need to work with the Engineering Division. We need to work with the Building Department to really come up with what is -- what is the right solution, how does it get implemented within, you know, this region of Palm Beach County and the soils that we have here, but it's exciting.

I think that, you know, it's not the first time it's been around. This material's been around for 30 or so years, but it's something that I think, you know, it's time to come back and take another look at it, and I think there's great applications for it.

But, again, directly related to the variance, I want to begin, and what I have here is the same chart that you have in your staff report, and we are within the Rural Tier.

And as you can see, the Rural Tier is the -- they're at the far right-hand side, and we've highlighted all those in green that we comply with, and I'll state a little bit later on as to how we believe this chart ties into the Comp Plan and why this chart is there specifically to help mitigate the concerns and the text that is put in the Comp Plan regarding rural character.

That's why it's there. This is a chart in the ULDC so you can govern, and staff can govern, a development within the Rural Tier, making sure that the landscape is consistent with the intention.

The variance request is for the 50 percent criteria within the Exurban and Rural Tier. As Bill stated, in the Urban-Suburban it's a 30 percent requirement. In the Ag and Glades, you know, it jumps up to 40, and in the Rural, we're 50.

So there is the summary. We're asking for an eight percent variance from this requirement, and -- within the Rural Tier.

I'm going to briefly jump through, just kind of give you a little, hopefully, a good overview of exactly where we're located.

Northlake Boulevard, we are on the south side of Northlake Boulevard, obviously west of Beeline Highway. On the right-hand side, at the bottom right-hand, that's the community of Ibis, and then in the left, bottom left-hand corner is Bay Hill Estates.

You can see that we're kind of tucked in between these two suburban developments. This site, as Bill stated, did receive CL/O designation approximately a year ago, and it's right there on the corner of 112th Terrace, and that Kramer Subdivision, also known as Rustic Lakes, is -- that is the accessway into that subdivision.

The surrounding uses, again, here's our

CL/O. We've got the -- a lot of residential -- I don't need to spend a ton of time here, but I just wanted to really identify that I think that we talk about rural character, and we talk about the Rural Tier, and I appreciate that in certain areas, but I think that we need to really identify what we're surrounded by, and we're surrounded by a very suburban type of corridor.

All the residential, the PUD developments, the -- and then, you know, you've got golf course and then future potential development on the Vavrus parcels.

The Rural Tier, I'd just like to go ahead and show, this is coming directly from the map for the -- within the Comp Plan for the tiers, and what you see is basically you have obviously the Urban-Suburban, which is on the right-hand side in the yellow, and we have the big conservation which is Grassy Waters, you know, a good portion of that is Grassy Waters.

You have the U-S tier, again, identified as part of Ibis, and then you have the Exurban component which is essentially The Acreage, and you can see our site is kind of tucked in between those two pieces.

And then the Rural Tier comes in. The Rural Tier is primarily on the north side of Northlake Boulevard, except for the single finger that comes down across Northlake Boulevard and picks up our site as well as the Rustic Lakes community.

So that being said, that, you know, that's how we fall in the Rural Tier. We're not fighting that fight. We're not fighting the fact that we're in the Rural Tier. I mean that's something we'd have to go back and modify the Comp Plan.

We did that -- we knew that whenever we asked for CL/O, and it limited our square footage at that time to 0.2 FAR, as opposed to, you know, getting the higher intensity on the site.

So we accepted it, and at that point, but -- in limiting our square footage, but we're asking that we not be limited even further at this point.

Speaking more to the character, I think that, you know, we just wanted to identify a few of the things that are within the specific corridor, again, the Ibis Shops. You have, you know, the shops, as well as gas station. There's quite a few outparcels in that location, the Ibis community itself.

It's a beautiful entrance. I don't know that I would necessarily classify that as a rural development. It's definitely a suburban feel.

You have Bay Hill Estates, which is directly west of us, the same thing, beautiful community, very suburban.

And one other thing I'd like to just add.

In this corridor I think that it's a -- it's a pretty neat comparison. We just ran a couple comparisons of the roadway itself. I mean Northlake Boulevard is a very heavily traveled

road, and -- and to compare it to maybe some of your other corridors in the county, speaking of this as a rural area, it is -- it carries basically similar or more traffic than Belvedere Road, than Lantana, than Atlantic Avenue, than Yamato.

It's similar to Southern east of the Turnpike. It's similar to Lake Worth Road east of the Turnpike.

I mean there's a lot of traffic going up and down this corridor, and, yes, I agree that, you know, in areas -- maintain a rural character is important. I think that we just need to recognize exactly where it is we're speaking of.

And staff, as Bill mentioned, I just wanted to kind of address a couple of his concerns.

You know, the roadway is not a hardship. I take that -- I think that's very hard for me to swallow, I think, that we have a site, and I'll go through the specifics of that piece, how that is really impacting our site plan.

The validity of pervious concrete, we understand that this is a concern. This is a concern from an Engineering standpoint, from a Zoning standpoint.

Again, we are offering that as an opportunity that we can maybe meet the definition of pervious, and -- but that being said, we're here. We're asking for the variance, regardless of that material.

Here is our site plan. What we have is, again, is 10.8 acres of approximately 94,000 square feet and the 0.2 FAR.

As Bill stated, we have really two buildings up front on Northlake Boulevard behind an extensive buffer that is required.

Also, you know, there's quite a few pines on the property. It's our intention to, obviously, you know, preserve as much of that existing vegetation as we can.

We have two-story on front specifically to make sure that we weren't impacting, you know, our immediate neighbors, trying to present the good facade to the roadway. And then we have the two one-story buildings in the rear.

I'm just going to hit the seven criteria pretty quick just so that I can, you know, justify what it is that -- 'cause we didn't get any recommendation -- we didn't get a yes on any one of the seven, and I think we have valid argument for each one of those. So if you don't mind, I hope you can entertain me for a moment here.

The 112th Terrace and 89th or 90th Street is -- it exists on our site. It is not the legal means of ingress and egress for the Kramer Subdivision originally.

The Kramer Subdivision was supposed to be accessed to the east of our site around the cell tower site.

This property -- 112th Terrace was basically -- that was their -- that's the way the

residents came in and out of the property for a series of years. They paved the road. An easement was granted upon that so that they could gain their access, and ultimately we are planning to deed the property to Rustic Lakes at the time of plat.

89th Street, it was also another road that was paved, and these are both -- I should say prior to the ownership by the applicant, the 89th Street was paved, and there's -- is no current easement across the property. That is something we are also granting to Rustic Lakes.

Again, we're not trying to -- we're trying to be as considerate of the folks who've been living there for a long -- for much longer than the applicant has owned the property and trying to do everything within our means to make sure that their day-to-day lives are not disrupted.

We are not accessing those roads. Our development has been, you know, is completely isolated into the center of the site. We're not utilizing those one bit.

It takes up over -- about 13 percent of our site, and the actual impervious is six percent of the total site so we're losing six percent right off the bat with the existing roadways that are within our 10.8 acres.

Here's just a quick picture of the actual road. This is the intersection of 112th and 89th.

The second point is that, you know, the actions of the applicant are potentially what's creating the need for the variance, and it's stated in the staff report that due to the fact that we're using one-story buildings, that is impacting, you know, the need for the variance, and I don't disagree that it adds more impervious space.

What I do disagree with is that the use of more two-story buildings, specifically more two-story buildings to the south of the property, is more in keeping with the rural character of the area when it would more greatly impact the residents that are there.

Our intention all along has been to, you know, minimize our impact.

We do have -- we have been working very closely with the neighbors, and the reason why we've done that and the reason why there is an agreement with them limiting us is because we have the opportunity to go to two-stories so that we can meet the 94,000 square feet to the minimum amount possible. They don't want the entire thing two-story.

We go two-story as much as we can to make sure we get the square footage, and then we minimize all the rest of the development. That's why one-story's in the rear.

Secondly, there was comment made in there that we have front porches on our project that's, you know, really adding additional impervious area.

Well, the reason why we have that is,

again, because it's language that was put into the ULDC to assure the fact that the language in the Comp Plan was respected, in that the architectural character be included in the design so that you do get the right architectural development.

They require front porches on the entire front facade and 50 percent on the rear front facade of the buildings.

That being said, that adds, basically, another almost 10,000 square feet, which is an additional two percent of impervious.

We're not arguing the fact that it needs to be there. We think, you know, other than the fact that it adds more square footage that isn't necessarily leasable space. We'll do it because that's what the Code says that we have to do to make sure that we're in compliance with the Rural Tier Design Guidelines.

You know, and then as far as comment number three, are we asking for anything, does it provide us a special privilege. We don't believe it is. We're trying to create a use in an area that drastically needs it.

Like I mentioned, there's a lot of trips. There's 38,000 -- over 38,000 trips going up and down Northlake Boulevard a day, and where are they going? They're going east because that's the only place that they can actually get any services. There's no office space. There's no services for really the entire Acreage community.

We're trying to provide something. Like I said, we've already limited ourselves. We didn't go back, try to modify the Rural Tier, although we believe we could have. You know, it was -- it maybe could have been a potential that we explore. We didn't do that.

We limited ourselves to 0.2 with the CL/O designation, and we're happy with that. We don't want to necessarily be reduced further.

Unnecessary hardship. You know, when we started this process, we talked about pervious surface. We brought that to the table. We said we would like to introduce that because if you read the Code definition, it says a groundcover through which water can penetrate or percolate comparable to the water through the undisturbed soil.

I can tell you, and Diep will probably give you a brief overview of it, but the pervious concrete will -- you can get basically 400 inches per minute going through the pervious concrete, whereas, the soil we're sitting on is anywhere from six to 20 inches per minute. So it actually percolates at a much higher rate.

Now, that poses some engineering questions on how do we make this -- the function work, but the point is, is we want to explore it. We want to push it. So we thought we met pervious.

We understand that, you know, it's a new material. It's a new idea. We're happy to -- that's why we came and asked for this variance as well because, you know, again, that's sort of just

a side note. We're coming with material. We provided that at first. We wanted to mitigate our reduction if impervious, but at this point we think we have hardship outside of using the pervious to justify the variance, regardless.

There was also some comment made in the report about our buffers and open space areas. I think this is, you know, the rural character is how you preserve the existing vegetation, how you plant new vegetation, how you work with the architectural style of the buildings.

We're doing all that. We're providing our buffers. We're using our retention in the rear. We're going to try to utilize a lot of native plant material.

We're trying to be, you know, in a very environmentally friendly development, and we also, you know, identified a location there at the corner of 112th and Northlake where we want to make sure that we have an area to preserve what trees we can, as well as create a mitigation area, again, making sure that we maintain that rural character of the entrance.

Reasonable use. Once again, we're -- yes, could we redesign the site? I'm sure we could. We could, you know, add -- put the two one-stories together. We could, you know, add more square footage in the two-story somehow. We could make potentially three-stories. Is that rural character? I don't think it is.

You know, we lost -- if we didn't have those roadways on the site, we get 13 percent more of our site back, yes, we have a lot more flexibility. We can rework this plan, and we can make sure that it meets 50 percent.

But with the roadways there we're limited. We're stuck, you know. We're trying to do everything we can, and we're -- and we plan to do that. We're going to meet all the Code requirements for -- that ensure compatibility with the rural character.

And, lastly, I just want to mention there is the Comp Plan statement where it mentions that the ULDC ensure protection and the character of the tier, and here are the two Code portions that actually reflect that, the 7.c.1 -- or 3.1, which is that the table which is identified in the staff report and in the rural design elements is really the architectural component of that.

We want to comply and will comply with each one of those, each and every one of those. We are asking for the variance on the pervious component.

You can see the bottom is a rendering that has been done reflecting the view from Northlake Boulevard. It's early. We're working through it, but, you know, this is the anticipated character, you know, metal roofs, a lot of Bahama-type shutters, doing the front porches components of that need to go within here and really preserving a very well thick front buffer along Northlake Boulevard with as much as existing vegetation as

possible.

With the last component is, you know, does it impact the public welfare. I, at the end I just really want to run through a few summary points.

Consistency with the Comp Plan. We think we are consistent because the Comp Plan is covered in the ULDC. That's why those -- that language was written within there. We are consistent with the ULDC.

Proven hardship. We have a hardship. We have a true hard fast issue that we are having to deal with on the property, and those are existing roadways we don't get to utilize, we don't get to access that are limiting our development potential.

We will be compatible with architecture, same with landscape, and the pervious pavement ultimately could offset what the definition of pervious and using that, we really think it's -- again, it's an environmental issue that we're trying to push and trying to bring to the forefront.

I think that at this point in time if you guys don't mind, I'd really appreciate it if you can give Diep five minutes of your time. He would just like to make a very short presentation as to some of the attributes of the material.

Again, I know that we need to work with staff to go through this and -- but we just like everyone to be aware.

MR. TU: My name is Diep Tu. I'm with the Florida Concrete and Product Association, and I'm here to represent the redi-mix concrete industry here in Florida and just to address the Portland Cement pervious concrete pavement.

I think the folders of some of the information that is passing out to you all now.

Just for the benefits of those that are not familiar with concrete, pervious concrete, in comparison to conventional concrete where the mixture usually contain rock, sand, cement and water and that mixtures, with pervious concrete mixture the only thing that's lacking in there is the sand which provide the 15 to 20 percent void space in turn providing the infiltration through the pavement, and here's a little video of a pavement, a person that taking a five-gallon water and pour it directly onto the pavement, and you can see there's no puddling.

And also I document down here pervious pavement will take in about 400 inches per hour of water. In reference, sand is about eight inch per hour, and loamy sand is about two and a half inch per hours.

And we have certain recommendation through our association, through the industry, as well, when we talk to design communities of how they need to be appropriately designed as products.

The texture comparison, on the left side you see the conventional concrete, fairly smooth.

The texture for pervious concrete is not as

smooth because of the void space that's within the pavement itself and which allow water to get through the pavement, that store within the pavement, as well.

It's a great area to protect some of the mature trees and parking lots or it's on the landscape area.

The benefit that it brings to some of these big trees is that they allow water to get down to the root system and also air to get down to the root system which prevent some of the uprooting, looking for some of these items.

On impervious surfaces typically carry about nine percent of pollutants off the surface within the first inch of rain, and what it's doing to it is dumping into our stormwater system and then carry into some of the detention and retention pond, which effectively going to cause harm to some of the aquatic life in some of these ponds and some of our environment.

I also provide within the photo for you all is the -- just a short list of what I could -- there's a short time that I've been, just last two days, looking at some of the codes and ordinances around some of the city and county in Florida, and I provide here is the City of Atlantic Beach, Stuart, Titusville, Winter Park, Polk County, Brevard, and then the other two item is more on the big box retail facility.

Also, on the Portland Cement pervious pavement I've also provided just a short list of some of the projects that -- around the state, and I -- rather than list them all in here, I provide a hard copy in the photo for you.

And essentially our position here is to encourage Palm Beach County to recognize the product potential, include it in your codes and then incentivize it with credits for owners and developers that want to use this product, and certainly through the association and the staff with the association would be more than glad to work with your staff and the Engineering, the Zoning to make sure that you get proper technical support and technical references.

Thank you.

CHAIRMAN BARBIERI: You have a question, Bill? Go ahead.

MR. CROSS: Yes. I have your card, by the way, and we will be in touch. It's a very exciting product.

And my question isn't really to disparage pervious concrete because, as the staff report indicates, it is not an issue with this variance request.

But the percolation rates that you showed us, what would be the percolation rates into the existing soil on the site between the concrete and whatever road bed or parking bed improvements would be required underneath before the concrete is applied?

MR. TU: Okay. Our recommendation for some of the soil that within -- that's underneath,

and certainly you bring up a valid point -- your restriction for the product is your soil.

So whatever you get down there, whatever the percolation rate of your soil or the permeability of your soil is, is what it is, but what you -- our recommendation is minimal of one inch or inch and a half per hour for your soils.

If you have anything less than that, what you can do is add additional recharge bed, in other word, putting pervious pavement on top of an aggregate layer, and that aggregate layer depends on how much storage you want to keep on site.

So it depends on your design. You have 100-year 24-hour storm event, you need to capture a certain amount of volume, you want to build that storage within the pavement itself and allow time for it to perk through the soil.

But what our recommendation is usually an inch and a half per hour for your soils, and most of the soil that we see around the state, and you can see is sand, taking about eight inch per hour.

And University of Central Florida also just recently published their study looking at some of the soil permeability around the state and also some of the projects that's been around the state.

And to answer one of the commissioner here asking about the clogability of the pavement, it all depends on the environment that's surrounding that area. You have a dirt parking area that's adjacent to it or a dirt road where a lot of vehicle going tracks on these fine materials onto the pavement, you have a higher potential or a shortened time until that pavement is starting to clog.

But when we're talking about clogging, we're talking about debris that is deposited on the very upper layer of that pavement, and some of the maintenance recommendation from University of Central Florida is have a street sweeper and vacuum that loosen up and then vacuum that material, and you can bring it back 50 percent of its original infiltration rate. So it can be done.

The City of Titusville is probably one that I've worked real closely with and that I attend similar situation with public hearing, and then we start working with the staff.

They continue to provide credit, 75 percent credit, for use of pervious concrete in the critical area 'cause they want to keep some of those water on site and locally, but, yes, they do recommend the maintenance program through owners and require owners to sign a contract with the City to maintain.

Currently I think they have 16 projects that are already in place. They have another nine projects that's -- that's in the permitting process, and I'm continuing to work with them to come up with checklist for preconstruction, also checklist for maintenance, what need to be done, what kind of things that the City needs to look at

or an owner to look at when they go through the maintenance program.

COMMISSIONER KAPLAN: Mr. Tu, has any building department in the State of Florida or elsewhere approved this pervious concrete?

MR. TU: Building department, you're talking about some of the city and counties?

COMMISSIONER KAPLAN: County, city, whatever.

MR. TU: Yes, there's some, as I provide the list there, various -- City of Titusville provides 75 percent, Stuart give 50 percent. I'm going memory here.

Winter Park go with 40 percent, so they do all give some credits.

Now, one of the obstacles is not with the city and municipality, is more with the water management district, and I'll be frank with you.

Water management district does not have any verbiage in their BMP, Best Management Practices, so they're not sure, and this all depends on the managers that have past experience, whether they have good experience or bad experience, and that's how they dictate in their permitting and approval process.

However, the Department of Environmental Protection are in favor of them. Actually, they have in their headquarter in Tallahassee, in their parking lot, using this product. They are backing us with that, and one of the thing they're trying to work with is working with some water management district on water quality on some of the rules, and they want to adopt some of these rules and have water management implement it and make it more uniform, and so they're, in turn, the water management district will have all uniform way of reviewing this product.

COMMISSIONER KAPLAN: All right. Thank you.

CHAIRMAN BARBIERI: Any other questions for him?

(No response)

CHAIRMAN BARBIERI: Thank you.

Any other comments from the commissioners?

COMMISSIONER HYMAN: Yeah. I did meet with the petitioner before on this, and so I was able to get a lot of my questions answered.

You know, seems to me, and I think I mentioned to them, that pervious versus impervious, to me, was more of an issue of aesthetics, as opposed to really what the definition is of those terms, and when we started using those terms, obviously there was no such thing as, you know, a pervious concrete. It wasn't envisioned.

So I think when we were looking at a rural type of environment, we were just looking for some way of describing that we wanted no concrete, you know, something green, dirt, and now they've been able to meet the Code by coming up with this new product, and, obviously, staff still doesn't like that, but I think they do meet the Code, and

you'll probably end up revising the Code because of, you know, this type of product.

I like this project. I mean I'm familiar with this area. It's got the cemetery across the street. I go there often.

This is, to me, a very good-looking project. It's totally compatible with the area. The fact that it has the little finger of a rural tier that dips down across the street and encompasses this piece, I think is a hardship that they did not cause, and they are being penalized for being a good neighbor.

They're being penalized for trying to do a rural-looking type of project with porches. They're being penalized by allowing these people to basically take their property and put a little roadway on it, notwithstanding that there's no easement, and to, you know, they're going to give the -- convey the other right-of-way to the adjoining property.

So they could meet the Code, I'm told, by taking these two one-story buildings at the back and putting one on top of the other, but that's not being a good neighbor to the people to the south. So I like this project.

If anybody else has anything to say or they don't, I'm -- I think that it does meet the standards that are required to approve a variance.

So I'm going to move for approval of this Type II zoning variance to allow the reduction in the pervious surface area because I think that special conditions and circumstances do exist that are peculiar to this parcel. I think the special circumstances do not result from their actions.

I think that the granting of this variance does not confer upon them any special privilege. I think a literal interpretation of the terms of the Code does deprive them of rights commonly enjoyed by others in the area.

I think granting of the variance is a very minimum variance that makes it possible for their reasonable use of their property, and that granting of the variance is consistent with the purposes, objectives and goals of the Comp Plan, and it's certainly not -- granting the variance certainly is not injurious to the area.

COMMISSIONER KAPLAN: I'd like to second that, Mr. Chairman.

I think that I like the layout. I don't see any special privileges granted, and as you heard from my previous statement, I'm very concerned about this pervious concrete issue, and I hope that along the line the County and/or staff here will do a little more engineering research so that we'll have a definitive answer for the future, but at the present time I'm satisfied to approve this project and second the motion.

CHAIRMAN BARBIERI: Is there anybody here from the public, I have no cards, to speak on this item?

(No response)

CHAIRMAN BARBIERI: All right. Is there

any --

MR. CROSS: Did you -- excuse me. Did you want to consider the conditions in any way, shape or form as far as maintenance?

There were other site issues, for example, the porches exceeded the minimum required areas, to ensure that they go back, and when they bring it before you as a site, that it has the minimum requirements, doesn't exceed it, has the maintenance conditions, et cetera, on Page --

CHAIRMAN BARBIERI: Two ten?

MR. CROSS: -- 210.

MR. TERRY: If you don't mind, can I make one comment regarding those conditions?

I think that one of them -- the second one indicates that we shall obtain Building Division certifying that the proposed pervious plan meets, you know, prior to DRO certification.

I think the point is, is there's a lot of work to be done to get, I think, Building Division, to get Engineering to make sure that all this can work.

I mean it is obviously our intention to use it. We want to make sure that we're, you know, we're not just using it and then it not being utilized and not -- we're not capturing, I think, the Engineering component from that, and I think that we want to work with staff to work through those issues.

I don't know that we want to, you know, condition our final site plan approval, just saying that we have to have everything figured out at that point in time.

COMMISSIONER HYMAN: What about the first and third conditions?

MR. TERRY: Well, I mean as far as amending the proposed site plan, we feel we already meet those requirements so I'll agree to it because I don't think there's anything that we have to amend.

And providing a management plan, obviously, if the product is approved and utilized, we're happy to provide a management plan on how that will be, you know, taken care of in the future, but we need to make sure that it gets approved by the Building Department and Engineering before we could, you know, provide a management plan.

COMMISSIONER HYMAN: Well, to tell you the truth, I would vote for this project, even if they didn't use this pervious concrete, and I don't know that we're requiring them to use it.

Are you saying that you're definitely going to use it?

MR. TERRY: We're saying that we want to use it as long as we can work through the engineering obstacles that may be in front of us.

We don't want to, you know, it's double cost. I mean we want to use it, but, again, we came to the -- the variance request was based on our hardships. We brought this to the table because it's something we want to utilize.

If, you know, if we can work through the issues and it's an engineering solution that works for everybody, we're using it.

COMMISSIONER HYMAN: In my motion I, you know, I stated how I thought that this petition satisfies each of those conditions.

My answer and motion would be the same, whether or not you used the pervious or impervious concrete.

So as far as I'm concerned, I would -- you know, my motion stands, even without the conditions.

MS. HERNANDEZ: I think we might need one condition which is to tie this to the development order so that it doesn't expire in one year.

COMMISSIONER HYMAN: Okay. I'll make my motion subject to that condition.

CHAIRMAN BARBIERI: Mr. Rogers.

MR. ROGERS: Mr. Chair, just to address Commissioner Kaplan's concern, the Engineering Department has been looking at pervious concrete for now just a little over 30 years, and the vast majority of our concerns --

CHAIRMAN BARBIERI: You've been there the whole time, too, haven't you?

MR. ROGERS: No, I think --

COMMISSIONER HYMAN: He's been there longer.

MR. ROGERS: -- I took a 12-year reprise somewhere in the middle of that, but the same concerns that we had 30 years ago we still have today.

Now, that being said, it is a product that does work when it's properly engineered, and it's not just a matter of taking a normal section and throwing away the asphalt or the normal concrete and replacing it with this product. That does not work.

In situations where it's properly designed it is approvable in Palm Beach County to the point that Palm Beach County has actually used this product in areas of environmental concerns.

I'll speak to Ocean Avenue in Juno Beach.

When we widened that road up there, we had some problems with water quality and were able to meet that with the Department of Environmental Protection through using a valley gutter, an extended valley gutter section, that was made of pervious concrete.

And in an area when you're on a dune where you have a great subsurface that can percolate water as fast as it -- or basically as fast as it can through the concrete, this product works.

I will caution you that the vast majority of the soils in Palm Beach County as defined by the Soil Conservation Service are classified as being poorly drained, and it classified for that reason because they drain very, very poorly.

And what we are concerned about is a compacted or stabilized subgrade that the vast majority of the voids in that -- in those soils, either through the compaction or the stabilization

have been reduced tremendously from a soil that's already defined in its natural state as being poorly drained.

We have a very difficult time considering this product to be a pervious area, but, once again, if properly engineered, yes, it can be, but as far as giving a carte blanche approval to this product to use anywhere in Palm Beach County as being pervious, no, we do not do that.

COMMISSIONER HYMAN: Well, I think that inherent also in my motion is that if you -- if you are going to use the product, that you've got to work with staff, okay, and make sure you address their concerns.

MR. TERRY: Absolutely. We would --

COMMISSIONER HYMAN: 'Cause I understand what you're saying.

MR. ROGERS: But we are very -- we are very aware of this product --

COMMISSIONER HYMAN: I'm sure you are.

MR. ROGERS: -- and we -- in fact, we have -- the Engineering Department has used it.

COMMISSIONER HYMAN: I know you haven't fallen off the turnip truck, so to speak.

Okay. That's my motion.

COMMISSIONER KAPLAN: Move the question.

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

All those -- who made the motion, Commissioner -- I put that on the record already. We had that.

Any discussion on the motion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER HYMAN: Aye.

COMMISSIONER KAPLAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

COMMISSIONER BRUMFIELD: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Motion carries, 6-0.

COMMISSIONER ARMITAGE: No.

CHAIRMAN BARBIERI: I'm sorry.

Commissioner Armitage voted against that, so it's 5-1.

MR. TERRY: Thank you.

COMMISSIONER HYMAN: We're taking a five-minute bathroom break?

How long is this presentation going to take?

CHAIRMAN BARBIERI: How long are you gong to take? Otherwise, we'll take a five-minute break.

MR. Mac GILLIS: I think there's just -- I don't know how --

COMMISSIONER HYMAN: Bob, how long you going to take on this?

CHAIRMAN BARBIERI: Five minutes.

COMMISSIONER HYMAN: Okay. By the way, staff, I love this. I love this letter thing.

This is great. I really appreciate getting this.
CHAIRMAN BARBIERI: Mr. Kaplan, sit down.
 We're not done yet. Please.

MR. BANKS: Okay. Based on some discussion with some members of the Zoning Commission after the last meeting I decided to update the ethics materials that I provided to the Board.

I'm not going to summarize the entire set of materials, but I wanted to remind you that you are all subject to the Florida Ethics Code. You're reporting individuals.

You have to file a yearly ethics -- you have to file a yearly --

COMMISSIONER HYMAN: Financial.

MR. BANKS: -- financial disclosure form, and then I wanted to focus on -- you're subject to the gift law.

And then what I wanted to just focus, we're subject to the Sunshine Law which means that, you know, anything that would reasonably -- that's reasonably foreseeable to come before this Board you cannot discuss with other Board members except at a Board meeting. Okay.

But enough on those. What we really wanted to discuss today are voting conflicts and prohibited conflicts and also tell you we've got a new Government in the Sunshine booklet which you've been provided.

There are voting conflicts and then prohibited conflicts, and the prohibited conflict is serious because it means if you have a prohibited conflict, unless you get a prohibited conflict waived by the Board of County Commissioners in advance of the vote, you can't be on the Board when an item -- if a prohibited conflict comes before the Board.

But let's talk first about voting conflicts. Under Florida Statutes a public officer cannot vote in their official capacity for any measure that would inure to their special gain or loss, to the gain or loss of somebody that they work for or with or to the gain or loss of a, let's say a relative.

Now, the good example of this is if a zoning petition comes before you to make a piece of property commercial and you own the piece of property, let's say that's directly adjacent to it, and it's likely that if this property is commercial, then this other piece of property

would become commercial, that that would be a voting conflict.

You know, you're not -- it's not your project, but if you vote approval of this, it's reasonably foreseeable it's going to benefit the value of your property or your mother's property, whatever, you know.

Now, those end up being kind of fact specific. If you live in a development and there are 500 homes in the development and there's a commercial piece out at the perimeter of the parcel, that wouldn't be a voting conflict because it's inuring to this kind of giant class, and you're one little person in the class. So -- okay.

But that's voting -- those are voting conflicts. For a voting conflict you have to --

COMMISSIONER HYMAN: Disclose.

MR. BANKS: -- file a disclosure form, and you're supposed to do that before the meeting, and then that gets filed with the minutes of the meeting.

If you realize at the meeting there's a voting conflict, you're supposed to be -- to announce that as soon as you realize that, and then you are not to participate in that item.

COMMISSIONER HYMAN: Do you -- is that somewhere in the materials here? I mean are you just -- where are you reading from?

MR. BANKS: That's on Page 2. We're on Page 2. I have the summary of the voting conflicts.

So what we have is, you know, you're not allowed to vote. That's the first paragraph, and the second paragraph --

COMMISSIONER HYMAN: Oh, I see.

MR. BANKS: -- you're not allowed to participate.

COMMISSIONER HYMAN: Okay.

MR. BANKS: And then the procedure is -- the procedure, you're supposed to review the agenda in advance of the meeting, determine if there is a voting conflict, and that's why I, you know, gave you my business card and also gave you the materials from the Florida Ethics Commission. You can discuss it with me.

You can call the Florida Ethics Commission -- they have a hotline, and they're willing to talk to people to determine if there's a conflict, and that way you can prepare in advance.

There's nothing worse than after the item's done realizing that you had a conflict and you didn't disclose it because that is a crime, and that can be prosecuted. So -- and we want to emphasize these are, you know, these are serious matters in kind of this day in age.

Now, what we have are prohibited conflicts. A public officer can't do business with their own agency, and you can't have a contractual relationship with an entity that's being regulated by your agency, and since there are a number of members of this Board who are

lawyers, I provided a couple of references to a couple of Attorney General's opinions regarding lawyers who were City Commissioners, but kind of the same principles kind of apply.

So I think it was -- let's see, 07-13, which is an opinion of the Ethics Commission, members of a City Commissioner's law firm are prohibited from representing clients before the City Commission.

So if you take that to the Zoning Commission, if you're sitting on this Commission and you're a member of a firm and a -- one of your partners or associates appears before this Board, that's a prohibited conflict, and the only way you could allow that to occur would be if you went to the Board of County Commissioners, asked them to waive the conflict, and they would have to do that in advance at a public hearing by a two-thirds vote.

So I don't ever recall that occurring regarding this Board. I think it's occurred once or twice regarding another Board in the County. Okay.

The other -- the other one. Okay. A prohibited conflict, if a City Council member or their partner represented a client for a variance regarding zoning matters or a request for a variance, so kind of the same principle.

Now, if a member of your firm is representing someone who's appearing before this Board but they're not representing them before this Board, that is not a prohibited conflict. That would be -- it's either not a -- we would kind of be conservative. We'd say that's a voting conflict if there is a conflict, because they're not coming before your agency.

Now, what that has to mean, though, is that they're truly not representing them in that matter. They're representing them in other matters or in other jurisdictions.

So that would just be a voting conflict, so -- but it -- and as I said, prohibited conflicts are -- they're more serious than voting conflicts because they're not -- you can't just resolve it by filling out a form.

You either have to get off the Board or get the Board of County Commissioners to waive the conflict in advance.

So that's why I, you know, caution the Board members, when you get the agenda, look at the agenda, compare it to, you know, who your clients are, or if you're with a big law firm, I don't know how they kind of screen those matters, but it's a real issue, you kind of have to be aware of it.

And I provided my business card. I'm available. We have, you know, other lawyers in our office who are experts on this subject. We have the Florida Ethics Commission, which is always available to help, and we just want, you know, all of the Zoning Commissioners to be aware of the law, be cautious and just follow the law so

we can all do good for Palm Beach County.

So there I said I'd be five minutes. I don't know if I met the time limit.

MS. ALTERMAN: Mr. Chairman.

CHAIRMAN BARBIERI: Yes, ma'am.

MS. ALTERMAN: If I may, one of the things that you'll find in your -- if you look through your packets, too, attached to each of the agenda items is a disclosure form so that might help you go through that to determine if any of the owners or people who have any kind of interest in each property, you know, are members of your firm, are represented by your firm or something else.

So that's just an additional piece of information for you to review.

CHAIRMAN BARBIERI: Thank you.

Mr. Banks, are you through with us?

MR. BANKS: Yes, unless anybody has a question.

CHAIRMAN BARBIERI: Ms. Alterman, you're next, I guess.

MS. ALTERMAN: Yes. Back in September I sent a memo to the Board, and it's part of your packet, having to do with workforce housing projects, and basically what we're asking the Zoning Commission to do is when you're looking at workforce housing projects, do the best that you possibly can to get them through the process. That's our goal.

We've always -- we've -- part of the inclusionary zoning process that we agreed to with the development community and which the Board adopted, calls for an expedited process for workforce housing.

So rather than postponing petitions in order to get them to meet some of the requirements you might be looking at, if it's something you could simply put a condition on and say, you know, for instance, that Colonial Lakes one, we want additional plantings, we want the building height reduced, you can do that through a condition. You don't have to have it come back, postpone it for 30 days, which delays it and delays it.

Staff has been working very hard on these, although you're not going to see many for awhile because I don't think we have too many in the process.

Obviously, industry is in a -- in a terrible slump, but now is a good time to be at least preparing for them, making sure that when

they do come through again, that we are able to expedite them because that's a big issue with the development community. Time is money. You hear that all the time, and the longer they spend in our processes, the more it costs them and the less they can make these units affordable.

So the idea is, as I say, just to expedite them, get them through the process as quickly as possible.

Staff is working with them at the front end. If you see things that still don't satisfy you, let's do it with a condition, rather than continuing them and postponing them.

Okay?

CHAIRMAN BARBIERI: Thank you.

Anybody else?

(No response)

COMMISSIONER BRUMFIELD: Move to adjourn.

CHAIRMAN BARBIERI: We have a motion to adjourn. We're adjourned.

(Whereupon, the meeting was adjourned at 11:30 a.m.)

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C E R T I F I C A T E

THE STATE OF FLORIDA)

COUNTY OF PALM BEACH)

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

DO HEREBY CERTIFY that the above-entitled
and numbered cause was heard as hereinabove set
out; that I was authorized to and did report the
proceedings and evidence adduced and offered in
said hearing and that the foregoing and annexed
pages, numbered 4 through 65, inclusive, comprise
a true and correct transcription of the Zoning
Commission hearing.

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

IN WITNESS WHEREOF, I have hereunto set my
hand and seal this 16th day of November, 2007.

Sophie M. Springer, Notary Public