

**ZONING COMMISSION
OF PALM BEACH COUNTY**

Thursday, December 6, 2007
9:00 a.m. - 11:00 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

Richard E. Bowman, Commissioner

Bob Banks, Assistant County Attorney

Maryann Kwok, Chief Planner, Zoning

Wendy Hernandez, Principal Planner, Zoning

Ora Owensby, Senior Planner, Zoning

Ron Sullivan, Senior Planner, Zoning

Carrie Rechenmacher, Senior Planner, Zoning

Anthony Wint, Planner II, Zoning

Douglas Robinson, Planner II, Zoning

Bryce Van Horn, Planning Department

Jim Choban, Land Development

Nick Uhren, Senior Professional Engineer Traffic Division

Kenny Wilson, Health Department

Bob Kraus, ERM

Elizabeth Murray, Zoning Secretary

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P R O C E E D I N G S

CHAIRMAN BARBIERI: If everyone will get seated, we'll get started. Staff, would you please take roll for us, please.

MS. HERNANDEZ: Good morning.
Commissioner Bowman.

COMMISSIONER BOWMAN: Here.

MS. HERNANDEZ: Commissioner Armitage.

COMMISSIONER ARMITAGE: Here.

MS. HERNANDEZ: Commissioner Anderson.

VICE CHAIRMAN ANDERSON: Here.

MS. HERNANDEZ: Commissioner Barbieri.

CHAIRMAN BARBIERI: Here.

MS. HERNANDEZ: Commissioner Hyman.

COMMISSIONER HYMAN: Here.

MS. HERNANDEZ: Commissioner Brumfield.

COMMISSIONER BRUMFIELD: Here.

MS. HERNANDEZ: Commissioner Kaplan.

COMMISSIONER KAPLAN: Here.

CHAIRMAN BARBIERI: All right. Would everybody please stand for the opening prayer and Pledge of Allegiance.

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

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

The Commission may take final action or issue an advisory recommendation on accepting, rejecting or modifying the recommendations of staff. The Board of County Commissioners of Palm Beach County will conduct a public hearing in this room in the Jane M. Thompson Memorial Chambers, on Thursday, January 3rd, 2008, to take final action on the applications that we will be considering 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?

MS. HERNANDEZ: Yes.

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

COMMISSIONER HYMAN: So moved.

COMMISSIONER KAPLAN: Second.

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

All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Motion carries, 7-0.

The record should reflect that both of our alternates, Commissioner Armitage and Commissioner Bowman are acting as voting zoning commissioners today.

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

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

MR. BANKS: Thank you.

CHAIRMAN BARBIERI: Are there any disclosures from the commissioners, starting with Commissioner Bowman?

COMMISSIONER BOWMAN: No.

COMMISSIONER ARMITAGE: No disclosures.

VICE CHAIRMAN ANDERSON: Yes, I met with petitioner on agenda Item No. 5.

CHAIRMAN BARBIERI: I also met with the petitioner on Item 5, and I guess I need to disclose that on Sundays I sit before a certain person that sits in the audience today.

I belong to St. John's Church, and it's -- I'm actually not a registered parishioner of St. John's Church, although I go to church there, and I have had meetings with the priest there and the petitioner, and I attended a meeting with the Zoning staff and the petitioner several months ago to discuss the items that are going to be discussed today.

COMMISSIONER HYMAN: I also met with petitioner's representative on Item No. 5, and I did get a call from Marty Perry on one of the items, and I'm not sure which one that is.

VICE CHAIRMAN ANDERSON: Yeah, I also spoke with Marty Perry.

COMMISSIONER BRUMFIELD: No disclosures.

COMMISSIONER KAPLAN: I also spoke to petitioner on Item No. 5.

CHAIRMAN BARBIERI: All right.

CHAIRMAN BARBIERI: All right. That takes us to postponements, staff.

MS. HERNANDEZ: Item No. 1, CA2007-205, Lake Harbor Quarry.

Want me to read the whole list?

CHAIRMAN BARBIERI: No, let's do them one at a time.

MS. HERNANDEZ: Motion to postpone 30 days to Friday, January 4th, 2008.

CHAIRMAN BARBIERI: Do we need the petitioner to come up and ask for that, or satisfactory that it comes from you?

MS. HERNANDEZ: No.

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

(No response)

COMMISSIONER KAPLAN: Not hearing any, Mr. Chairman, I move to postpone CA2007-205, 30 days 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, 7-0.

MS. HERNANDEZ: Item No. 2, ZV2007-1422, Chick-Fil-A, postpone 30 days to Friday, January 4th, 2008.

CHAIRMAN BARBIERI: Is anyone here to speak on Item ZV2007-1422?

(No response)

COMMISSIONER KAPLAN: I move the -- to postpone 30 days to January 4th, 2008, ZV2007-1422.

VICE CHAIRMAN ANDERSON: Second.

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

Discussion.

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response.)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. HERNANDEZ: Item No. 3, CA/TDR2007-509, Gulfstream Villas, motion to postpone 30 days to Friday, January 4th, 2008.

CHAIRMAN BARBIERI: We have a card on this. Someone's here to oppose, so we should pull this one from consent.

MS. KWOK: No, this is a postponement.

CHAIRMAN BARBIERI: I'm sorry. I'm sorry.

VICE CHAIRMAN ANDERSON: So just see if the --

CHAIRMAN BARBIERI: Yeah. Mr. Cimbaro, we are -- we have a motion to -- considering a motion to postpone this for 30 days. You have any objections to the postponement?

We don't want to hear what your objections are to the petition in general, just whether or not you have any concerns with the postponement.

You'll be given the opportunity at the next meeting on Friday, January 4th, to discuss any issues you have.

MR. CIMBARO: Based on the schedule that I was provided notifying me of the zoning change, I'm actually scheduled to work on that date. I'll be out of county.

I assume that also means that the Board of County Commissioners' January 3rd meeting to decide on this issue also is going to be postponed, as well?

CHAIRMAN BARBIERI: That's correct.

MR. CIMBARO: Would it be possible for me to make my comments now, or will I simply have to submit a tape to be played on the date of the actual meeting?

CHAIRMAN BARBIERI: You know, you may be --

COMMISSIONER HYMAN: Let's withdraw the motion to postpone, okay, and just keep it on the regular agenda, hear from him.

MS. KWOK: This is a -- this is a by right --

COMMISSIONER HYMAN: Oh, it's by right?

MS. KWOK: -- postponement. Yes.

MR. CIMBARO: I would be satisfied with the opportunity to make my comments in person now if that's possible and if no one has any objections.

CHAIRMAN BARBIERI: County Attorney.

MR. BANKS: If the applicant would allow the public hearing to be opened --

CHAIRMAN BARBIERI: Is the applicant here?

MR. BANKS: -- to make his comments. Is the applicant here?

(No response)

MS. HERNANDEZ: Seminole Bay?

COMMISSIONER HYMAN: You know, what I could suggest is that you send your objections in writing, and they'll distribute them to us.

MR. CIMBARO: I've already done that. I will look into the possibility of possibly rescheduling my out-of-county work, and, worst case scenario, I guess send in a tape.

COMMISSIONER HYMAN: Can staff get a hold

of the petitioner and ask the petitioner to get a hold of this gentleman, see if we can't get his issues addressed before the hearing?

MS. KWOK: We will, and I'm going to get a business card from this gentleman.

COMMISSIONER HYMAN: Okay. So they'll do that.

MR. CIMBARO: Okay. Thank you very much.

COMMISSIONER HYMAN: You're welcome.

CHAIRMAN BARBIERI: Thank you.

COMMISSIONER KAPLAN: You want a motion, Mr. Chairman?

COMMISSIONER HYMAN: It's by right, so you don't need one, right?

COMMISSIONER KAPLAN: Is this by right?

COMMISSIONER HYMAN: Yeah.

CHAIRMAN BARBIERI: But we still need a motion though, according to --

MS. KWOK: Yes.

CHAIRMAN BARBIERI: -- staff's --

MS. KWOK: Yes.

CHAIRMAN BARBIERI: Go ahead, Commissioner Kaplan.

COMMISSIONER KAPLAN: I move to postpone CA/TDR2007-509 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, 7-0.

MS. HERNANDEZ: We have one item on the add/delete, Item No. 7, PDD/DOA/W2006-1934, Amestoy AGR PUD.

Motion to postpone 30 days to January 4th, 2008.

CHAIRMAN BARBIERI: Any cards? Is anybody here from the public to speak on Item 7, PDD/DOA/W2006-1934?

(No response)

COMMISSIONER KAPLAN: I'll move we postpone Item PDD/DOA/W2006-1934 to January 4th, 2008.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Motion made by

Commissioner Kaplan, seconded by Commissioner Anderson for postponement.

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. HERNANDEZ: Under withdrawals, Item No. 4, ZV2007-1181, Bramley Variance.

No motion is required.

CHAIRMAN BARBIERI: Is anybody here for ZV2007-1181?

(No response)

CHAIRMAN BARBIERI: Okay. Great.

Wendy, continue.

MS. HERNANDEZ: Okay. Item No. 5 we are going to move from the consent agenda to the regular agenda.

CHAIRMAN BARBIERI: Okay.

MS. HERNANDEZ: That brings us to Item No. 6, DOA2007-896, Town Commons MUPD.

Motion to recommend approval of a development order amendment to reconfigure the site plan to increase square footage.

CHAIRMAN BARBIERI: It was his gun that got in the way there. Go ahead. You done with that?

Is anybody here to discuss DOA2007-896?
(No response)

CHAIRMAN BARBIERI: Need a motion.

COMMISSIONER HYMAN: Move approval of development order amendment to reconfigure the site plan, to reconfigure the site plan, increase square footage and modify the use. It's 2007-896 --

CHAIRMAN BARBIERI: Do we need the petitioner --

COMMISSIONER HYMAN: -- subject to the conditions.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Do we need the petitioner on this first?

MS. KWOK: We need the agent or the applicant to come up to the podium to agree to all the conditions of approval.

CHAIRMAN BARBIERI: Okay. The agent please come up.

MR. CLANTON: How you doing? Michael Clanton, representing Town Commons, LLC.

Yes, we do agree to the conditions of approval before you.

CHAIRMAN BARBIERI: All right. Great.

All right. We have a motion on the floor.

It was made by Commissioner Kaplan, seconded by Commissioner -- made by Commissioner Hyman, seconded by Commissioner Anderson.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. HERNANDEZ: Item No. 7 was postponed. That brings us to Item No. 8, ZV2007-1620, BP Amoco.

The motion is to adopt a resolution approving a Type II zoning variance to allow 24 hour operation and to allow reduction in the side and rear setbacks.

CHAIRMAN BARBIERI: Would the petitioner please come forward on this.

Good morning. Could you state your name and address for the record, please?

MR. GOMEZ: Mario Gomez, with MDM Services.

CHAIRMAN BARBIERI: All right.

MR. GOMEZ: Representing BP.

CHAIRMAN BARBIERI: Okay. Do you agree to the conditions?

MR. GOMEZ: Yes.

CHAIRMAN BARBIERI: All right. Is there any member of the public here to speak on Item ZV2007-1620?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of 2007-1620 to adopt a resolution approving the Type II zoning variance to allow the 24 hours' operation, to allow the reduction in the side and rear setbacks.

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, 7-0.

MS. HERNANDEZ: That brings us to Item No. 9, ZV2007-1601, Lantana Square Shopping Center.

The motion, to adopt a resolution approving a Type II zoning variance to allow 100 percent overlap of the utility easement, to eliminate the incompatibility buffer and tree and screen requirements, to allow additional hours of operation for commercial adjacent to residential, to allow reduction of dimensional criteria for parking spaces.

If the applicant can come -- move forward.

CHAIRMAN BARBIERI: We have a -- we have a card in opposition so we're going to have to pull it from consent. Okay.

COMMISSIONER HYMAN: Okay.

MS. HERNANDEZ: Okay. That brings us to the end of the consent agenda, which goes back to Item No. 5, DOA/R2007-528, Yamato Court MUPD.

Ron Sullivan will present.

MR. SULLIVAN: Good morning, Ron Sullivan, representing Zoning Division

And this item on the agenda begins on Page 4 of the packet, and it's located at the southeast corner of Yamato Road and State Road 7.

The MUPD was originally approved by the BCC in June of 2006, and at that time it was approved for 45,846 square feet of mixed commercial and 19,859 square foot congregate living facility JARC housing and 70,000 square foot, 300-student private school.

The applicant is proposing a development order amendment to reconfigure the site plan, replace the private school with two requested uses, an assembly non-profit facility and a requested use approval for 2,815 square foot veterinary clinic, as well as a daycare for 318 students.

This results in about -- in a 25,000 square foot decrease over the previous approval in building square footage.

The site plan shows a total of 371 parking spaces and accesses from both Yamato Road and State Road 7.

We have a couple of items on the add/delete for this. One is to amend the motion because originally I had to add square footage, and they're not adding square footage. So that's just a correction.

Another had to do with the sign condition, and in addition to the add/delete sign condition change I'm going to combine, prior to BCC, signed Conditions 1 and 2 so that that condition relates to both the sign on State Road 7 and Yamato Road.

They will both have the same limitations.

And there are two additional conditions, Landscaping 10 and Lighting 2 that were modified in the staff report that we will revert back to the original condition after discussion with the applicant and with nearby residents.

So with those changes staff recommends approval of the development order amendment.

CHAIRMAN BARBIERI: Okay. Petitioner.

MR. BROPHY: Good morning. Jeff Brophy with Land Design South.

I won't do a presentation unless requested by the Board or the public, but we do agree to all the conditions, as Ron stated.

As well, we'd also -- I'd also like to make sure. There was another private agreement back from February, 2006, that was submitted, but I want to just make sure that it gets included in the staff report for the BCC.

It wasn't included in the Zoning Commission, but we will include it for the BCC agenda.

CHAIRMAN BARBIERI: Okay. We have two cards, people who would like to speak on this.

First is Sheri Scarborough, president of the West Boca Community Council.

MS. SCARBOROUGH: Good morning. I'm Sheri Scarborough, president of the West Boca Community Council. I'm here to represent, obviously, the council, as well as Southland Lakes Home Owner Association's board of directors.

For the past year and a half we've worked with the developer, with Jack Whitman (ph) with the County and Parks and Recs, and we do support this based on the conditions of approval that everyone has come together and agreed upon.

Thank you.

CHAIRMAN BARBIERI: Thank you.

Susan Posthumus.

MS. POSTHUMUS: Yes. Thank you and good morning to everyone.

First, I just wanted to thank Land Design, Jeff, for all his hard work in working with the homeowners, and we agree to it, as long as the special conditions are met, as he put into and just want to thank you.

Thank you.

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

MS. POSTHUMUS: Susan Posthumus.

CHAIRMAN BARBIERI: Thank you.

All right. Is there anybody else here to speak on this item, DOA/R2007-528?

(No response)

COMMISSIONER HYMAN: I'm going to move approval of DOA2007-528 for the development order amendment to add the square footage and to reconfigure the site plan, subject to the conditions that are applicable.

COMMISSIONER KAPLAN: Second.

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

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

MS. HERNANDEZ: Wait.

CHAIRMAN BARBIERI: I'm sorry. Commissioner Kaplan.

Motion was made by **Commissioner Hyman**, seconded by Commissioner Kaplan.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

MS. HERNANDEZ: Excuse me. That motion should not have included the additional square footage. Ron corrected it on the record.

COMMISSIONER HYMAN: Okay. It's to approve the development order amendment to reconfigure --

MS. HERNANDEZ: The site.

COMMISSIONER HYMAN: -- the site plan.

CHAIRMAN BARBIERI: Okay.

Commissioner Kaplan, are you okay with that amendment to the motion?

COMMISSIONER KAPLAN: I second it.

CHAIRMAN BARBIERI: Okay.

Is there any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: And I'm going to move for approval of the requested use to allow the daycare, general; assembly, non-profit institutional; and veterinary clinic, subject to the conditions.

COMMISSIONER KAPLAN: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. HERNANDEZ: That brings us to Item No. 9, ZV2007-1601, Lantana Square Shopping Center. Carrie Rechenmacher will present.

MS. RECHENMACHER: Yes. This is for the Lantana Square Shopping Center located on the southwest corner of Lantana and Jog Road.

The applicant is proposing to put a truck dock in the rear of the structure. Currently the truck -- the new truck dock is proposed to be sunken, and right now the one that's there is flush with the parking area.

And because of this proposed addition and the panel and the truck dock appendage, it's -- 'cause they're the affected area, and the affected area back in 1980 allowed a Lake Worth Drainage District easement to be over where the landscape buffer should have been. It's actually an 80-foot easement. Fifty-five foot is off the property, 25 foot is on the property.

So in order to go forward with the truck well he has to get a variance for this affected area.

In addition, he will be providing, or the applicant will be providing additional landscaping adjacent to the truck well. There'll be a screen wall.

They're also asking for additional hours of operation. The Code doesn't -- does not allow hours to exceed past -- I think it's 11:00 -- let's see, from 6:00 to 11:00 p.m., 6:00 a.m. to 11:00 p.m. The applicant is asking for two additional hours of operation.

Staff has provided conditions to address that and to say that the two additional hours will be for stocking only and no deliveries. Those conditions are on Page 144.

Staff is recommending approval, subject to these four conditions.

Thank you very much.

MS. MOTLEY: Mr. Chair, Commissioners, my name is Susan Motley. I'm an attorney with Ruden, McClosky, and I'm here representing Wal-Mart.

I have with me Derrick Cave with Kimley-Horn, who is the project engineer, and Kim Glas-Castro, who is the planner on this project.

Wal-Mart wants to open a -- what is called a neighborhood market grocery store in what was a Winn-Dixie.

This is obviously an older shopping center so most of these variances that you're seeing are staff's request to make the approvals consistent with a shopping center that was approved many years ago.

CHAIRMAN BARBIERI: Ms. Motley, maybe -- since this was on consent, why don't we hear from the people that are in opposition, and then I'll have you address those concerns if you can.

MS. MOTLEY: Okay. That would be fine.

COMMISSIONER HYMAN: And I did get a call from Kim, right, on this project?

CHAIRMAN BARBIERI: I have three cards. I'll call their names, and would you please be ready to come up after the other party's done. When you come up, state your name and address for the record.

I'll start with Kyle Curtis, then David Lennox, then David Mull.

Kyle, would you please come up first. State your name and address for the record, please.

MR. CURTIS: Kyle Curtis, 6146-C Durham Drive.

CHAIRMAN BARBIERI: Yes, sir. You want to tell us what your concerns are?

MR. CURTIS: Well, reading the zoning application that I had received it talks about the elimination of all buffer and tree and screen requirements, and to me, I understood this to be a -- like an extension of the parking or the pavement up to my property line, as well as the elimination of palm trees and other things that help to screen this area from the back of my house.

So in discussions I've had with them, apparently that's not the case. The parking lot is not being extended.

I do still oppose the additional hours of operation. This is directly in the back of my

house and basically my bedroom. So I do oppose the additional hours until 1:00 a.m., and --

COMMISSIONER HYMAN: I have a question.

CHAIRMAN BARBIERI: Commissioner Hyman.

MR. CURTIS: Sorry. I would have one additional concern about -- because I do not see this on any of the plans, if they're going to be putting additional dumpsters or anything for grocery store trash that might cause additional problems with rodents and things like that.

CHAIRMAN BARBIERI: Commissioner Hyman, you have a question?

COMMISSIONER HYMAN: Well, yeah, I guess the petitioner has to answer that question.

Also, how far is your house, how many feet from the proposed dock?

MR. CURTIS: It's -- I'd have to take a guess at that, but I'm guessing maybe about 100 feet or so.

I am right about there (indicating).

COMMISSIONER HYMAN: All right. So that's -- Kim, what do you think, about 200 feet or so?

MS. GLAS-CASTRO: Two hundred, 210, somewhere in there.

COMMISSIONER HYMAN: Yeah.

CHAIRMAN BARBIERI: And what kind of buffering -- Kim, what kind of buffer -- what kind of buffering is in there already?

MS. GLAS-CASTRO: On the shopping center property there's no buffer. It's all encumbered by the Lake Worth Drainage District easement.

If we can get through --

COMMISSIONER HYMAN: There's a condition, right, that is one of the conditions of approval?

MS. GLAS-CASTRO: The photo shows the Journey's End buffer. They have a berm and then palms and hedges on their berm, but there's nothing on the shopping center you can see, which is totally encumbered by the Lake Worth Drainage District easement.

COMMISSIONER HYMAN: The condition of approval, one, prior to DRO they'll provide additional landscape treatment adjacent to the dock loading area in the rear.

So where is that going to go? That's going to -- that's going to buffer the dock, won't it?

MS. RECHENMACHER: Actually --

MS. MOTLEY: Yes, it will, Commissioner. What staff asked us to do was add the landscaping.

In addition, the existing loading dock area doesn't have any screening, any walls. This is all walled, and the trucks themselves actually sink down and attach to the buildings, none of which is the existing location situation, and in terms, I can confirm for everyone, there is no additional pavement being proposed for this project.

Again, I think a lot of the confusion deals with these variances trying to correct for

an older shopping center, so --

CHAIRMAN BARBIERI: What about hours of operation for the loading?

MS. MOTLEY: The hours of operation, yeah, we had asked for two more hours, not to do any deliveries whatsoever, and in fact staff's conditions require that there be no deliveries between 11:00 and 1:00.

It is strictly to work inside the store stocking. The store will not be open to the public.

It is merely -- neighborhood markets are busy stores, and they would like the opportunity to be able to stock between 11:00 and 1:00. There's nothing that's going to be going on in the rear of the property.

VICE CHAIRMAN ANDERSON: Will the employees park in the front or in the rear?

MS. MOTLEY: The -- no, the employees will park in the front, yeah.

CHAIRMAN BARBIERI: Okay.

MS. RECHENMACHER: There's a condition for that.

VICE CHAIRMAN ANDERSON: And it may be even --

MS. RECHENMACHER: Something to the effect that the limitation that it's for loading only, no --

CHAIRMAN BARBIERI: No parking.

MS. RECHENMACHER: -- interior improvements, no deliveries at that --

VICE CHAIRMAN ANDERSON: And no throwing things into the dumpster in the rear between 11:00 o'clock and --

MS. MOTLEY: And -- oh, let me answer that question. There are no dumpsters. Wal-Mart does not use dumpsters.

VICE CHAIRMAN ANDERSON: Okay.

COMMISSIONER HYMAN: What do they use?

MS. MOTLEY: They use compactors that are attached to the building so there's no exterior dumpsters for any of their stores.

CHAIRMAN BARBIERI: Do those compactors make a lot of noise in the back of the building at night?

MS. MOTLEY: No, they do not. They're very quiet --

CHAIRMAN BARBIERI: Okay.

MS. MOTLEY: -- and because they're totally enclosed, the -- any noise is interior to the building.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: Have we addressed --

CHAIRMAN BARBIERI: Mr. Curtis.

COMMISSIONER HYMAN: -- your concerns?

MR. CURTIS: Yeah, the additional hours of operation are fine as long as, you know, as they said, that doesn't include any semi-trucks idling between 11:00 p.m. and 1:00 a.m. --

COMMISSIONER HYMAN: I don't blame you.

MR. CURTIS: -- things like that.

If it's not deliveries, not additional

semis, then that would be fine.

CHAIRMAN BARBIERI: Those would be conditions that we have there, and if they violate those conditions, you'll certainly be -- probably one of the first people to know. If you notify Code Enforcement, I'm sure they'll respond.

MR. CURTIS: Okay.

COMMISSIONER HYMAN: So did you need to get Lake Worth Drainage District approval for the landscaping? Have they signed off on that?

MS. MOTLEY: The landscaping that's proposed is not within the Lake Worth Drainage District --

COMMISSIONER HYMAN: Oh, it's not.

MS. MOTLEY: -- easement. It is not. It is on the shopping center property.

COMMISSIONER HYMAN: Great.

MS. MOTLEY: It's directly adjacent to the loading area. It's kind of hard to tell with those drawings, but it is on the shopping center property.

CHAIRMAN BARBIERI: Okay. Thank you.

Thank you, Mr. Curtis.

Carrie.

MS. RECHENMACHER: I'd just like to clarify for Landscape Condition 1 that it's prior to final DRO approval additional landscape treatment shall be provided by the property owner adjacent to the dock loading area and rear of the 35,000 square foot anchor store retail A, to the parking area on the east side of anchor store -- of the retail A structure.

The condition didn't say who was responsible for the landscaping. I just wanted to clarify that.

CHAIRMAN BARBIERI: All right. The next card I have is from David Lennox. Would you please come up. State your name and address, please.

MR. LENNOX: David Lennox, 6182-C Durham Drive.

I have some of the same concerns. I'm still not exactly clear on what time trucks will be coming in and out. It sounds like they'll be there 'til 11:00 p.m.

I understand they're saying they're going to be stocking after 11:00 p.m., but I still have a real problem with semi-trucks coming in until 11:00 p.m.

Actually, my first question is, and I'm not sure how to get this one answered, is what kind of studies have been done to show that there's need for a grocery store in this location since there's probably, I believe, five grocery stores within less than two miles of that location.

And I do have to disagree with something that was stated earlier. This was originally built for a grocery store. It has not been a grocery store for the last six years. It was a furniture store.

So when these residents moved into this

neighborhood, it was a furniture store that was handled totally differently. The hours of operation were different. There weren't these kind of semi-trucks coming in and out.

So this is a major change to our development, and the quality of development.

We've already suffered, as everybody has, some major downturns in the market, and this is only going to hurt this development worse.

By the 100 feet or the 200 feet we can hear, you know, pretty much anything that goes on in that -- in that mall at all hours, and if there's trucks coming in and out of there until 11:00 p.m., that is still going to be totally unacceptable, I think, to every resident that's in that neighborhood.

I'd also heard -- I was not at a Board meeting, but from what I understand, there may have been discussions with the Journey's End Board about possibly building a wall back there. I haven't heard anything about that.

I heard something about a screen. I don't understand what that is. So I need a lot of clarification because this is a major, major change to this area. So I'm not sure if those questions are clear.

CHAIRMAN BARBIERI: Mr. Lennox, we can -- we can discuss some of those issues and have the petitioner and staff, you know, discuss the issues with respect to noise and that, but with respect to the financial need for another grocery store, it's not within the jurisdiction of this Commission or the County Commission to address that type of an issue.

MR. LENNOX: Okay. I mean I was just wondering because I just -- I didn't -- we personally in the neighborhood, as we've discussed this, have seen absolutely no need for this store.

A new Publix just opened within a half a mile of this development within the last year, and I just -- it just didn't seem to make a lot of sense to us.

But I still have concerns with what -- I want to know what time the trucks are coming in and out and if there's plans to build a wall.

Also, I understand there's going to be pallet storage, which is a fire hazard, as well as rodent infestation. I haven't heard anything about a building for pallet storage I think I saw on this.

COMMISSIONER HYMAN: What storage?

MR. LENNOX: Pallets storage.

COMMISSIONER HYMAN: Oh, pallets.

CHAIRMAN BARBIERI: Okay. Thank you. We'll have those issues addressed.

Susan. Yes, please.

MS. MOTLEY: There is a pallet storage area. They're actually required by the Fire Code to have a separate pallet storage area.

The fire concerns are when they are internal to the building. This is a fully enclosed pallet storage area, and it meets the

requirements for the protection of the buildings in the area.

In terms of -- I just want to make clear, because it's starting to appear that we did not make attempts to talk to the homeowners association, and I just want you all to know -- I'd like to just go down the list, and not that it's these people's problem, but I want you to know that -- and your staff encouraged us to do this, and we did do it.

For example, on October 1 we had a meeting with the Journey's End HOA Board. We discussed the project. We left plans with them. The Board was to discuss the project with the residents and call us back with comments.

We filed the variance application on October 10th. On October 22nd, after repeated calls to the property manager -- and this is a gated community so we can't even go in there and try and elicit discussion.

Kim Glas-Castro from my office sent letters to the five abutting property owners, included a site plan and elevations.

Between October and November Kimley-Horn and Ruden, McClosky left repeated messages for Chung Wong, who was the president of the homeowners association, and with Tracy Linder (ph), who is the property manager.

On November 13th we again attempted to reach the abutting property owners by telephone, leaving detailed messages on four of those owners' voice mails. The fifth was an unlisted number.

On November 30th we again tried to reach the HOA by telephone and left a message. We had one individual call us, a Martin Kohler (ph). We called him back and let him know. He, again, was concerned about paving.

So I just want you to know we have tried, and we appreciate that these people may have some concerns.

This is an old shopping center, the -- Woolbright has tried for several years now to fix up this shopping center.

One of the most important things when you are trying to fix up older shopping centers is to have viable national credit tenants. This neighborhood market, this Wal-Mart neighborhood market, will serve the community and will be important to the success of the other stores in this particular shopping center.

It's a commercial use. It's consistent with the land use and consistent with the zoning, and Wal-Mart will be a good neighbor. There isn't going to be anything going on after 11:00 o'clock in response to the delivery trucks.

Publix, I believe, has deliveries until 11:00 p.m. at night. That's what Wal-Mart wants, to be on a level playing field with other grocery stores in the area.

We're not asking for anything more than what the other grocery stores in the area have, and Wal-Mart intends to be a good neighbor with

this neighborhood market.

CHAIRMAN BARBIERI: I have a question for staff.

Assuming the hours of operation are 'til 11:00 o'clock for deliveries, does that mean a truck can get there at 11:00 o'clock and unload and then pull away at 1:00 o'clock in the morning if --

MS. RECHENMACHER: Yes, it does. There's no restrictions. The limitation is for commercial adjacent to residential, hours of operation, so it doesn't preclude deliveries.

I mean that could be a condition. One of the homeowners suggested that we condition to not allow deliveries that late at night.

MS. MOTLEY: We have no problem with that. Our understanding of staff's condition was that we could not have deliveries after 11:00 p.m. at night, that what we would be allowed to do between 11:00 to 1:00 was work within the building itself, and staff doesn't want it open to the public. We would have liked it to be open to the public, but we're willing to go along with that condition.

The big issue for Wal-Mart was being able to restock and clean and do all the things that you need to do with a grocery store.

The 11:00 to 1:00 is important to them for that, but we -- I thought that was in the staff condition, no deliveries.

CHAIRMAN BARBIERI: Well, I think --

MS. MOTLEY: And we're willing to agree to it.

CHAIRMAN BARBIERI: Speaking for myself, I don't have any issue with your 11:00 to 1:00 for the stocking of shelves.

I guess I can see the homeowner's concern, though, if what staff is telling us is that we can have a semi pull up there, as long as they get there no later than 11:00, they can pull up, leave their truck running, unload it, clank the doors shut and leave at 1:00 o'clock in the morning.

I mean this is right behind these homes, so what can we do about that?

MS. MOTLEY: We're willing to agree that there can be no deliveries -- and what's important with these particular loading docks, too, is that these trucks come in. They don't idle. They come in, and they are attached to the store itself. They do not stay there.

So I mean if you wanted to be five of 11:00 or whatever, but I mean they are -- we do not intend to have deliveries after 11:00 p.m. at night. Deliveries, to me, are trucks.

COMMISSIONER BOWMAN: Mr. Chair, but what about the trucks leaving?

You know, I'm in a business that has a lot of trucks that come and go. You know, you have to monitor these truck drivers. They're going to drop the truck off, unload the truck, and he's going to have another load to go, and if there's not somebody watching him, he's going to start that truck up, and he's going to leave at 2:00 or

3:00 in the morning.

What's going to keep these trucks from, once he's parked there at five of 11:00, he has to stay there 'til the next morning before that truck driver pulls out? Is that what you're agreeing to?

MS. MOTLEY: No. Typically what happens, in answer to your question, is that these are -- one of the distinctive features of Wal-Mart and its truck deliveries is that these are typically Wal-Mart trucks. Wal-Mart is known throughout the world for its logistics system and its own trucks.

So they can control their truck drivers in terms of deliveries. It's not like having a lot of third party truck companies doing this.

What happens is these trucks come in. They actually leave the semi-trailer connected to the building, and they pick up the emptied semi-trailer, so that they're -- they do not wait for that same trailer to be emptied in order to leave.

So there will be no cabs waiting. If the condition -- if you want the condition to be that there are no trucks in the area, in the rear of the store after 11:00 p.m., that's fine.

That's what we understood the condition to be, anyway.

COMMISSIONER BOWMAN: I think that would be a nice addition to --

MS. MOTLEY: Okay.

COMMISSIONER BOWMAN: -- to the -- after 11:00 there's no trucks moving on the property. You're willing to agree to that?

MS. MOTLEY: Yes.

COMMISSIONER BOWMAN: 'Til the next morning.

MS. MOTLEY: Yes. We're talking about the semi-tractor trailers that would be in the -- in the rear of the store would not be there from 11:00 p.m. to -- I believe it's 5:00 a.m.

COMMISSIONER BOWMAN: So if a driver comes in late, gets there at five of 11:00, he shuts his truck off and he's stuck there. He's not allowed to hook to the next truck and leave.

MS. MOTLEY: Right. He actually will leave, anyway. He will drop off the trailer and leave, so it's not a problem to agree to that.

COMMISSIONER BOWMAN: My point is if he's physically late and he gets there at five of 11:00 and meets Code, and he's -- he cannot jockey around that yard after 11:00 o'clock.

If he misses the deadline, you're going to agree that he's going to spend the night there, get a hotel and shut his truck off.

MS. MOTLEY: He will -- he will leave the property is what I'll agree to. I can't tell you what he's going to do about where he's going to spend the night, but he will -- they will not be allowed in the rear of the property after 11:00 p.m.

COMMISSIONER BOWMAN: So it'll be a Code violation if he leaves after 11:00.

MS. MOTLEY: However you want to enforce

it.

MS. RECHENMACHER: We can put a condition on it to say no truck -- no overnight storage of trucks from 11:00 to 6:00 a.m. -- 11:00 p.m. to 6:00 a.m.

COMMISSIONER BOWMAN: Okay. Thank you.

MS. MOTLEY: Yeah.

MS. KWOK: Not storage, but that --

MS. MOTLEY: Yeah.

MS. KWOK: -- there's no truck traffic --

MS. MOTLEY: Yes.

MS. KWOK: -- in that area --

CHAIRMAN BARBIERI: Right, not storage, right.

MS. KWOK: -- between 11:00 p.m. 'til 6:00 a.m. in the morning.

And I also want to clarify that Use Limitation Condition No. 2. I just wanted to make sure that this -- all the stocking is in -- it's interior to the building and not exterior.

MS. MOTLEY: That is --

MS. KWOK: I just want to add that word, "interior."

MS. MOTLEY: If I might just clarify, too, we were talking about the trucks.

I believe it's the cab itself that you're concerned about, because I don't want it -- I mean they could drop off a trailer back there and leave before 11:00, which is what they do, so -- but the cabs themselves cannot be on the site after 11:00 p.m.

COMMISSIONER BOWMAN: My issue is that traffic or whatever, the truck driver has all these stops he's making. He has -- he works off a merit system, most likely, at Wal-Mart, and once he -- if he misses that deadline and he messes up his schedule for tomorrow, if nobody is there, that truck driver's going to leave.

I just -- I've seen it too many times, and I just want to make sure that everybody's aware for these neighbors that those trucks, if he's late, he's stuck there 'til the next day, and he's going to have to re-order his schedule.

MS. MOTLEY: Yes. I mean Wal-Mart has delivery restrictions in many locations, so this is not an unusual thing to have, and all we want is the ability to be treated the same way as the other grocery stores, which my understanding is that 11:00 p.m. is the restriction on Publix.

CHAIRMAN BARBIERI: All right. So, staff, I think we need a -- I think everybody agrees.

We need a condition that says there can't be any trucks moving back there after 11:00 p.m. Whether they're coming or going, they just can't be there at all between -- after 11:00 o'clock.

COMMISSIONER HYMAN: Let me ask a question.

Are all the stores in the shopping center, do they all have hours of operation limitations?

MS. RECHENMACHER: The Code does not allow activity for commercial adjacent to residential from -- from -- after 11:00 p.m.

COMMISSIONER HYMAN: Okay. So everybody's subject to the same --

MS. RECHENMACHER: Correct.

COMMISSIONER HYMAN: -- rule, because, you know, I was thinking --

MS. RECHENMACHER: Right.

COMMISSIONER HYMAN: -- what if some other store had a truck --

MS. RECHENMACHER: I can't verify it's strictly enforced, but if there was a complaint, then there is that provision in the Code.

COMMISSIONER HYMAN: Okay.

COMMISSIONER KAPLAN: Mr. Chairman --

COMMISSIONER HYMAN: Let me --

COMMISSIONER KAPLAN: -- in reference to your question --

COMMISSIONER HYMAN: Let me ask another question.

The -- one's part -- one side of this shopping center, just the one side is adjacent to the residential, right?

MS. MOTLEY: Yes.

COMMISSIONER HYMAN: And the gentleman asked about a wall, and, you know, I guess back when it was approved, it wasn't required.

Now if they got the project approved, they'd have to build a wall there, right?

MS. RECHENMACHER: No, they --

COMMISSIONER HYMAN: They wouldn't? Because of the canal?

MS. RECHENMACHER: Correct. If it was constructed now, a wall would have been required.

COMMISSIONER HYMAN: It is required.

MS. RECHENMACHER: Right.

COMMISSIONER HYMAN: So I know it's hard, you know, to come in after the fact, but is it possible to construct a wall on that one side of the property adjacent to the residential neighborhood?

MS. KWOK: No.

MS. MOTLEY: I think, Commissioner, the problem -- number one, that would not be a Wal-Mart responsibility. That would be obviously a shopping center responsibility if we --

COMMISSIONER HYMAN: Lake Worth Drainage District.

MS. MOTLEY: -- if we got to that, but the Lake Worth Drainage District easement prevents that.

I mean they don't even let us put shrubs and -- and trees in it.

COMMISSIONER HYMAN: Unless it's on the -- on the interior boundary of the easement, and I don't know where that falls in this project.

MS. MOTLEY: We're -- I know we're not permitted to have anything in that area.

Derrick. This is Derrick Cave with Kimley-Horn.

MR. CAVE: My name's Derrick Cave, with Kimley-Horn.

The Lake Worth Drainage District easement, if we were to place a wall on our property side of

that easement, it would be so close to our building, you couldn't get the trucks through there.

As stated before the easement's 25 feet wide on our property, but the landscape area from the back of curb to the property line is only five feet. So it's 20 feet into the actual paved area, and that's why, instead of building the wall on the property line, which you would typically do in a situation like this, this will go to the -- we've actually added walls screening all of the elements that actually exceed the height of the wall that would be required along the property line.

So, in essence, we're meeting the intent of the screen walls. It's just that they're against the building close to the elements instead of at the property line.

COMMISSIONER KAPLAN: May I suggest the rewording that the cab leaves, but the trailer remains, so we got to be very careful how you're going to word that condition.

MR. CHOBAN: Truck cabs.

MS. RECHENMACHER: Okay. So if we're agreeing that the trailer may remain and the cab -- cab shall go, there should be no overnight parking of truck cabs between the hours of 11:00 p.m. and 6:00 a.m.

COMMISSIONER HYMAN: You know, what difference does it make if a truck is parked there and it's not making any noise? I mean we're beating this thing to death here.

We just don't want trucks moving around, delivering or picking up, the Chair said, you know, coming or going.

MS. RECHENMACHER: Right.

COMMISSIONER HYMAN: I don't care if it stays there overnight and it's quiet. I doubt that the neighbors care. I don't think we should over-restrict this.

MS. RECHENMACHER: Okay.

MS. MOTLEY: Yeah.

MS. HERNANDEZ: So you're saying no truck traffic coming or going --

CHAIRMAN BARBIERI: Yes. Yeah, right.

MS. HERNANDEZ: -- at the rear of the --

CHAIRMAN BARBIERI: Right.

MS. MOTLEY: I like the word "moving" that the commissioner used to -- the Chair used, as well, no moving trucks in the rear of the store after 11:00.

COMMISSIONER HYMAN: Right.

COMMISSIONER BOWMAN: Mr. Chair, the issue with that --

MS. RECHENMACHER: Traffic activity might be another way.

COMMISSIONER BOWMAN: These truck drivers sleep in these trucks at night. So he's going to have the motor sitting there idling all night long if you're not careful.

MS. MOTLEY: Actually, "moving" or "idling," you want to add that to it?

MR. LENNOX: What -- what about -- I mean the coupling and uncoupling of the trucks and anything that's going to make noise --

MS. RECHENMACHER: Okay.

MR. LENNOX: -- I think truck activity --

MS. RECHENMACHER: Yeah, I would suggest that --

MR. LENNOX: -- is what we're concerned --

MS. RECHENMACHER: This is what Jim Choban -- there shall be no truck activity between the hours of 11:00 p.m. and 6:00 a.m. I think that covers everything, say "truck activity."

MS. MOTLEY: I got a problem with "truck activity," 'cause I don't know what that means, to be honest with you.

I'm sorry, Carrie, but --

MS. RECHENMACHER: Okay.

MS. MOTLEY: I -- I would prefer more "no moving or idling trucks in the rear of the store" --

COMMISSIONER HYMAN: I think she's right.

MS. MOTLEY: -- from 11:00 p.m. to 5:00 a.m." or whatever the --

MS. HERNANDEZ: Six a.m.

COMMISSIONER HYMAN: You understand what we're trying to get at

MS. RECHENMACHER: Right.

COMMISSIONER HYMAN: Why don't you work out the language.

MS. KWOK: Okay.

MS. RECHENMACHER: Okay.

MS. KWOK: "Truck activity including, but not limiting to," you know, moving and whatever those -- idling and coupling and --

CHAIRMAN BARBIERI: Yeah, see if you can work out the language --

MS. KWOK: Yes.

CHAIRMAN BARBIERI: -- so that the petitioner is satisfied.

MS. KWOK: We'll clarify that.

MS. RECHENMACHER: Okay.

COMMISSIONER HYMAN: I think the gentleman wanted to say something else, too.

MR. LENNOX: Yeah, I do have another question. I apologize. This is my first time involved in something like this, but this sounds all well and good that we're putting these restrictions on them, but, number one, that puts the onus on us to monitor this.

So does that mean that if 11:30 one night we hear a truck, we're the ones having to call people to complain for this?

CHAIRMAN BARBIERI: Yes.

MR. LENNOX: And then what happens to them? They get a slap on the hand?

I mean they can say they're going to do all of these things and they can leave here and go, hey, we won that because it's no big deal if we get a, you know, a Code violation on this. It doesn't matter if it happens. It's not going to affect our business.

That's what bothers me. I see us all

nodding our heads saying, yeah, this is a great restriction, but you're still forcing us to have to listen to this possible Code violations and be the ones that are reporting it, and then what happens?

If they continue to do it, you can't -- what are we going to do? Shut them down? It's -- I don't see how that's going to really help.

CHAIRMAN BARBIERI: Well, Code Enforcement has a lot of -- a lot of legal means to enforce Code restrictions, and I'm sure that at some point the fines would get very excessive if they continued violating it.

I'm not sure if they could actually shut down a store for a Code violation, possibly they can, but certainly the fines would be very, very hefty after awhile if they continue to violate it.

But to answer your question, yes, you're the ones that are going to hear it. You're the ones that are going to realize they're violating the Code restriction. You're going to have to notify Code Enforcement.

COMMISSIONER HYMAN: That's all we can do.

I mean we can't --

MR. LENNOX: I understand.

COMMISSIONER HYMAN: We can't stand a police officer outside of the property.

MR. LENNOX: No, no, I understand. I just wanted to be clear on that because, again, you know, I'm hearing a lot of things like well, that's what Publix does and that's what other companies do.

I don't have Publix, you know, trying to put up a building in my back yard. I don't really care what Publix does on the other street.

I'm concerned with what goes on behind my house. I'm concerned with the noise.

I'm also -- another issue I haven't heard anything about is lighting because there's lighting coming into our neighborhood right now, as well. I don't know if that's the mall, if that's the complex' responsibility or if it's their responsibility.

And I'm still wondering about this wall issue, if there's some kind of a compromise that we can come to, whether it's with the homeowners association. Is there any way the wall can be built on our property?

Because this, you know, now we're talking about -- again, let's say that, you know, four or five trucks pull up -- well, I'll use the hurricane last -- two years ago as an example.

Hurricane came through and basically eliminated the vegetation in our back yards, which means we're looking directly into that mall.

It took two years for that to grow back and fill in. So if we get a hurricane, that vegetation is going to be eliminated, and we're going to be staring at tractor trucks every single night or every single day.

COMMISSIONER HYMAN: Okay. First, we can't require him to construct something on

somebody else's property --

MR. LENNOX: No, I'm -- right.

COMMISSIONER HYMAN: -- but -- but -- okay. So we couldn't require that.

Now, that's not to say that your association couldn't get together with the developer and reach some kind of agreement with regards to that. Certain issues would have to be addressed, besides who builds the wall, who maintains the wall, okay, and that's always a big deal.

But I would think that you'd also have Lake Worth Drainage District -- you'd have an easement on your side of the property, as well, don't you?

MR. LENNOX: Yes.

COMMISSIONER HYMAN: So you may have the same problem that they have. I know they don't allow improvements typically on their easements, but why don't you take, you know, the next month or so and investigate the possibilities for that, and then you can come back to staff and they can present it.

VICE CHAIRMAN ANDERSON: You can always increase the landscaping buffer, too. If you can't build the wall, you can increase the vegetation that's there.

MR. LENNOX: Right, which is our responsibility, the homeowners' responsibility.

VICE CHAIRMAN ANDERSON: Right, but, again, the homeowner -- you can do it or you can -- if there -- if there is any land in the buffer, then the homeowners association can do it or the developer, if they would agree -- agree with a meeting with the homeowners association.

MR. LENNOX: Okay. I'm still not -- also not sure on exactly how much room they have. They said they can't put a wall up. Does that mean they can't put up any landscaping on their side to buffer this --

COMMISSIONER HYMAN: Well, they just said --

MR. LENNOX: -- and said it was like five feet?

COMMISSIONER HYMAN: They are putting that up. Did you see that?

MR. LENNOX: That -- okay.

COMMISSIONER HYMAN: Do you see that?

MR. LENNOX: Six trees. Okay. I'm sorry. It doesn't really do much.

I'm just wondering if there's more --

COMMISSIONER HYMAN: Well, I don't think it's --

MR. LENNOX: -- that can be done.

COMMISSIONER HYMAN: -- six trees.

Do you want -- staff, can you explain the vegetation that's being required?

MS. HERNANDEZ: Carrie.

MS. RECHENMÄCHER: The -- what the applicant is proposing, right now the truck -- the truck dock that's there is flush with the ground.

What the applicant is proposing is a sunken truck

well.

So it actually is going to improve the situation, and on top of that they're providing a screen wall adjacent to the building. The screen wall will be attached to the building.

Then behind that screen wall they're going to be providing landscaping adjacent -- there's a picture of what it looks like now, which is very sparse, and it's not particularly attractive.

With the new -- with the new -- with the truck --

MR. LENNOX: Anything going to be done here?

MS. RECHENMACHER: -- well addition it should -- it appears to be an improvement because it'll be sunken. You won't be able to see the trucks when they're loading.

COMMISSIONER HYMAN: Do you have a drawing, Kim, of what it's going to look like?

MS. RECHENMACHER: And we're also requiring additional landscaping to the east of that truck well in that rear parking area.

So I mean there's -- there's no room right now to be putting landscaping because there's that 80-foot Lake Worth Drainage District easement, 25 feet of which is on the applicant's property.

COMMISSIONER HYMAN: And this has to be irrigated, too, right, this landscaping?

MS. RECHENMACHER: Yes, absolutely.

COMMISSIONER HYMAN: Don't know how they're going to do that, but --

MS. RECHENMACHER: And that 25 feet is actually the -- also the access aisle. There's no --

COMMISSIONER HYMAN: Yeah.

MS. RECHENMACHER: If we condition --

COMMISSIONER HYMAN: Look at the site plan. You'll see. It's -- they're trying to, you know, fix a situation that was allowed, you know, years ago, and now you're sort of retrofitting it, and I -- we're sensitive to your concerns. I think this is about as good as you can get.

MS. RECHENMACHER: This truck well is actually -- this -- unfortunately, this happens to be the closest area to any residential. All around this property is commercial. To the west of the property is commercial, then, of course, you're on a major intersection.

COMMISSIONER HYMAN: And it's better than it is now. I think that's the important point is that, to me, that -- this -- what's going to be is of marked improvement over what is.

MS. KWOK: Right.

MS. MOTLEY: I mean what -- what they could have is an open loading dock area 'cause that's what's currently the --

MS. RECHENMACHER: That's what's currently there.

MS. MOTLEY: -- situation, and these screen walls for the -- this loading area are 10 feet in height, and the trucks actually go down below so they're not going to see them.

COMMISSIONER HYMAN: So the -- what about the lighting in the center? I knew he was going to ask about this sometime.

MS. MOTLEY: Yeah, there's no new lighting proposed. I don't know if there are issues with the current lighting. We can certainly go back to Woolbright and at least let them know if there are issues.

Do you feel like the lighting goes beyond --

MR. LENNOX: Yeah. Oh, yeah, definitely.

MS. MOTLEY: Okay. I mean I can convey that message. That's really --

COMMISSIONER HYMAN: Do you want to impose the requirement --

MS. MOTLEY: -- not our responsibility, but in terms of the overall shopping center.

COMMISSIONER HYMAN: It's big.

MS. HERNANDEZ: As part of the Unified Land Development Code under Article 1 when they revise a -- redesign an existing shopping center, if they trip a threshold for cost of those renovations, they are required to bring their lighting up to the current Code. The current Code being that you can't have more than a 0.03 spillover onto an adjacent residential property line, and --

COMMISSIONER HYMAN: This probably doesn't meet the threshold, though, right? Do you -- have you --

MS. RECHENMACHER: Oh, yes, they --

COMMISSIONER HYMAN: -- calculated that?

MS. RECHENMACHER: -- exceeded the threshold. That's why they needed to get the variance.

The shopping center has been going through -- from my past few site visits, it's gone through amazing landscaping renovations and architectural renovations. It's -- it's gone through quite a facelift over the past couple of years. It looks very nice.

The rear -- but they didn't have a main anchor store, and this is one way that this new tenant is proposing to retrofit for their needs.

COMMISSIONER HYMAN: All right. So you're going to address the lighting, make sure the lighting complies with the new Code?

MS. MOTLEY: Right. Commissioner, Derrick Cave was just telling me that we have submitted a lighting plan to show that the lighting, at least with the store itself, will meet current Code.

MS. RECHENMACHER: We could ask for a photometric plan. I think that's required, anyway, as part of the building --

MS. MOTLEY: It's been submitted.

MS. RECHENMACHER: -- permit, but --

MS. MOTLEY: It's been submitted.

MS. RECHENMACHER: Okay. And also I'd like to point out that there is a -- there's an 80-foot Lake Worth Drainage District easement. The Smith Dairy has a 10-foot buffer, and then there's a setback for the homes. So you have a

100-foot separation --

COMMISSIONER HYMAN: At least.

MS. RECHENMACHER: -- from the loading dock, yeah, minimum. That's from the closest residence.

CHAIRMAN BARBIERI: Okay.

MR. LENNOX: Just one question about -- you said getting together with -- with them and with our homeowners association.

Again, you know, I'm not saying we have the best or worst homeowners association. The communication was not good. It's only been two months, and I feel like this is happening very quickly.

What kind of steps can we do so we can ensure that we can actually try to sit down with these people and talk about possibly building a wall on our property? Is that something -- just talk to them after the meeting? I'm just not sure how things like that work.

CHAIRMAN BARBIERI: Right. If you -- if you get Susan Motley's information or Kim's, I'm sure that they'll talk to you between now and the Board of County Commissioners, and if you guys can't resolve what you consider -- come to a fair resolution, then you'll have the opportunity to address this with the County Commission, and they can impose whatever conditions they would like to do at that point.

MR. LENNOX: Okay. Thank you.

CHAIRMAN BARBIERI: You're welcome.

Mr. Curtis, I think you were the last one that wanted to speak? I'm sorry, Mr. Hull.

MR. HULL: That's okay. My name's David Hull, 6176-C Durham. I'm actually neighbors to all these guys.

I only had two really quick questions. You've addressed almost every other issue that we had, and obviously we have concerns, you know. I'm a small business owner. I understand all this stuff.

I -- I -- honestly, I would love to see something in that complex, and I think it would improve our values and things like that, but at the same time we just have concerns. It is very close to the back of our homes.

Unfortunately, my home happens to be one of the very closest so I get to hear everything. If somebody drops a beer bottle behind my house, we hear it.

I have an eight-month old baby. I've got to worry about these things.

I only have really two questions. How many bays is the loading and unloading area? Is it two, is it four, is it six?

MS. MOTLEY: Two.

MR. HULL: It's two. Okay. And then when we have the trucks that are actually just going to be sitting there, are they just going to leave their trailers now?

Now, I know that we've just beaten the heck out of this thing, but if we're going to have

just open trailers sitting there -- I have a lot right next to where my business is down in Broward County, and there are, you know, tons of trailers just lined up there.

I just want to make sure that we're not going to have, you know, two empty trailers as they're getting two full trailers. I just don't want to have it be a trailer storage area, as well. So that's a concern of mine, too.

I know it's all well and good that we don't want the rigs there, but I think we're talking about the entire rig. We don't necessarily want it to -- I mean I know we're talking about a wall, but I don't want the wall to be trailer rigs.

So that's something that I was concerned about, as well.

And just to comment on the last comment that Mr. Lennox just said was just how unfortunate it is that we haven't had dialog in order to be able to sort out all these issues.

So I know that they've tried. Unfortunately, I guess the breakdown in communication came from our homeowners association, which, unfortunately, some of us don't have a whole lot of faith in, especially me at this point 'cause I feel like these are all things that we should have sorted out a long time ago instead of wasting the council's time with it.

As far as the -- the only other thing that I'm curious about is when the trailers back up or the trucks back up to the trailers, that actually makes a pretty tremendous amount of noise.

There are trucks that do that constantly right next to my shop. I can hear them through the walls of my office, and I have a mechanic repair shop. Right behind there I can actually hear the trucks over guys using air tools.

So these are all just, you know, concerns that we want to make sure and get out there in the open and make sure that they get addressed.

CHAIRMAN BARBIERI: Probably a lot of those issues you need to discuss with them between now and the next County Commission meeting and see if you can get some resolution to those.

VICE CHAIRMAN ANDERSON: If you can't get the homeowners association involved --

MR. BANKS: This is --

VICE CHAIRMAN ANDERSON: -- you as a group can meet with them and then --

MR. BANKS: This is a variance request, so you guys make the decision.

CHAIRMAN BARBIERI: I'm sorry. Forget about all that County Commission stuff.

VICE CHAIRMAN ANDERSON: Oh, that's right.

CHAIRMAN BARBIERI: I guess we are it, so I guess we're going to have to resolve all these issues today if we haven't done that already.

COMMISSIONER HYMAN: The only thing we can ask is that you -- petitioner, will you take this gentleman's name, number and commit to meeting with him and --

MR. HULL: I already got the information.
Unfortunately --

COMMISSIONER HYMAN: -- good faith dialog
with them with regards to -- we can't impose the
requirement --

MS. MOTLEY: And I will get the shopping
center owner involved, as well.

CHAIRMAN BARBIERI: Yeah, Woolbright's an
excellent developer. I mean they're buying
shopping centers -- and they do a great job, and
I'm sure they'll be very receptive. They're --
they're always working with the communities around
them to make sure everybody's happy because
they're -- they build neighborhood shopping
centers, so --

MS. MOTLEY: And they really have made a
commitment to the shopping center to improve it.

COMMISSIONER HYMAN: Okay. I'm going to
move for approval of the resolution, the Type II
zoning variance, to allow the 100 percent overlap
of utility easement, to eliminate the
incompatibility buffer and tree and screen
requirements, allow additional hours of operation
and to allow the reduction of dimensional criteria
of parking spaces, all subject to all the
conditions as modified.

COMMISSIONER KAPLAN: Second.

MR. BANKS: We do need wording for --

COMMISSIONER HYMAN: Oh, and I will go
through it, yeah. Okay. Hold on.

I think special conditions --

MR. BANKS: 'Cause I don't know that we --
I don't know that -- we just can't say, you know,
work out a condition. We need --

CHAIRMAN BARBIERI: Right.

MR. BANKS: -- the condition read into the
record.

COMMISSIONER HYMAN: Okay. Let me go
through the -- I think special conditions,
circumstances do exist -- okay -- that are
peculiar to the land.

I think special circumstances and
conditions that exist --

MR. BANKS: Are you --

COMMISSIONER HYMAN: I'll do that -- do
not result from the actions of the applicant, and
the granting of the variance does not confer upon
the applicant any special privileges.

I think that a literal interpretation,
enforcement of the terms of the Code would deprive
them of rights commonly enjoyed by others, and
granting the variance is the minimum variance
possible for the reasonable use of their property,
and the granting of the variance will be
consistent with the purposes, goals and
objectives, and the granting of the variance will
not be injurious to the area involved because of
the conditions that we're imposing.

And the condition is that there should be
no truck traffic, including, but not limited to
running engines --

MS. KWOK: Right.

COMMISSIONER HYMAN: -- loading, unloading
 after --
MS. KWOK: Idling.
MR. CHOBAN: Uncoupling.
COMMISSIONER HYMAN: -- that's running
 engines, idling after 12:00 p.m.
CHAIRMAN BARBIERI: Eleven o'clock, 11:00
 p.m.
COMMISSIONER HYMAN: What'd I say?
CHAIRMAN BARBIERI: Twelve.
COMMISSIONER HYMAN: Eleven o'clock p.m.
COMMISSIONER KAPLAN: Second.
CHAIRMAN BARBIERI: County Attorney, you
 satisfied with that?
MR. BANKS: Yeah.
CHAIRMAN BARBIERI: Susan.
MS. MOTLEY: Yeah, I just wanted -- do we
 need 11:00 p.m. to --
CHAIRMAN BARBIERI: Between 11:00 p.m.
 and --
COMMISSIONER HYMAN: What is it, 11:00
 to --
COMMISSIONER KAPLAN: One a.m.
MR. CHOBAN: Six a.m.
CHAIRMAN BARBIERI: Six.
COMMISSIONER HYMAN: Six a.m., and there
 is the second condition which allows the extended
 hours from 11:00 to 1:00 is limited solely to
 internal --
MS. MOTLEY: Stocking is the
 terminology --
COMMISSIONER HYMAN: Okay.
MS. MOTLEY: -- that was used.
COMMISSIONER HYMAN: Within the building.
MS. MOTLEY: Work within the store.
MS. RECHENMACHER: Right. That would be
 use limitation No. 2, and the retail structure, A,
 shall be limited for stocking only internal to the
 building.
COMMISSIONER HYMAN: Okay. And then in
 two where it says no deliveries permitted, it's no
 deliveries or exiting of the property during the
 extended hours.
MS. RECHENMACHER: No deliveries or
 activities permitted. Okay.
COMMISSIONER HYMAN: Truck movement.
MS. RECHENMACHER: And that -- we're going
 to do a separate condition.
 There should be no truck activity,
 including, but not limited to, idling --
COMMISSIONER HYMAN: Loading, unloading --
MS. RECHENMACHER: -- coupling or
 uncoupling of truck cabs.
MS. MOTLEY: I think the word that the
 commissioner used was "truck traffic," which I
 think is better than "activity," just because if
 the --
MS. RECHENMACHER: Truck traffic. Okay.
MS. MOTLEY: -- if the trailers are left
 hooked up to the building, they may be internal to
 the store doing things, and I don't want that to
 be a truck activity, so I think "truck traffic" is

better --

COMMISSIONER HYMAN: That's fine with me.

MS. MOTLEY: -- and then the rest we're fine with.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: And also the additional condition with regards to the lighting.

MS. RECHENMACHER: The photometric plan is part of the building permit, and we just actually -- Wendy was just looking at it, and there have to be some revisions to that, and we'll look at that at final DRO and prior to building permit.

MS. MOTLEY: And that's fine.

MS. RECHENMACHER: It's a photo -- it's a Code requirement, anyway, for a photometric plan.

COMMISSIONER HYMAN: And, you know, and the landscape condition, which is No. 1, which says provide additional landscape treatment, we're not giving them any kind of guidance here.

We need to say exactly what that landscape treatment is going to be. Is it A, B, C? What is the landscape treatment that's being required? Is it consistent with this plan that's been submitted and approved? But you need to put down the standard.

MS. RECHENMACHER: Well, actually, it would be in addition to what this -- this plan is not something that we've had officially submitted, and it has -- this has to go through final DRO, and I know I've talked to the Landscape Department, and --

COMMISSIONER HYMAN: So is it additional landscape treatment acceptable to staff?

MS. RECHENMACHER: Yes. Okay. We could do that.

MS. MOTLEY: That would be fine.

MS. RECHENMACHER: Okay.

MS. KWOK: I think what happened here is you have a situation that you cannot put in a incompatibility buffer where it should be located, which is at the perimeter of the property line because of the Lake Worth Drainage District easement.

So my question to Carrie is are they transferring all these required incompatible plant materials on to the foundation area, like -- is that -- canopy trees and palms and pines and three layers of shrubs or may I ask the applicant to clarify that? What is going into that, other than, you know, those five or six canopy trees and -- I believe those are hedges or flowering trees, the lower plant materials?

COMMISSIONER HYMAN: There needs to be a landscape plan that's acceptable to staff.

MS. MOTLEY: Right. Have we submitted a landscape plan? I'm asking Derrick.

MR. CAVE: Yes, we've submitted a landscape plan, and we have over the last couple of weeks been having ongoing conversations with the County as to what materials they want in there, and we're working all of that out prior to

the final DRO submittal.

CHAIRMAN BARBIERI: All right. So like Commissioner Hyman said, if we can have a condition that says landscaping acceptable -- acceptable to staff?

MS. RECHENMACHER: Yes, I would --

COMMISSIONER HYMAN: And it's got to be irrigated.

MS. RECHENMACHER: I would suggest this language, "Prior to final DRO approval additional landscape treatment as acceptable to the Zoning Department shall be provided by the property owner adjacent to the truck loading area."

MS. KWOK: Actually, it should be saying, "In addition to the required foundation planting, plant materials will be provided in order to address the incompatibility issue."

COMMISSIONER HYMAN: So you're going to require foundation plantings all along the rear?

MS. KWOK: That's a Code requirement, foundation planting, anyway, so I wanted to make sure that we have additional plant materials on top of those required foundation planting.

MS. MOTLEY: If I -- if I just might clarify, it is to the extent possible. This is an old shopping center.

We're not going to be able to have foundation plantings around the entire building, and we've been working very well with staff in terms of coming up with --

MS. KWOK: In the affected area.

MS. MOTLEY: -- additional landscaping.

MS. KWOK: In the affected area, the affected area being the variances being requested, which is the area that you show on the plan.

COMMISSIONER HYMAN: Okay. I think that's fair.

COMMISSIONER BOWMAN: Mr. Chair, I hate to bring up an issue this late since we've been beating this thing to death, but it just came to my attention that this is a grocery store and these are refrigerator reefers.

Are the trailers going to be running all night? Are they going to be unloaded and turned off?

COMMISSIONER HYMAN: We just -- we talked about that. It can't be --

COMMISSIONER BOWMAN: Talked about the cabs, but not the -- there's also a motor on the trailer, a diesel motor on the trailer for the refrigeration trucks.

COMMISSIONER HYMAN: Well, I don't --

COMMISSIONER BOWMAN: Since it's produce in there if it's a grocery storey.

MS. MOTLEY: But the cab itself leaves, so it's just the trailer --

COMMISSIONER BOWMAN: But the trailer has a motor.

MS. MOTLEY: -- itself, and it's --

COMMISSIONER BOWMAN: The trailer has a motor also with a refrigeration unit on it.

MS. MOTLEY: That's from the -- internal

to the building; correct?

MR. CAVE: Yeah, they plug into the building for that to run.

MS. MOTLEY: So it's part of the air conditioning of the building once it's attached to the building.

COMMISSIONER BOWMAN: So the reefer units on the trailers you'll agree won't be running after 11:00 o'clock at night?

MS. MOTLEY: I don't know what a reefer unit is, so I'm going to defer to Derrick, so --

MR. CAVE: That I can't guarantee. I mean it's not a requirement for any other use that it's not allowed. I mean --

COMMISSIONER BOWMAN: It's still a diesel motor running in a parking lot all night long.

MR. CAVE: It's fully -- again, it is fully enclosed --

COMMISSIONER BOWMAN: Well, it's not fully enclosed.

The reefer unit's on the front of a trailer with a muffler sticking out of it, and it's -- and it has -- it's run by diesel engine.

MR. CAVE: It's -- again, it's not any different than any other grocery store use that's allowed in Palm Beach County. Whatever --

COMMISSIONER HYMAN: Why would there be trailers in the parking lot --

MR. CAVE: It's -- it's not. There would be --

COMMISSIONER HYMAN: -- running?

MR. CAVE: -- two there -- at a maximum, two trailers in the loading area.

MS. MOTLEY: In the sunken location with a wall and landscaping around it.

COMMISSIONER HYMAN: Okay. So there should -- outside of the -- you know, the loading dock there can't be any -- we talked about it.

MS. MOTLEY: Right.

COMMISSIONER HYMAN: There can't be any idling.

MS. MOTLEY: Absolutely. We're in total agreement with that, but with regard --

COMMISSIONER BOWMAN: I just want to define the difference between the cab and the reefer unit in the back where the produce would be sitting.

COMMISSIONER HYMAN: Okay. I don't think we --

MS. MOTLEY: But we're not --

COMMISSIONER BOWMAN: We agree that that one won't be running, either.

MS. MOTLEY: Okay. But we're not talking about the trailers that are actually attached to the building. Those can -- the maximum that could be there are two.

COMMISSIONER BOWMAN: But if there's one in the parking lot --

MS. MOTLEY: Right.

COMMISSIONER BOWMAN: -- the truck leaves. He's sitting there. He's got a full load. He can't unload. He's got a diesel motor that's

attached to the trailer running all night.

MS. MOTLEY: And we have no problem with that condition, Commissioner --

COMMISSIONER BOWMAN: Okay. Thank you.

MS. MOTLEY: -- that we not do that.

COMMISSIONER BOWMAN: Okay.

MS. MOTLEY: I just wanted to make sure that the two that are attached to the building, while they're unloading it, can remain.

COMMISSIONER BOWMAN: Yeah, that's --

COMMISSIONER HYMAN: No motors running in any cab or trailer --

COMMISSIONER BOWMAN: -- the ones with the power, I agree to that.

COMMISSIONER HYMAN: -- outside of the loading dock.

MS. MOTLEY: Right.

MS. HERNANDEZ: Based on the site plan that was provided, there will only be two trailers, those that are located in the dock.

Two other trailers, or four or five other trailers would not be located on site because it's not indicated on the site plan as a loading space or storage area.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: So just to address fellow commissioner's concern, there should be no running motors in any cab or trailer, you know, affiliated with the business after 11:00 o'clock p.m.

MS. RECHENMACHER: After 11:00.

CHAIRMAN BARBIERI: All right. Ready for a motion?

COMMISSIONER HYMAN: That's all my motion.

CHAIRMAN BARBIERI: Do we have a second on Commissioner Hyman's extended, extensive, substantial motion?

COMMISSIONER BOWMAN: I'll second that.

Second.

CHAIRMAN BARBIERI: Second by Commissioner Bowman.

Is there any further discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONER BOWMAN: Aye.

COMMISSIONER HYMAN: Aye.

COMMISSIONER BRUMFIELD: Aye.

COMMISSIONER KAPLAN: Aye.

VICE CHAIRMAN ANDERSON: Aye.

CHAIRMAN BARBIERI: Aye.

Opposed.

COMMISSIONER ARMITAGE: Aye.

CHAIRMAN BARBIERI: Motion carries, 7-0.

MS. MOTLEY: Thank you very much.

COMMISSIONER ARMITAGE: Mr. Chair.

CHAIRMAN BARBIERI: Yes -- I'm sorry, 6-1.

Commissioner Armitage is voting opposed to the motion.

MS. HERNANDEZ: Okay. That brings us to the regular agenda, and on the add/delete we are reordering Item 10 and 11. So Item 10 will become 11, and Item 11 will become No. 10.

So that brings us to ZV/DOA2007-981, Lakes at Boca Raton PUD.

Doug Robinson will give the presentation.

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

Proposed before you is a development order amendment for the Lakes of Boca and also a request for a Type II variance to eliminate a 15-foot incompatibility buffer, tree and screening requirements adjacent to the southeast boundary of the -- of a water management tract.

The applicant is requesting to delete 8.93-acre civic tract and combine them with the vacant 11.52-acre adjacent parcel east of the property line to form a new 20.45-acre parcel which will be an expansion of the church, which is the next application.

Removing this site will create a new PUD boundary, and it requires a landscape buffer to be installed between the commercial boundary of the civic site and the PUD where there's a water management tract located in the affected portion of the area, and I have a -- I'm going to try to make it a brief PowerPoint presentation.

Summary of the request is a Type II variance to eliminate 15-foot incompatibility buffer and screening requirements and a development order amendment request to delete land.

And what you see right now is the overall -- overall PUD with the affected area in orange is the -- is all a part of the PUD, and the yellow is the -- is part of the next application which affects this application.

And if you go to the next slide, this is the approved master plan which includes the affected area.

Okay. Go to the next slide, please.

Staff is denying the request for the Type II variance and the development order amendment based on the applicant's failure to meet purpose and intent of a PUD, Article 3.E.2, which states the purpose of a PUD district is to offer a residential development alternative which provides a living environment consisting of a range of living opportunities, recreation, civic uses and a limited amount of commercial uses.

Residential PUD shall correspond to a range of land uses in the plan, and the intent of a PUD is to promote imaginative design approaches to the residential living environments, and these are included, but not limited to.

And I have D and F which is applicable to this application, and D is the establishment of private civic and/or public civic and recreation area to serve the PUD, and, F, to provide for efficient use of land and public resources by collocating harmonious uses to share civic uses

and public facilities and services for the residents of Palm Beach County.

And the next slide you'll see is the actual PUD with the new boundary created without the site, an additional site.

And the next slide you'll see is the proposed site plan which also shows the same configuration.

And the next slide is the water management tract which is to the left, and to the right is a part of the -- the original application, the existing church, and the next slide shows the water management tract by itself in which we feel -- staff feels that it has enough room to put the buffers on there that they're asking to be eliminated.

And just some points. The civic site has always been apart of the Lakes of Boca PUD, and it was originally approved in September of 1983 -- I'm sorry -- yeah, September. The actual -- the actual PUD was approved in September of '83, and a church came on, and it was approved in August of '99 as a part of the Lakes of Boca PUD, but it had its own independent approval and its own independent resolution.

Staff has met with the applicant and discussed two options for the church to move forward within a -- with the acquired and existing parcels for this land expansion.

The first option was to -- which was highly recommended by staff -- was to add the adjacent 11.52 acres into the Lakes of Boca PUD and combine it with the existing 8.93-acre civic parcel to make one large site totaling 20.45 acres and which was done.

A good example was the YMCA civic site of Boca of Del Mar in south county, which they are their own independent approval and has its own independent resolution, but is a part of the Boca -- Boca Del Mar PUD.

Option two with staff told the applicant that we -- we couldn't support what's the deletion of the 8.3-acre civic site -- deletion of the 8.3-acre civic site, and staff wasn't able to support this particular option because it conflicts with the purpose and intent of the PUD when, as I stated before, there's significant room for the water management tract to put the buffers in, and the Code allows for a 50 percent reduction of the required landscape buffer because of the open space that it has.

In conclusion the staff has recommended denial of the Type II variance based upon standards enumerated in Article 2, Section 2.B.3.E of the Palm Beach County Unified Land Development Code which an applicant must meet before the Zoning Commission who may authorize the variance.

And staff has also recommended denial of the DOA based upon the applicant's failure to meet compliance with the standards that are expressly established by Article 2.B.2.B, and, finally, the request does not comply with the criteria, Article

2.B.2.B.2 consistent with the Code and Article 2.B.2.B.9, changed circumstances.

And I can defer to the applicant if they have a presentation.

CHAIRMAN BARBIERI: Do you have a letter in the file that indicates that the Lakes at Boca Raton PUD have approved this and have no problem at all with this petition?

MR. ROBINSON: Yes.

CHAIRMAN BARBIERI: Okay. Is that part of our record? I didn't see it in the package.

MS. RECHENMACHER: Yes, it is.

MR. ROBINSON: No.

CHAIRMAN BARBIERI: All right. So for the record, the Lakes at Boca Raton PUD, which we're trying to affect their boundary, is in full support of the change to their PUD to eliminate this parcel from the PUD. That's correct?

MR. ROBINSON: Yes, sir.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: That's a pretty critical point.

MS. COLOME: Okay. My name's Liz Colome, I'm the agent for Diocese Palm Beach -- the bishop of the Diocese of Palm Beach, and I'd like to say good morning, Commission, and thank you for letting us be here.

I'd like to also thank the congregation and Father O'Flarity (ph) for coming to join us and show support for the project.

At this time we have a PowerPoint presentation, and I'd like to -- I'm going to provide some information about the site specific.

We kind of combined the two applications with your approval because they are affecting each other in the request for variances and things, so we have one presentation for the two different projects.

But at this time I'd like to introduce Kevin McGinley. He's going to provide background on the project.

Thank you.

COMMISSIONER HYMAN: What a surprise.

MR. MCGINLEY: Good morning. Thank you. Kevin McGinley. They had a saint in the name of the title so they had to call me in, as you can see.

I'm here not just as a consultant to Colome and Associates and the church, but also a member of the Diocese Real Estate Board that I've served on for 20 years, and as a member of that Board I was a Board member and considered the acquisition of this property, the property within the PUD, when it was offered by Palm Beach County.

And that's what I'd like to do is give a little background to what went on with that process and why we're here today.

First of all, I want to thank the staff for re-ordering 11 and 10 because that's very important if you see the subtlety of it because we are inconsistent with the Code if you were to take the first item first, and that is the special

exception and rezoning.

We obviously can't rezone within a PUD to a different zoning district, so, yes, we admit we are inconsistent with that request.

We also cannot have a Class A conditional use within a PUD. We have a requested use. So that was obvious.

I appreciate the staff reordering that 'cause I was going to spend about 10 minutes justifying that.

We took an oath before we started today, and that was to tell the truth, the whole truth and nothing but the truth, and I realize that the staff has a case to make, and they're going to selectively look at certain things, but if I could just bring the whole truth to this, I think it would be very important.

And first of all, the property that we have in the PUD was offered to the general public through a bidding process. The diocese, because it only -- eight acres adjacent to it, and you can see there the overall.

You can see the proposed expansion piece there, and I believe the next -- the next slide would show the difference.

That property that you see there is the subject of the expansion. That was first purchased by the Diocese of Miami before the Diocese of Palm Beach was formed. Diocese of Palm Beach was formed as a mix between properties at Orlando, the Diocese of Orlando had and the Archdiocese of Miami had, forming the Diocese of Palm Beach.

That project was approved for a daycare center quite a long time ago for migrant workers that were the only residents out here in the western area, so to speak, before this PUD was even built.

The next slide, Liz.

That property is a Lake Worth Drainage District. Again, just as the Palm Beach County property within the civic tract was made available to us, so was this property, the Lake Worth Drainage District.

They had a drainage district easement that didn't go anywhere from Yamato Road to Cain Boulevard, approached the neighbors on both sides and said, hey, do you guys want this. We accepted it.

The next slide, please.

That shows you the portion what's in -- is within the PUD, and that portion, as I said, went out to bid. We were the only bidders for the project with the sole intent to combine it with the eight acres that's east of this site to make a 19-acre, a 20-acre church site for development.

Back in the old days when the Catholic church, or all churches initially established in Palm Beach County, you could probably get away with a few acres of property. You didn't have the same landscaping, drainage conditions and the like that you have now.

It was imperative that we had 18 to 20 acres to develop this church site.

When I first got involved with the church, it was before they even contemplated moving to this site. We didn't have the property. We were in the Boca Hamptons Plaza, I believe, with a different pastor, and they were meeting in a storefront with their eyes on this all the time, and you can see over the years, the momentum has built to the point where we're here today asking for the expansion.

So getting back to the story of the whole truth, we were actually -- when we -- when we submitted this, we realized, hey, this is a hybrid. We've got a piece in a PUD. We've got a piece outside the PUD.

I've been doing this work for 25 years, and I wasn't sure how to -- how to frame this.

So we met with staff, and we basically put our cards on the table and said here's what we have. We have a hybrid. And they actually gave us three choices, and we had a letter to that effect, even though the staff report says they only gave us two.

The three choices they gave us were to delete area from the PUD, join the PUD or look at it as a standalone project, don't affect the PUD, just do it all by itself, and that's what we did.

We submitted for a pre-application with the staff and went through a month and a half review of all the staff agencies. We got a letter back from them basically saying these are the three choices that you have.

We chose option three. Option three was going to be a standalone church. The standalone church would not have changed the boundaries of the PUD. All we would have done is shown connection from our -- from the existing church -- existing parish hall, which is in the Lakes of Boca PUD, to the new property, come to you for some variances so we wouldn't have to landscape in between our own project and make it stand that way.

Well, we submitted that application. We got certified by the DRO.

We had sent out advertisements and posted the property for public hearing, and this was back -- we were -- we were to be before you back in May.

Suddenly in April staff decided you know what, we probably shouldn't let you go along with that one. And so we met with staff, and then the two options became available to us.

Fine. We didn't grumble. We didn't go to anybody complaining. We said how can we make this work. So then the two options were on the table.

Now we take a look at those two options.

Do we want to take a church which serves overall west Boca community and put it into a PUD? Why would you do that?

The intent of the PUD, as staff has stated, is to serve the PUD. I wish everybody in

the Lakes of Boca were Catholic and would go to this church, 'cause I'd be busy building another one down the road, or helping to build another down the road, but they're not. This doesn't serve the PUD.

Even so, the County, when it made the civic tract available to any bidder for any use, come and buy it, do whatever you want with it, good luck with zoning, they said, hey, we don't need it to serve the PUD. It's not there.

Another part of the whole truth is, that's not in the staff report, is there've been parcels deleted from this PUD over the years.

Liz, do you have that?

Two parcels, one a commercial tract and the other a residential tract. You can see the commercial tract known as Resolution 84-66 and a residential portion of it, and as you're looking at this slide, you'll notice one thing. We are on -- we are at the southeast corner of the PUD. We are not internal to the PUD. We're not in the middle of the PUD. We are on the fringe of the PUD.

The site plan that Liz is going to talk about later on is going to show that by combining these two pieces of property, we'll have an exit onto 441, be less of an impact to the PUD and less of a need to be in the PUD 'cause the PUD doesn't reach out to 441 now.

If we were to add ourselves to the PUD, now the PUD would have direct access out into State Road 7 south of Yamato Road. There's -- we -- we have concluded that there's just no reason to be in that.

And to add a little bit more of a problem to it we were told that option one or two, way back when we went through the pre-application process, would require consent of the homeowners association, and I took exception to that because I cannot in good faith go to the church and say you've got to go and cut a deal with the homeowner association to either go in the PUD or come out of the PUD because we need consent from them, and that's what we were directed by staff.

I had worked with the County Attorney's Office to clarify that, and later on the staff withdrew its requirement that we provide consent from the homeowner association to acknowledgment to the homeowner association, and by doing that we're here where we are today.

And as staff would have us do is, given the three options, option three, certified, but sorry, can't do that. Option two, well, you can, but we're not going to support it, recommend denial.

They want their way to do it, which is to join the PUD, which makes no sense to us. There are questions I can't even answer to the -- to the church and give them confidence that they could go forward with this.

So that is the framework for the removal of the parcel from the PUD so it could be a

standalone church, come before you with the second application, which is the Class A conditional use and the rezoning to be consistent with the Comprehensive Plan.

Glad to answer any questions in terms of the PUD issue.

As I said, Liz will get into the particulars after that.

CHAIRMAN BARBIERI: Staff, would you feel better if we have him discuss the other agenda item at the same time before we take the motions on these?

Is that satisfactory to the County Attorney? Could we do that, if we --

MR. BANKS: Yes.

CHAIRMAN BARBIERI: Okay. So why don't you give us the staff report on the next agenda item, since it's part of the same property.

MR. ROBINSON: Okay. The next item is the proposed rezoning of 11.52 acres from agricultural residential zoning district to the residential transitional zoning district, along with the Class A conditional use to allow a place -- a place of worship.

The application is proposing to combine the two parcels to create a -- one big parcel, one 20.45-acre parcel that will allow the expansion of the church which has the previous 8.92-acre existing church and the actual proposed expansion.

And the applicant is also requesting a Type II variance to eliminate 15-foot incompatibility buffer, trees and require screening, and request to eliminate a 15-foot right-of-way buffer with trees and required screening requirements.

Staff is also denying this rezoning on the Type II variances based on concurrent application 2007-981 to delete land area from the Lakes of Boca PUD by failing to meet the purpose and intent of the PUD Article 3.E.2.

The applicant doesn't comply with the rezoning standards under Article 2 -- 2.B.1.B, more specifically, 2.B.1.B.2, consistent with the Code, and 2.B.2.B.9, changed circumstances.

The applicant doesn't comply with conditional use standards 2.B.2.B.2, consistent with the Code and 2.B.2.B.9, changed circumstances, and Type II variances is not based upon the standards of Article 2, Section 2.B.3.E of the Unified Land Development Code which an applicant must meet before the Zoning Commission to authorize the variance.

If the 8.39 acres of the church, if it was not deleted from the PUD, then these areas would not need variances, and it would be just merely an existing situation.

CHAIRMAN BARBIERI: You're up.

MS. COLOME: In talking about the proposed site plan for the church --

CHAIRMAN BARBIERI: You need to pull up the mic. The people in the back, they can't hear you.

MS. COLOME: Can you hear me now? There. Okay.

When we're talking about the site plan for the proposed church, this is a general overall site plan. It's difficult to see so I kind of highlighted starting from the west.

This is the entire length of the property. It's Cain Boulevard on the west, Yamato Road on the north and then 441 on the east.

So just to highlight some of the portions of it, this is the boundary showing all three parcels. This is the -- an existing retention area. This is the existing parish center.

Next to that -- this is the proposed church building, and in between those two buildings will be a covered courtyard area. Adjacent to that is a new retention area, and adjacent to that this is native -- an area of native vegetation that would remain as it is, and so that's kind of how the site's working from west to east.

In addition to that, currently there are two access points from Yamato, and we met with the Lakes of Boca Raton PUD, and their concern with the project was really based on the traffic on Yamato, and I -- we explained to them, and they were very happy to hear, that we're providing another access point to 441 here (indicating), so that would alleviate the traffic going on to Yamato.

On the blow-up of the site you can see the same features. I just -- this is the western half of the site. Again, you can see the existing retention area, the parking and the existing parish center, and this is the drainage easement that we were talking a little bit about before when we were talking about removing it from the PUD.

And then the -- on the eastern portion, again, there's the parish building with the covered patio area, new parking, the dry retention area and the area of native vegetation, and then this is the access road.

There's already an existing apron onto 441 so really it's connecting what was existing. There was a cut-out there, and that's been looked at by the DOT.

The regulating plan just shows the details, and that was included in your packet.

This is an elevation that we submitted, as well. This is the -- this is the existing parish center (indicating), and you can tell what we tried to do is kind of bring in some of the vocabulary of the buildings into the new church building, and that's the covered walkway.

And then this is looking at it from Yamato Road. You would see an entry feature and, again, the church building and the existing parish center.

This is looking at it from the west, which you really won't see that elevation because of the other building in front of it, and then this is

from the east, which has the stained glass and some of the church features.

Okay. Go ahead, Joe.

And then this is a perspective that we submitted showing the view looking through the courtyard at the buildings, so.

And then this is the PUD master site plan revised that we submitted, and you can see, this was the area where we're showing where the commercial was taken out. This is the existing church property. Sorry, my hand's shaking.

And then to the west of that is the new -- the part of the PUD that we're taking out.

So you can see they're really adjoining in a row of -- this is what's not in the PUD. This is what is in the PUD. So you can see the compatibility with the -- what we were doing with taking it out.

Go ahead, Joe.

The variance requested -- this is the overall site, and I know the variances had several parts to them, but, really -- Joe, can you hit the button -- one variance is dealing with this variance, and this area is dealing with the church together as a property. Those are the ones we submitted for in that application.

And go ahead, Joe.

And this is where the variances are located for the taking -- with the application about removing the parcel from the PUD.

So they're really only located on this far western side of the property. We're not asking to remove 15-foot incompatibility buffers all around.

Go ahead, Joe.

Again, this is blowing up that western portion. This is the drainage easement from Palm Beach County water management tract. You can see we have an existing 15-foot landscape buffer.

We have an existing 7.5 landscape buffer, and we're providing enhanced landscaping in that area with our application. We've said that.

And then this is an existing 25-foot landscape buffer.

This is the 20-foot drainage easement, and this distance from what we -- was purchased from Lake Worth Water Management District is a total of 40 feet.

So there -- you have the 20-foot easement going through that.

Go ahead, Joe.

The first variance that we're requesting is the incompatibility buffer to the south, and that's an incompatibility buffer because the water management tract is in the PUD. The Lake Worth Drainage District is out, so that should have been there right now, and it's not there.

That's not changed because of our -- what we're doing. That's already -- this is already part of the PUD, and this is already not part of the PUD and that's just not existing.

So we're asking for the variance of not putting that in because it's on the drainage

easement. That's the reasoning behind it.

Go ahead, Joe.

As you take this property out of the PUD again -- go ahead, Joe -- we would need an incompatibility buffer on this section, as well, that we're asking not to put in, and, again, it's the same reason.

This is -- this whole thing is a drainage easement owned by Palm Beach County so we can't put a buffer in there, and it's really buffering it from the church property. This is the drainage easement. Next to that is Cain Boulevard.

So there really is a lot of area between what we're asking not to put the buffer in before you get to any residential units on the other side of Cain Boulevard, and actually there's a park on the other side of Cain Boulevard then you start with the residential.

Go ahead, Joe.

And then this is the incompatibility buffer we're asking in relationship to the application for the church building, putting new parcels together. This incompatibility buffer, we have a 15-foot buffer which could be reduced to seven and a half-foot on the north side, and then we have an incompatibility buffer on the south side, and that's already a heavily landscaped area that used to be the Lake Worth Drainage District with full grown vegetation.

So what we're asking for is not to have to kind of provide this buffer from the water management tract to an existing buffer. I mean it's really asking only for the variance in this area.

And then, again, you have a right-of-way -- a right-of-way that we're asking for not putting the buffer on that 40-foot strip of right-of-way. That's really -- there's no -- there's no development until you get much further down the road, and we already have a 15-foot buffer right here (indicating).

So really what we're asking for is just to -- some of these buffering, the issue is the drainage easement, and then the other part is really you're buffering on two sides of a narrow strip of property to buffer an existing buffer from a drainage easement.

So we're asking for the variance in that respect because of the unusual nature of that small piece of land with the drainage easement going through it.

And, again, this is the resolution showing the -- that that is all a drainage easement, and this was in July of '95 that was in the official records book. And that's it.

Oh, and we would be happy to agree to the conditions if we're approved, so --

CHAIRMAN BARBIERI: Okay. Thank you.

MS. COLOME: Thank you.

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

MR. MCGINLEY: No, sir.

CHAIRMAN BARBIERI: Okay. I've got several cards. Again, we have some from 10 -- we have one from 11 and one from 10, so I'll -- since we took 11 first, I'll take the card from 11.

Susan Posthumus, you want to come forward? Are you here? She left? Okay.

On 10, Sheri Scarborough, president of the West Boca Community Council.

MS. SCARBOROUGH: Good morning. I'm Sheri Scarborough, president of the West Boca Community Council. I'm also on the Board of Directors of Boca Isles North, which is a neighbor to St. John's.

We've spoke with the surrounding communities, the council has, and we support this 100 percent. We think it's a great use on -- St. John's has been a good neighbor, and we would like to see you grant this variance and conditions.

Thank you.

CHAIRMAN BARBIERI: Thank you.

Debbie Goodall, would you please come up. State your name and address, please.

MS. GOODALL: Good morning, Mr. Chairman, Commissioners.

CHAIRMAN BARBIERI: Good morning.

MS. GOODALL: Thank you. My name is Debbie Goodall. My address is 6240 Greenview Terrace in Boca Raton.

I'm a member of St. John's. I used to live in the Lakes of Boca Raton, and now I live in Boca Del Mar. So I drive past three Catholic churches that are closer just to get to this one, and my goal is to still be going there when the church is built.

I guess my question is as a member of -- I used to live there and a member of the homeowners association.

If the homeowners association in the Lakes of Boca Raton is okay with us becoming outside of the PUD, and that's what we're requesting, can the County assure us that if we are forced to remain as part of the PUD, that we won't be subject to their deed restrictions or their rules or their regulations?

CHAIRMAN BARBIERI: Staff.

MS. HERNANDEZ: They're currently subject to them, whatever those rules and regulations are right now 'cause they're part of the PUD currently.

CHAIRMAN BARBIERI: I think what they're asking is if they bring the church, the new church, into the PUD, is the church going to be subject to their rules and regulations and their architectural control requirements and --

MS. HERNANDEZ: No different than they are right now.

CHAIRMAN BARBIERI: It would be different.

They're bringing in a new -- a new -- a brand new church property into the PUD.

The question is would the new church that's going to be built be subject to the requirements of the PUD.

They're not currently inside the PUD.

MS. HERNANDEZ: The church is currently within the -- the existing church is currently within the PUD and subject to the requirements, whatever those requirements may be.

The addition of the land, including the addition of the new portion of the church, would be subject to those same regulations.

Staff -- I mean we don't know what those regulations are.

COMMISSIONER HYMAN: Right.

MS. KWOK: Actually, the --

MR. BANKS: You know, without a -- without a review of the homeowners association documents we can't say what portions of those documents the civic, you know, the existing civic parcel or a new civic parcel would be -- you know, the extent of the control of the HOA would be governed by the documents.

CHAIRMAN BARBIERI: Okay. All right.

Is that all you have, Ms. Goodall?

MS. GOODALL: Yes.

CHAIRMAN BARBIERI: Mike Lupo.

MR. LUPPO: My name is Mike Lupo. I'm a member of St. John's Parish. I live in Parkland, Florida, which is about 10 miles further south than Debbie drives.

My question is since St. John's serves such a large area, why are we subject to joining the Lakes of Boca as part of the PUD?

CHAIRMAN BARBIERI: I think that's one of the issues we're going to decide today is whether or not you're going to be joining the PUD or not joining the PUD.

MR. LUPPO: Okay.

CHAIRMAN BARBIERI: I think one of the factors that staff put up there is that staff has recognized that this property does -- is supposed to serve larger than the PUD area. That's one of the factors they put up there.

So the fact that there are parishioners that don't live inside the PUD certainly helps your case, I believe.

MR. LUPPO: Okay. Thank you very much.

CHAIRMAN BARBIERI: You're welcome.

Don Thompson -- or Dan Thompson. I'm not sure. Dan.

MR. THOMPSON: Good morning. Thank you for letting us be here this morning.

I've been involved with the parish right from the beginning. We've been struggling to get this far.

It is a little bit unconcerning [sic] to me as a parishioner that we had an approval in April, and that approval was then yanked out from underneath us. Here we are, six months later, now just becoming before your Board.

I realize that there's a lot of issues to be resolved. Many of these issues I'm sure are very complicated, but to explain this to the rest of the parish that it's just the County and the way that they operate gets a little bit

disheartening.

So I would urge you to listen to what we have to say and then please consider us.

Thank you.

MS. KWOK: Actually, I just want to clarify what the -- what Kevin and the other gentlemen were saying.

There were never an approval back in April. There was a certification by the DRO to move this project for public hearing, and during -- you know, after the project was certified, we recognize there is a mistake in the application, and that's partially an oversight by staff and also an oversight by the applicant.

That's what they -- he was talking about, the third option. In fact, they wanted to tie the two parcels of land, the existing church site and the added land area by a Unity of Title, and then -- and also there is a reconfiguration of the existing church parking lot and adding an access to join between the existing church and the added parcel.

So we were recognize that there is a DOA on the existing church. So the application was never correct in the first place. That's why we yanked the project out from the certification list, and then we had a meeting with the applicants and the -- and the consultants and staff, and we tried to give them the two options, you know, whether you can remain in the PUD or delete the land area from PUD. There are two options, and, of course, there's always pros and cons on the two options.

And I wanted to also emphasize that, you know, PUDs was created back in the '90, '80s and '70s with the intention of commercial pods and recreational pods and civic pods, and we try to protect the integrity of the master plan that was created back in, you know, 20, 30 years ago.

CHAIRMAN BARBIERI: Okay. Thank you.

Commissioner Hyman.

COMMISSIONER HYMAN: I don't have any problem -- I don't have any problem with these requests.

You know, I know two things. One is I know staff works really hard and you have your reasons for recommendations, and I respect them always.

And, two, our Chair, who is more concerned about the effects on the adjacent homeowners than anybody else I know, has expressed support for this project.

So I'd like to make a motion. I don't have a problem with it at all. I think, you know, it got wrapped up in some technicalities, but I think we need to see the big picture.

I think the development order amendment is consistent with the plan, consistent with the Codes, compatible, certainly compatible, and the design minimizes adverse impacts, minimizes the environmental impacts. The -- it's consistent with the neighborhood plan, adequate public

facilities, changed circumstances.

I think that there are special circumstances that do exist that they don't result from the actions of the applicant. They don't confer upon the applicant any special privileges.

I think a literal interpretation, as we've heard, would deprive the applicant of rights commonly enjoyed by others. Granting of the variance is minimum. Granting the variance is consistent with the purposes and goals, and granting the variance will not be injurious to the area.

I also want to add that I like the elevations. I think the low profile of the church is really -- adds to the compatibility with the surrounding neighborhood.

So with that, I'm going to make a motion to approve the development order amendment to delete the land area of the 8.93 acres from the PUD.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: I think you -- are you on 11 or 10? You have to make the motion on 11 first.

COMMISSIONER HYMAN: I thought it -- I thought I was on 11.

CHAIRMAN BARBIERI: Is that -- Wendy, are you okay?

MS. HERNANDEZ: We need to make a motion --

COMMISSIONER HYMAN: Oh, I --

MS. HERNANDEZ: -- on DOA2007-981, and you'll do the motion for the --

COMMISSIONER HYMAN: I got it.

MS. HERNANDEZ: -- the Type II variance first and then the DOA.

COMMISSIONER HYMAN: All right.

CHAIRMAN BARBIERI: Okay.

COMMISSIONER HYMAN: I move for approval of the resolution approving the Type II zoning variance to eliminate the incompatibility buffer and to eliminate the tree and screen requirements adjacent to the southeast boundary of the water management tract, subject to the conditions.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

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

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: Move approval of the resolution approving the development order amendment to delete the land area.

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: All opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: And on 2006-1933 I'm going to move approval of the Type II zoning variance to eliminate the incompatibility buffer and eliminate the tree and screen requirements along the southwest property lines adjacent to the water management tract to eliminate the right-of-way buffer and to eliminate trees adjacent to Cain Boulevard screen requirements, all consistent with my -- the standards that I said before and subject to the conditions.

VICE CHAIRMAN ANDERSON: Second.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

COMMISSIONER HYMAN: I'm going to move for approval of the official zoning map amendment from the Residential Transitional Suburban Zoning District and Agricultural Residential Zoning District to the Residential Transitional 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, 7-0.

COMMISSIONER HYMAN: And, finally, I'll move for approval of the Class A conditional use to allow the place of worship, subject to all the conditions.

VICE CHAIRMAN ANDERSON: Second.

MS. HERNANDEZ: Can I point out, too, that the elevations will be reviewed at final DRO. They have not been approved yet --

COMMISSIONER HYMAN: Okay.

MS. HERNANDEZ: -- and they are subject to Article 5 --

COMMISSIONER HYMAN: I think they're on a great, you know, track.

CHAIRMAN BARBIERI: All right.

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

Any discussion?

(No response)

CHAIRMAN BARBIERI: All in favor.

COMMISSIONERS: Aye.

CHAIRMAN BARBIERI: Opposed.

(No response)

CHAIRMAN BARBIERI: Motion carries, 7-0.

Is that it?

Thank you all for coming up here today.

Is there anything else?

MS. KWOK: No.

CHAIRMAN BARBIERI: We're done? All
 right.

Do we have a motion to adjourn?

COMMISSIONER KAPLAN: So moved.

VICE CHAIRMAN ANDERSON: Second.

CHAIRMAN BARBIERI: Meeting is adjourned.

Thank you.

(Whereupon, the meeting was concluded at
 11:00 a.m.)

* * * * *

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 54, 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 24th day of December, 2007.

Sophie M. Springer, Notary Public