

**CITY OF RIVIERA BEACH
PALM BEACH COUNTY, FLORIDA
SPECIAL CITY COUNCIL MEETING MINUTES
MUNICIPAL COMPLEX COUNCIL CHAMBERS
MONDAY, OCTOBER 12, 2015 AT 5:30 P.M.**

(The following may contain unintelligible or misunderstood words due to the recording quality.)

CALL TO ORDER

Roll Call

CITY CLERK ANTHONY: Chairperson Dawn Pardo?

CHAIRPERSON PARDO: Present.

CITY CLERK ANTHONY: Chair Pro Tem Terence Davis?

CHAIR PRO TEM DAVIS: Here.

CITY CLERK ANTHONY: Councilperson Bruce Guyton? Councilperson KaShamba Anderson?

COUNCILPERSON MILLER-ANDERSON: Present.

CITY CLERK ANTHONY: Councilperson Cedrick Thomas?

COUNCILPERSON THOMAS: Here.

CITY CLERK ANTHONY: City Manager Ruth Jones?

CITY MANAGER JONES: Present.

CITY CLERK ANTHONY: City Clerk Claudene Anthony is present. City Attorney Pamala Ryan?

CITY ATTORNEY RYAN: Present.

CHAIRPERSON PARDO: Okay. I'd like to invite everyone to stand for a moment of silence followed by the pledge.

Invocation

Pledge of Allegiance

(Everyone stood for a Moment of Silence followed by the Pledge of Allegiance).

CHAIRPERSON PARDO: Okay. Miss Jones, do we have any additions, deletions or substitutions to the agenda?

CITY MANAGER JONES: Yes, Madam Chair. For your consideration tonight I would like to continue an item that was on our agenda from last week as related to the Director of Human Resources. I have brought the item back for your approval. He has agreed to the residency and is eager to give notice and to get started and so I would like to add that item to the agenda tonight for approval.

CHAIRPERSON PARDO: Okay. So we'll add that as item number 2.

CITY MANAGER JONES: Okay.

CHAIRPERSON PARDO: Okay. Okay. Do we have a motion to accept the agenda?

COUNCILPERSON THOMAS: So moved.

CHAIR PRO TEM DAVIS: Second.

CHAIRPERSON PARDO: Okay. Madam Clerk?

CITY CLERK ANTHONY: Councilperson Anderson?

COUNCILPERSON MILLER-ANDERSON: Yes.

CITY CLERK ANTHONY: Councilperson Thomas?

COUNCILPERSON THOMAS: Yes.

CITY CLERK ANTHONY: Pro Tem Davis?

CHAIR PRO TEM DAVIS: Yes.

CITY CLERK ANTHONY: Chair Pardo?

CHAIRPERSON PARDO: Yes.

CITY CLERK ANTHONY: Unanimous vote.

CHAIRPERSON PARDO: Thank you. Public Hearings, item 1.

PUBLIC HEARINGS

1. RESOLUTION NO. 143-15 A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVIERA BEACH, PALM BEACH COUNTY, FLORIDA, APPROVING AN APPLICATION FROM YASHPAL KAKKAR, AGENT FOR PROPERTY OWNER DINESH PANDYA, TRUSTEE, (SP-14-08) REQUESTING SITE PLAN APPROVAL TO DEVELOP 7.1 ACRES OF LAND AT 3100 NORTH OCEAN DRIVE, KNOWN BY PARCEL CONTROL NUMBER 56-43-42-26-01-001-0030, AND

56-43-42-27-03-013-0120 IN ORDER TO CONSTRUCT TWO (2) 20-STORY HIGH-RISE BUILDINGS, NAMED THE WELLNESS RESORT AND SPA, CONSISTING OF 150 RESORT HOTEL ROOMS AND 209 RESORT HOTEL SUITES, WESTWARD OF THE 1979 COASTAL CONSTRUCTION CONTROL LINE, LOCATED WITHIN THE RESORT HOTEL (RH) ZONING DISTRICT; AND PROVIDING AN EFFECTIVE DATE.

COUNCILPERSON THOMAS: So moved.

CHAIR PRO TEM DAVIS: Second.

CHAIRPERSON PARDO: Okay. Properly moved and second. I'd just like to remind the audience, if you want to speak on this item, please fill out a Public Comment card. I'll give you, you know, three minutes to turn in the cards. Okay. Miss McKinney, good evening.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: All right. Good evening. Mary McKinney, Director of Community Development. And this is an application for site plan approval for a property located at 3100 N. Ocean Drive which has a resort hotel zoning district and consists of approximately 7.1 acres. Section 31-57 of the City of Riviera Beach Code of Ordinances establishes requirements for site plan review by the City Council. The owner of 3100 N. Ocean Drive, Dinesh Pandya, trustee, submitted a site plan application for the Wellness Resort and Spa in April of 2014, proposing to develop two 20-story high-rise buildings consisting of 150 resort hotel rooms and 209 resort hotel suites, as well as approximately 30,000 square foot spa and also approximately 10,000 square feet of restaurant and bar space. It will be approximately 359 total units in this development.

In July of 2014, Ordinance 40-47 was approved by the City Council initiating a moratorium regarding potential amendments to development setbacks on the Atlantic Ocean coastline on Singer Island. In May of 2015, Ordinance 40-61 was approved by the City Council adopting new coastal setback development regulations, amending the easternmost development setback line within the resort hotel zoning district from the 1979 Coastal Construction Control Line to the 1997 Coastal Construction Control Line, resulting in a greater development setback from the Atlantic Ocean coastline.

The Wellness Resort and Spa site plan application was submitted prior to the July 2014 moratorium and proposes construction of the easternmost 20-story tower west of the 1979 Coastal Construction Control Line and east of the '97 Coastal Construction Control Line. In July of 2014, the City Council allowed the Wellness Spa to proceed under the 1979 Coastal line rule. In October of 2004, the City Zoning Board of Adjustment reviewed a variance application for 3100 N. Ocean Drive and granted three variances as provided below. Current regulation under Section 31-529(8) limits the east/west length to 200 feet. The applicant is requesting 170-foot east-to-west variance for the building which would allow a 370-foot long building.

Number two, the current regulation under Section 31-529(7) limits the north/southwest width to 120 feet. The applicant is requesting a 75-foot north-to-southwest variance for the building which would allow 195-foot wide building. Section 31-529 defines a high-

rise structure as any part of a structure three stories in height or more. The applicant is requesting the six-story variance from the high-rise definition for nine stories. The Zoning Board of Adjustment granted the three aforementioned variances with the following condition: The applicant shall utilize the requests variances to develop the property "substantially consistent" with the elevations and site plan presenting to the Zoning Board of Adjustment. This order from the Zoning Board of Adjustment is included in your packet this evening.

City staff understands the term ""substantially consistent"" to mean largely similar, almost identical, providing for variations not easily recognized. The historic elevation and site plan presented to the Zoning Board of Adjustment in 2004 proposed a 20-story tower to the eastern portion of the property and a nine-story tower to the west, which is known as the Amrit project at that time. The current Wellness Resort and Spa site plan application proposes two 20-story different building elevations amassing in site configuration done in 2004 Amrit site plan. The Wellness Resort and Spa site plan application proposes to utilize a portion of variance number one, 267 feet versus 370 feet east-to-west building length and variance number two, 193 feet versus 195 feet north-to-south building width and does not propose to utilize variance number three.

It is City staff's opinion that the current Wellness Resort and Spa site plan application is not "substantially consistent" with the site plan in elevations previously presented to the Zoning Board of Adjustment in 2004, and the Planning & Zoning Board or the City Council in 2004, due to the difference in the building elevations and dimensions, including the western portion of the development proposal was nine stories in 2004 and is currently 20 stories. In accordance with City Resolution 236-04, the applicant held a public community meeting on Singer Island at 3100 N. Ocean Drive on July 13th, 2015.

And on August 27th, 2015, the Planning & Zoning Board reviewed the Wellness Resort and Spa site plan application and City staff report which included the site plan, landscape plan and building elevations attached to the associate resolution as Exhibit A, B and C and recommended approval with an affirmative vote of six to one. Should City Council desire to approve the project, staff has approved an approval resolution with the following conditions: A two-year landscaping performance bond for 110 percent of the value of landscaping and irrigation shall be required before the final certificate of occupancy is issued in accordance with Section City Code of Ordinances 31-603.

All future advertising must state that the development is located in the City of Riviera Beach. Fees and penalties in accordance with City Code Section 31-554 will be levied against the property owner and/or business for violation of this condition. Construction must be initiated within 18 months of the effective date of this resolution in accordance with Section 31-60(b) of the City Code of Ordinances. Demolition, site preparation or land clearing shall not be considered construction. Building permit application and associated plans and documents shall be submitted in its entirety and shall not be accepted by City staff in a partial or incomplete manner.

Number four, this development will receive final certificate of occupancy for the City for all buildings and units approved within five years of the approval of this resolution, by October 12th, 2020 -- I mean, 2020, or the resolution shall be considered null and void,

requiring the applicant to resubmit application for site plan approval and reinitiate the site plan approval process. Number five, once approved, this resolution shall supersede any previous site plan approval resolutions associated with this property causing previous site plan approval resolutions to be null and void. Number six, City Council authorizes City staff to approve future amendments to the site plan administratively, so long as the site plan does not deviate greater than 5 percent from then originally approved submittal.

Number seven, guest parking spaces denoted on the site plan shall be maintained for guest use and may not be sold or reserved for private use. Number eight, the projects proposed spa component shall be exclusively for the use of registered Wellness Resort and Spa guests and not for the use by the general public due to potentially detrimental vehicular traffic impacts to the surrounding community.

Number nine, prior to sale of individual units, the developers shall advise potential owners that this property and the adjacent property to the north have resort hotel zoning and future land use designation; thus customary property uses and events are to be expected, including weddings and other gatherings that may include music, etc. A -- number 10, a unity of title for parcels known by parcel control number 56-43-42-26-01-001-0030 and 56-43-42-27-03-013-0120 shall be completed and provided to the City prior to issuance of a City building permit.

Number 12, building height for the Wellness Center and Spa proposal must adhere to City land development regulations, specifically Section 31-529(4), maximum building height. Twenty stories or 200 feet, excluding mechanical facilities, ornamental towers and antennas which shall not exceed 20 feet in additional height. 13, A five-foot public access easement on the south side of the property as indicated on the site plan shall be granted and maintained in perpetuity by the property owner. The southernmost fence shall be relocated to the north side of the five-foot public easement to provide for access. Number 14, Existing pathways through the dune area from the access easements to the north and south of the property shall remain intact and unaltered by this proposal.

And Section 3 of the resolution, The associated site plan, landscape plan and elevations are attached hereto as Exhibit A, B and C and shall be archived as part of this resolution. I do have some graphics for the Council and public to see. This one here very faintly shows the Coastal Construction Control Lines just for your information. This one here shows it a little more closely. The purple is the 1979 line and the blue is the 1997 line which is the new setback for the coastal properties. This is the Zoning Board of Adjustment order from 2004 which shows the variances, which is also in your packet, lists them out and shows the condition which we -- staff has included on the bottom for easier reading, that, "The applicant shall utilize the requested variances to develop the property "substantially consistent" with the elevations and site plan presented to the Zoning Board of Adjustment," and that was in 2004. And that is the order signed by the chair of the Board of Adjustment in October of 2014.

This is the 2004 Amrit site plan. It was basically one building, 20 stories with the front building being nine stories, and you can see this as they're outlined a little better. This is the elevation looking east from the N. Ocean Drive, 20-story building with nine-story

in the front. This is also the 2004 site plan, 20-story/nine-story, and this was the elevation from 2004, street view, 20-story/nine-story. This is also elevations which are a little more difficult to read, 20-story, nine stories. This is the proposed site plan, 20 -- two 20-story buildings, one to the west and one to the east. This is the 2014 elevation which you are reviewing this evening, 20-story building on the west.

This is also one of the elevations. This is the elevation showing the two separate distinct buildings, 20 stories each, one to the west, one to the east. Same only different perspective. This is another perspective for the elevation. This is the landscape plan for the current proposal. This is just another area of the site plan showing the '97 line and the '79 line, which the Council said that they could consider using in July of 2014, I believe. This is not the same building footprints as in 2004. So there is a major difference between that. This is the current --

CHAIRPERSON PARDO: Hold on a second, Miss McKinney. Let the record reflect that Councilman Guyton is now on the dais. All right. Go ahead, ma'am.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Okay. This is another perspective of the current proposal and that is the end of our graphics. I'll leave it there for that one there if you'd like or we can put back to any other exhibits if you'd like. Thank you.

CHAIRPERSON PARDO: Okay. Thank you. Miss Ryan, did you have anything?

CITY ATTORNEY RYAN: No.

CHAIRPERSON PARDO: Before we get going?

CITY ATTORNEY RYAN: No.

CHAIRPERSON PARDO: Okay. Who is going to present from the Amrit -- or I'm sorry, from the Wellness Center?

LARRY SMITH: Madam Chair, if you could just give us a second? We're going to get set up here. And while we're doing that, thank you very much for the opportunity to present tonight. I'm Larry Smith. I'm a lawyer with Gary, Dytrych & Ryan in North Palm Beach where I've practiced law for over 30 years. This month I am a 28-year resident of the City of Riviera Beach and I'm pleased to be part of the Amrit -- now I'm doing it -- the Wellness project, formally known as the Amrit Resort. Before we start with our presentation, just a housekeeping matter. I'd like to -- I gave Miss McKinney a package of applicant's evidence which I'd like to just ask that it be incorporated by reference into the record of this proceeding. I -- I've also given one to the court reporter. And that's the end of the housekeeping. So we're asking you to approve --

CHAIRPERSON PARDO: Wait. Wait, wait, wait, wait a second.

LARRY SMITH: I'm sorry?

CHAIRPERSON PARDO: Okay. So what exactly is in the package?

LARRY SMITH: Everything that's in the package that we put together is either in the staff file, the City's files, or it's going to be presented tonight. It's a whole wrath of materials, letters from me to Miss Ryan, letter -- our application, the response from staff, our response to staff's comments.

CHAIRPERSON PARDO: Okay.

LARRY SMITH: Those kinds of -- everything that's in there is in the staff's file or the City's file, I should say, or it's going to be presented tonight by us.

CHAIRPERSON PARDO: Okay. And does that include the package that you sent to the council at 3:00 this afternoon --

LARRY SMITH: It --

CHAIRPERSON PARDO: -- that I -- I don't -- I know I wasn't able to --

LARRY SMITH: -- it doesn't.

CHAIRPERSON PARDO: -- look at it.

LARRY SMITH: No.

CHAIRPERSON PARDO: I don't know if the rest of the council --

LARRY SMITH: No, it doesn't.

CHAIRPERSON PARDO: Okay.

LARRY SMITH: It does not. That was a -- you're referring to the letter I wrote to Miss Ryan and --

CHAIRPERSON PARDO: There was a letter. Yeah.

LARRY SMITH: And a package to go with it.

CHAIRPERSON PARDO: Right.

LARRY SMITH: Yeah. No, that's --

CHAIRPERSON PARDO: Different resolutions.

LARRY SMITH: -- in the -- that's not in the -- in the package.

CHAIRPERSON PARDO: Okay, fine.

LARRY SMITH: So thank you for the opportunity to present tonight and to come right out of the box and say it, we want you to approve this project. We think it's a great project. We think the former Amrit project was a superior project. This is an even

better project and we think you'll agree after seeing it. I would like to point out as I think Miss McKinney said it, but the P & Z Board voted overwhelmingly 6-1 to recommend approval of this project to you. And we think that after you see all the evidence and all the graphics that we're going to present tonight, and what you've seen already, you're going to agree that it's a project worthy of approval and it should be approved.

Unfortunately, the issue of the "substantially consistent" issue has kind of overwhelmed or overshadowed the benefits of the project. And I'd like to address that for a minute, because I think it's important. And I'd like to note that I haven't heard staff say they don't like the project, that it's not a good project. It's just that they feel they can't recommend approval because they don't think it's "substantially consistent" with the elevation and site plan presented to the Zoning Board of Adjustment in 2004. I would like to tell you that in my opinion there is no condition. And I made this presentation at the Planning & Zoning Board, and I think one or two of the council members might have been at the Planning & Zoning Board. And let me tell you why I say that.

The staff report for the Zoning Board of Adjustment made a recommended condition. They said if -- staff recommends that the board consider -- and I emphasize the word consider -- adding the following condition if they vote for approval. And it's the condition that Miss McKinney put up on the screen with the exception of the S in brackets wasn't there. It just said elevation. So at the staff -- at the Zoning Board of Adjustment meeting, the staff member making the presentation concluded his staff presentation by saying essentially the same thing. They said that the applicant -- staff recommends that the board consider having the following condition if they vote for approval. And then they go on to, you know, recite the condition.

If you look harder at the minutes and the transcript of the meeting of the Zoning Board of Adjustment from 2004, you will see that they -- the board considered the variances one by one. They voted on them one by one, but at no time did they ever adopt that condition. Now, I talked to Miss Ryan this afternoon and she says I'm stuck with the condition. I said, "I don't think so." But let me tell you. I'm not concerned about you comparing these -- this project with what was approved -- the elevation and site plan which was approved by the Zoning Board of Adjustment. You're going to hear a little bit more about that from Don Hearing. He's our planning expert. And he's going to talk to you a little bit about the "substantially consistent" aspect of this project versus the elevation and site plan presented to the Zoning Board of Adjustment.

But I think we need to be clear about what "substantially consistent" is and what -- what exactly are you comparing. So staff in the staff report to the Planning & Zoning Board picked Webster's Dictionary. And I think that's fine. I happened to write a letter to Miss Ryan. This is going back a year now we've been talking about this "substantially consistent" issue. I use Black's Law Dictionary. I don't think it really matters whether you use Webster's or Black's Law Dictionary. They're pretty close. What I do have a problem with is interpolating the Webster's Dictionary, and this is kind of where I think staff went awry here. They interpolated the Webster's Dictionary to get to their own definition which -- and part of it's okay. Largely similar. I think that's fair.

And what I don't think is okay is almost identical. I don't think that's what "substantially consistent" is. I don't -- that's not what Webster's says. That's not what Black's Law

Dictionary says. And I don't think that -- I really think it's up to us to say, Here's what the dictionaries say, and let you folks make up your mind, because you -- you're the ones that are going to be deciding this issue. But this is the Black's Law Dictionary definition of substantially inconsistent. Consistent is, "Having agreement with itself or something else; accordant; harmonious; congruous; compatible; compliable; not contradictory." Substantially means, according to Black Law's Dictionary, "Essentially, without material qualification; in the main; in substance; materially; in a substantial manner; about, actually, competently, and essentially."

Webster's is pretty close. So whether you use Webster's or Black's Law Dictionary, it doesn't mean almost identical. And we would ask you to evaluate the projects if you're going to assume that there's a condition, and we -- our position is that there's no condition. But if you're going to evaluate the projects, at least use the dictionary definition to evaluate them. Now, I'm going to sit down and let Jim Brown give you an overview of the project, and he's going to be followed by Don Hearing who's going to talk to you a little bit about the "substantially consistent" issue. But I want to end my -- this part of the presentation by saying, We want you to approve this project. You know that's why we're here. You know that -- that's why we made the application. We've been working on this with staff for two years. And we think it's a great project. We think it's a substantial improvement over the 2004 project, which was a good project, and we appreciate your vote of approval. The next speaker is going to be Jim Brown.

JIM BROWN: Good evening, Madam Chairperson, members of the Council. My name is Jim Brown and I am the developer. I moved to Palm Beach County in 1971 and have been in development since then. First, for 384 units at Ocean Trail Condominiums in Jupiter, and then in 1985 as the original developer of St. Lucie West, a 4,600-acre new town approved for 18,000 dwelling units and 15 million square feet of office, retail and industrial space. This project, Wellness Resorts and Spa, is as signature a project. One where you can all be proud that you had some hand in bringing it to fruition.

I, too, am proud to be a part of it, especially from the perspective of having been involved with the initial Amrit project almost 10 years ago. The plan before you today is -- is the same very unique concept that we have refined to bring the community something even better. As part of that earlier plan approved in 2004 and still valid, we contradicted \$570,000 to the Minority Employment and Affordable Housing Opportunity Program known as MEAHOP and an additional \$100,000 to the Blue Heron Singer Island Beautification Project -- Program. When we decided not to move forward, we left that money with the City. It has been a long and continuing effort by the landowner who has been involved with Riviera Beach since 1984. We are not here to build, sell and then heave.

We will retain ownership and operate the hotel, spa, wellness center and other amenities as a luxury destination resort. This will allow us to ensure that the quality and commitment we show you today is not sold off to a third party that may not have the same commitment to the community or the quality that we are presenting to you. The crux of Wellness Resort and Spa's concept is its 30,000 square feet of indoor spa and wellness facilities, including stress management, sleep optimization and other preventative lifestyle measures to enhance the quality of life and longevity.

Our other amenities include multiple food and beverage outlets, retail fitness center and ballroom. An additional benefit from the resort operations is those facilities will be available to everyone. The spa, wellness center, three restaurants and ballroom will offer experiences not currently available in this area. This one-of-a-kind project will become widely acclaimed, attract new visitors and will add to the City of Riviera Beach's reputation as a growing and dynamic waterfront community. Because of the continuing resort operations, we will create -- we will create many local jobs in addition to the 3,000 plus during construction.

Continuing operations will create over 600 permanent local jobs, over 400 of which will be on site. Were we simply to build, sell and turn operations over to association owners, the residual jobs would be a small fraction of this level. To ensure that those jobs are filled by local people, we're already working to establish a job creation institute with assistance from community leaders here in Riviera Beach, as well as from the county and the state. That effort has already begun, some two and a half to three years before our doors will be open. We have met with our neighbors in the community to understand what they would like to see and how we can turn the current eyesore into an asset for the community.

Those of you that were at the public meeting on site or at the Planning & Zoning meeting heard a letter of support read by one of Tiara's board of directors. Since the Planning & Zoning meeting, we have received support letters from numerous individuals and organizations as listed on the screen, as well as over 100 individuals who signed cards right here in support of the project as part of the evidence, Mr. Smith has put on the record. We are very proud of our current plan -- of our current plans which we feel are a major improvement. As staff has outlined, our zoning proposed use is consistent with the resort hotel (RH) 20 zoning district and the existing variances.

We are consistent with the Comprehensive Plan, levels of service requirements, landscape code and traffic requirements. Our traffic study was initially approved and then reverified by the Palm Beach County Traffic Division. Regarding the 1979 CCCL, you have recognized that the project is consistent with the development regulations existing at the time of application submittal in March of 2014. It is worth noting that the beach has grown about 75 feet over the last decade, putting over 370 feet between the easternmost structure and the mean high water line. While the buildings are consistent with all Planning & Zoning elements, they are far more attractive and reflect current rather than 10-year-old design concepts. It's an exciting project that I and the team plan to bring to fruition in the near future. Now I will ask Mr. Don Hearing of Hearing & Coteleur to present his professional opinion regarding the issue of "substantially consistent". Thank you.

CHAIRPERSON PARDO: Good evening.

DONALDSON HEARING: Good evening. Madam Mayor and Council members, for the record, my name is Donaldson Hearing. I am an expert land-use planner. I'm the managing partner of Coteleur & Hearing, which is one of the premier land planning firms in Palm Beach County, particularly Northern Palm Beach County. I've been practicing in Palm Beach County for over 30 years, as -- as has Larry. And this marks the 25th year, our 25th anniversary of Coteleur & Hearing. We've been involved in many, many

successful projects here in Palm Beach County, the North end. Several successful projects here within the City of Riviera Beach. We routinely and I routinely provide expert testimony on matters just as we're here this evening dealing with compatibility and consistency and, in fact, this is the first of four hearings that I have this week. As Mr. Smith pointed out, the -- we believe that the record confirms that the condition of "substantially consistent" was never incorporated into the variance approval. But that being said, we'll demonstrate that our request is "substantially consistent" and fully compatible.

Mr. Smith has provided you with the Black's Law Dictionary definition of "substantially consistent". And in our -- in our opinion, this project is truly largely similar. The project is compatible. It's compliant, and it's certainly not contradictory. I will walk each of you through our analysis of how we came to the determination of "substantially consistent". And I utilized your Comprehensive Plan and your zoning code as the basis for determining "substantially consistent" as it relates to this project. But before I go there, I think it's very important that a few points be highlighted that really cannot be overlooked in your deliberations this evening. The first, it's very important to point out the existing site plan remains fully vested and could be built tomorrow.

So a project is going to be built. The residents of the Tiara, as well as the residents, I believe, at the Oceana, which is to the north, have both gone on record to state that the subject project is better. They also stated that it is less impactful than the -- than the existing approved project. Your staff in the staff reports that you have in front of you, which is a part of the record, clearly state that this request is consistent with your Comprehensive Plan. Fully consistent. Not partially consistent. Fully consistent with the provisions of your Comprehensive Plan.

Additionally, the variances that were relied on that were of the subject matter of "substantially consistent", there were three. And in every single case the request that's before you this evening reduces the reliance or the extent of the variance used. And I'd like to review that with you. One of the variances has been totally eliminated. The other two have been substantially reduced. They both dealt with the length of the building. The length of the building in an east/west, going toward the ocean, and the length of the building in a north/south direction. And the length of the building in the east/west direction was reduced by 97 feet. The existing approval is 370 feet as we heard Miss McKinney state.

We're reducing that by 97 feet. In fact, one could very easily argue that the existing approval, the existing building is just one giant building and might not be two buildings at all. Nonetheless, it's a substantial reduction. It's also reduced in the -- in the north-to-south direction. So we've reduced the extent of the variances in every case. And we've totally eliminated one variance. So let me walk you through how this project is consistent, "substantially consistent" with your code. First, the floor area ratio is exactly the same. Second, the density of this project is exactly the same. The use is exactly the same.

The design intent of the building and the architecture is exactly the same. And we believe that the building is very close to being the same. The original design the 10 years old. Ten years. So I did a little bit of research this afternoon and went back. Do

you realize that we didn't have the iPhone until 2007? So we've had this project longer than the iPhone. And of course now what we have, the i6S I guess they call it. The iPad didn't come out till 2010. And so a lot has changed. So you would expect anyone looking at a project would be looking at incorporating new technologies, new ideas and making sure that the project was consistent with concern -- with current times. And that, in fact, has occurred, and the project that's before you is very much so forward -- forward-leaning.

But it also is very much so consistent and compatible with the previous approval. Both of the projects have two levels of parking. The pool is generally in the same location. The driveways are in the same location. The access points are in the same location. The service areas are generally in the same location. But the design that is in front of you has actually been much improved. It's actually better. We've gone through extensive analysis and shade studies. We -- in working with our neighbors to demonstrate how this building is better. We've reduced the length of the building in the east/west direction by a quarter. We've moved the building actually further back from the 1979 CCL line. We've got greater separations from our -- from our neighbors. We have greater setbacks from the street. We have substantially more open space. The building footprints have actually been substantially reduced so there's a lot more green, a lot more air that can -- and opportunity for the water to be recharged. So the old design was good. I think staff actually stated that it was a -- a superior design. But the new plan is exemplary. The new plan is a great design. It's simply better. It's forward-leaning. The building is sleeker. In our -- in our opinion it is "substantially consistent". It's largely similar. It's compatible. It's compliable and it's certainly not contradictory. Thank you very much. Don?

CHAIRPERSON PARDO: Thank you. Okay. Who's next?

DON DELANEY: Good evening.

CHAIRPERSON PARDO: Good evening.

DON DELANEY: Madam Chair.

CHAIRPERSON PARDO: Sir.

DON DELANEY: Members of the Council, my colleagues with the City, members of the public. My name is Don Delaney and my purpose tonight, my function tonight is to discuss and present the quantifiable economic impact of this project on the City of Riviera Beach and the economic community. Same as it was before the P & Z Board when we successfully received their approval. I'll tell you a little bit about my background that qualifies me to do what I'm going to do tonight.

I've worked under two Florida governors, United States Senator and Florida Governor Bob Graham, former U.S. Senator and Florida Governor Lawton Chiles. I've authored and implemented economic policies and redevelopment strategies for local governments and community redevelopment agencies. For about 30 years my professional experience in the field of economics, land use, finance, redevelopment and development. I've been appointed to serve on the State of Florida Enterprise Zone

Development Board. Served as an economic consultant and advisor to cities, counties and CRAs across Florida. In fact, an interesting notation, this is only the third time I've ever represented the private side. For the past quarter century I've been representing only the public side. I know the people involved in this project. I have a history with Riviera Beach; used to work for you. And I think you've got something here that's make -- making a positive impact. Also I'm a court-recognized expert witness in the areas of public finance, bond validation, eminent domain, land use and community redevelopment. Next, please.

COUNCILPERSON GUYTON: Madam Chair?

CHAIRPERSON PARDO: Sir?

COUNCILPERSON GUYTON: Very quickly.

CHAIRPERSON PARDO: Very quickly.

COUNCILPERSON GUYTON: Mr. Delaney used to be our CRA executive director.

CHAIRPERSON PARDO: Right.

COUNCILPERSON GUYTON: He was good, too.

DON DELANEY: Thank you, sir.

CHAIRPERSON PARDO: All right. Go ahead. What you see here on the first page is how many dollars come directly to the City of Riviera Beach if this project is built. And what I did is I looked at a 10-year impact. Over a 10-year period based on the impact fees, review fees and the change in the tax revenue, just the City tax revenue, just the City tax capture, this project will generate \$38 million for the City of Riviera Beach. Now, that's based on a 0 percent appreciate rate. Now, with the improving economy, I think the project is going to appreciate in its value, but I went very conservative. I said, If you build it and it goes up no value at all in 10 years, the City just collects its fees in the beginning and collects its tax fee as it goes on, \$38 million.

If the project is not built and it's set for the next 10 years, it's paying about \$53,000 a year so it would generate about half a million dollars. So we have \$38 million for the City of Riviera Beach to take care of its responsibilities in these difficult times and still struggling ad valorem values -- 38 million as opposed to half a million. Let's look at the next slide. All of these formulas, everything that you see here isn't just my opinion. They aren't created or creative algorithms. They're based on regional impact metrics from the Department of Commerce broken down specifically for this area of the country, for this type of development. Now, during the development phase this will generate over 3,000 new jobs during the approximately 30 months it will take to get the project up and going. That creates an economic impact, serves as an economy engine through this local economy of over \$161 million during the 20-month, 30-month development phase. Now, the next one I think is even more important.

COUNCILPERSON THOMAS: Excuse me. Madam Chair?

CHAIRPERSON PARDO: Sir?

COUNCILPERSON THOMAS: I really hate to interrupt you but this is --

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: -- part of the presentation that I was not as clear as I would like to be on.

DON DELANEY: Very good.

COUNCILPERSON THOMAS: So if you --

DON DELANEY: Madam Chair?

CHAIRPERSON PARDO: Yes, sir?

DON DELANEY: I'm ma'am.

CHAIRPERSON PARDO: Ma'am.

DON DELANEY: I'm sorry. We want to run this very smoothly. If you would just write your questions down and ask --

COUNCILPERSON THOMAS: Is that the process that --

CITY ATTORNEY RYAN: It's a part of the process. We need to let --

CHAIRPERSON PARDO: It's a public hearing.

CITY ATTORNEY RYAN: -- staff make its presentation.

COUNCILPERSON THOMAS: Okay. Hold on one second.

CITY ATTORNEY RYAN: Let --

COUNCILPERSON THOMAS: Where is that documented that that's the process that we're gonna -- we were gonna go by?

CITY ATTORNEY RYAN: Sir, it is really the process we should go by for every one of these that we have.

COUNCILPERSON THOMAS: But we have not. So I want to know where is the process that we're going to go by for this? And that's something that we should have been provided prior to now. I have questions on this exact part. I want to ask him. If you're telling me I can't legally do that, I would respect that but I want to see where it is.

CITY ATTORNEY RYAN: I believe it's in 2-43 of our Cord of Ordinances but what we would prefer is that you write down your questions and then when we get to the part

where the City opinion council speaks, you can call them up and ask the questions. But we'd like everyone to get through their presentations and we'd like to have Public Comment before we go to the council.

COUNCILPERSON THOMAS: Once again, that's the process that we're mandated to go by?

CITY ATTORNEY RYAN: It is the process that's in the Code.

COUNCILPERSON THOMAS: Very well, sir.

CITY ATTORNEY RYAN: Please. Thank you.

DON DELANEY: Well, then, as part of my process let me incorporate addressing what I think is a good question there. These numbers are based on square footage and the type of project. They're based on the U.S. Department of Commerce formulas which are the best practices adopted across the nation. It is also specified for the region that you're in. Like, the building code in New York City would be slightly different than here. And the code in California would be slightly there as opposed to Kansas. And so all those things are built in those formulas from the U.S. Department of Commerce so we can do the regional impact measurement of jobs created based on this specific type of project. So that's a good question and it gave me a chance to be an economist for a moment longer and that's fine with me.

Page 3, using the same formulas adopted by the Department of Commerce, focused for this region and this type of jobs, this project will generate -- we're talking permanent jobs now. So this is after it's been built. Permanent jobs. 659 jobs in the area economy with an economic impact of 43 million. And I think more importantly, 442 jobs on site on a permanent basis. And as you've heard discussed, this development team has already reached to the community and said, We'd like a lot of those jobs to be from the community. So those 442 jobs with permanent jobs. So in summing up, right now over a 10-year period, the City would collect about half a million dollars in revenues if the project's not built. If it's built it's \$38 million and that's based on the construction square footage and your millage rate. The jobs it would create, 659 jobs based on federal RIMS calculators, best and specified practices for this region, and then on site, 442 jobs. Thank you very much for your time, folks.

CHAIRPERSON PARDO: Great. Thank you. Okay. Who's next?

MANDELSON DARSING: Madam Chair, honorable council members, good evening. My name is Mandelson Darsing [phonetic] and I am general counsel for the Wellness Resort developer. A brief background about me, I am a resident of South Florida for all my life. I attended high school at John I. Leonard High School. Undergraduate studies at Florida Atlantic, and I attended law school at Nova Southeastern in Fort Lauderdale. Tonight we are asking the City Council to vote in favor of approving our amended site plan. As you've already heard, the site plan was approved 6 to 1 by the Planning & Zoning board. We are not asking for any increase in density.

We're not asking for any increase in overall height or FAR or to approve similar structural changes. As the staff report says, we are consistent with applicable zoning codes, density requirements and height requirements. If we do not get approval for the amended site plan, then we will be forced to build the old one. The new site plan is superior to the old one and I don't believe that there is anyone in this room that truly feels otherwise. The improved site plan is closer to the 1997 Coastal Construction Control Line than the old one -- (clears throat) -- I'm sorry, than the old one. It does not build up to the 1979 line like the old one is entitled to.

More jobs are created as a result of the new design for local citizens. The new design generates more tax revenue to the city and more amenities for the public to use. It will enhance the value of our neighbors' properties. And as you've heard tonight, we have the support of Tiara to the south and Oceana Palms to the north. In addition to these points you've heard Larry Smith's argument about the alleged condition of "substantially consistent" and how that term should be interpreted if it should be found to apply to the project at all. I know that everyone in this room, including the council, the staff, the citizens of Riviera Beach, and the team behind the Wellness project, wake up each morning wanting to do something good for the people of Riviera Beach.

However, it is not every day that we are given the opportunity that we have tonight to actually do something and to leave a positive, lasting legacy in our community. Health, wellness, yoga, meditation. These are just some of the positive things that the Wellness team would like to share with their community and their neighbors. Again, as I've said before, both our neighbors to the north and south support the project and it has been proved and recommended by the Planning & Zoning Board by an overwhelming vote of 6 to 1.

There is nothing like this project in South Florida. I think that today we can all take a step forward together towards doing something special and unique for the people of Riviera Beach, and I ask you to vote in favor of our amended site plan so that we can do that together. Thank you for your time.

CHAIRPERSON PARDO: Great. Thank you.

LARRY SMITH: Madam Chair, the -- this is Larry Smith, again, for the record. That pretty much concludes the applicant's presentation. I do have some comments on the proposed resolution that was presented to you in the staff report, which was the subject of my package this afternoon that was delivered. I don't know if now is an appropriate time to discuss that or do we discuss it after Public Comment?

CHAIRPERSON PARDO: I would say at this point it's part of your presentation.

LARRY SMITH: Okay.

CHAIRPERSON PARDO: Do it.

LARRY SMITH: So what I did this afternoon -- and I apologize for -- for giving it to everyone as late as it -- as it came, but we got the staff report on Thursday evening. We went through it on Friday, and honestly, I just -- we're trying to wrestle with the

conditions because there -- there were a lot of conditions in here that I had an issue with. And I'd just like to go through them. And -- and I don't know if any of you have had a chance to look at the letter that I sent to Miss Ryan and copied each of you on. But I put some -- some things in red in a -- in a -- tell you what -- exactly what I did. I gave you an alternative resolution. And basically what that alternative resolution did is delete the items that are in red in the red-line version of the resolution. And I don't know if you've had a chance to look at it or not but --

COUNCILPERSON THOMAS: Excuse me one second. Madam Chair?

CHAIRPERSON PARDO: Go ahead, sir.

COUNCILPERSON THOMAS: I just want to find out where that is and where exactly what he's talking about is.

CITY ATTORNEY RYAN: Okay. I think they gave -- they sent out a -- an envelope. You should have the envelope with --

CHAIRPERSON PARDO: An envelope came to each councilperson at 3:00, because I walked in with the messenger. So at 3:00 everyone got an envelope.

COUNCILPERSON THOMAS: The one that was on the dais?

CITY ATTORNEY RYAN: Yeah. Yes.

CHAIRPERSON PARDO: No. No. No. It was downstairs in everyone's mailbox.

CITY ATTORNEY RYAN: No. They put them up.

COUNCILPERSON THOMAS: Oh, okay.

CHAIRPERSON PARDO: And then you also received an e-mail from one of the consultants.

COUNCILPERSON THOMAS: Okay. Somebody --

CHAIRPERSON PARDO: And it had a letter in it. It had two resolutions.

COUNCILPERSON THOMAS: Excuse me.

CHAIRPERSON PARDO: So, yeah. So Mr. Smith, as you can see, no one has had time to read it. You know, to get something at 3:00, you know, most people work.

LARRY SMITH: We have a -- we have a slide -- I know. We have a slide we can show you.

CHAIRPERSON PARDO: It's still -- well, I'll tell you this much: There's no way that I would even consider it because you are trying to change a resolution that our staff put together. And you know, I haven't had time to talk to staff about it. I haven't had time

to read it myself. So this is just coming from one councilperson. I guess you can do your presentation and we'll see how the rest of the council thinks. But I think it's a disservice to all of us to give us something at 3:00 in the afternoon. And if it -- if it came from our staff, well, most of you watch the meetings and you know how we really don't appreciate even our staff giving us something at the last minute.

LARRY SMITH: And again, I apologize for the late delivery of that.

CHAIRPERSON PARDO: It is what it is.

LARRY SMITH: But again, we got it -- we got it in the staff report Thursday afternoon and worked on it Friday and, you know --

CHAIRPERSON PARDO: Sure. Just like the rest of us got our package.

LARRY SMITH: Right.

CHAIRPERSON PARDO: And we worked on it all weekend.

LARRY SMITH: And I -- I wish I had had time to deal with it with you guys earlier. But I'm -- and I apologize for that.

CITY ATTORNEY RYAN: Madam Chair?

CHAIRPERSON PARDO: Yes, Miss Ryan.

CITY ATTORNEY RYAN: Let me make a correction. Mr. Thomas, under Section 2-47 under Procedure, it does state that during the presentations only the members of the decision-making -- making body shall be permitted to ask questions.

COUNCILPERSON THOMAS: Thank you. I accept your apology.

CITY ATTORNEY RYAN: So if you want to ask your questions, go right ahead.

COUNCILPERSON THOMAS: What's funny, I was just reading that part out.

CITY ATTORNEY RYAN: I -- I got to it first.

COUNCILPERSON THOMAS: Yes. Okay. Thank you.

CITY ATTORNEY RYAN: I admit when I'm wrong.

CHAIRPERSON PARDO: Okay. So --

COUNCILPERSON THOMAS: I'll -- yeah. I'll wait till he gets done so we can go back.

CHAIRPERSON PARDO: All right. So Mr. -- all right. So you want to continue, Mr. Smith?

LARRY SMITH: I -- yeah. I have the -- a resolution. And since you don't have it in front of you, we're going to get it up on the board in just a second. Would it appropriate to go to Public Comment and then we can discuss the resolution?

CITY ATTORNEY RYAN: I think that might be best. Let's go ahead and -- because I also think that council will have some questions on this so it might be best to get the Public Comments.

CHAIRPERSON PARDO: But wait a second. No, I don't think so. Because I think the public may have a question on it, too.

UNIDENTIFIED SPEAKER: Yes.

CITY ATTORNEY RYAN: Okay.

UNIDENTIFIED SPEAKER: Yes.

CHAIRPERSON PARDO: So I think at this point it's best that, you know -- that you have Mr. Smith or whomever from the team make their presentation. When they're done, then we'll go to Public Comment.

CITY ATTORNEY RYAN: Okay.

LARRY SMITH: All right. Let's get it on the board -- up on the screen, rather, and we'll -- we'll talk about it. Red line, I think. Yeah. So this is a -- a red line of the staff's proposed recommended resolution that I put together which was included in the package. And then the other resolution was basically -- everything that's in red was taken out of the resolution. So Shama, if you could just scroll down and let's take a look at the first red. We -- we have concerns about the stuff that's in red, frankly. And I'd like to go through these one by one. Miss Ryan and I had a long conversation this afternoon and some of them, I think we can live with. Some of them, we can't. But I'd like to go through it with you and to tell you what our concerns are. First of all, the -- the first red Whereas clause is the fact that there's a "substantially consistent" condition in the variances. And as I presented earlier, we're not so sure about that. It's our position that there is no condition and that's why we were asking for that to be out. Now, it's up to you, really, to decide whether we're "substantially consistent". We've given our position. Staff's given their position. It's up to you to decide. And it's your resolution.

CHAIR PRO TEM DAVIS: Excuse me. Excuse me.

LARRY SMITH: Yes, sir?

CHAIR PRO TEM DAVIS: I'm try -- I'm trying to stay focused. You -- y'all are having a conversation. It's going into the mike and it's interrupting the conversation.

CITY ATTORNEY RYAN: Oh, I apologize.

CHAIRPERSON PARDO: All right. Go ahead, Mr. Smith.

CHAIR PRO TEM DAVIS: Go ahead, sir.

LARRY SMITH: So -- so anyway, that's the -- the first red --

COUNCILPERSON THOMAS: Madam Chair?

CHAIRPERSON PARDO: Yes, sir.

COUNCILPERSON THOMAS: I'm -- I'm sorry. I'm sorry, Mr. Smith. I'm trying to -- to kind of -- it's a little harder for me to read up there.

CITY ATTORNEY RYAN: To follow it? You don't have the right one.

COUNCILPERSON THOMAS: Yeah. I -- I did get the one from downstairs, though.

CITY ATTORNEY RYAN: No, no, no, no. There's several.

COUNCILPERSON THOMAS: Yeah. It's -- it's, like, six or seven resolutions --

LARRY SMITH: It's on page --

CITY ATTORNEY RYAN: Yeah. Right. Right.

COUNCILPERSON THOMAS: -- you have in here.

CITY ATTORNEY RYAN: The one that he -- right.

CHAIRPERSON PARDO: (Inaudible).

LARRY SMITH: It's the one with red in it.

CITY ATTORNEY RYAN: This is the one that he wants to look at.

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: Everything with the red that they want to delete. This -- this one.

COUNCILPERSON THOMAS: No, it's the one downstairs that was in our box.

COUNCILPERSON MILLER-ANDERSON: I don't have it, either.

CITY ATTORNEY RYAN: Oh, this isn't it?

COUNCILPERSON THOMAS: No. That was on the dais. Mr. Smith (inaudible).

CHAIRPERSON PARDO: That -- those are letters of support.

COUNCILPERSON THOMAS: It's -- it's -- it's downstairs in the box. So let -- let me just make sure, Madam Chair, that I'm understanding this. Staff has given -- given a resolution and you want to -- you want us to change the resolution staff has so it will read as such?

LARRY SMITH: Yes, sir.

CHAIRPERSON PARDO: Right.

COUNCILPERSON THOMAS: Okay. So has Miss Ryan had a chance to -- have you had a chance to look at what he is --

CITY ATTORNEY RYAN: Yes. Mr. Smith and I had a long conversation late this afternoon. And we went through the entire package. He, of course, has the right to ask the council to do whatever he and his client wants. However, your staff has -- staff, of course, disagrees with most of the changes. And I'm not sure how you want to -- how you want to handle it. Because some of it, I can agree with but Miss McKinney may disagree with. I'm just the attorney. I always say that. But there are some things that I think should come --

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: -- that I don't have a problem with coming out.

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: But there are other things that I think should stay in. And he and I, you know -- attorneys, we kind of mediated and -- and bargained a little bit. But both of us recognize that our client may not agree with us.

CHAIR PRO TEM DAVIS: Are you done?

COUNCILPERSON THOMAS: Okay. Okay. I just wanted to make sure I understood what was going --

CITY ATTORNEY RYAN: So if you would like --

COUNCILPERSON THOMAS: -- I didn't know if this was a -- a --

CITY ATTORNEY RYAN: -- no.

COUNCILPERSON THOMAS: -- concerted effort to --

CITY ATTORNEY RYAN: No. No. We didn't get it until this afternoon. And you know, we talked about that, as well. So we --

COUNCILPERSON THOMAS: When did they get -- when did they get what our resolution was.

CHAIRPERSON PARDO: Thursday.

CITY ATTORNEY RYAN: Thursday.

COUNCILPERSON THOMAS: And --

CITY ATTORNEY RYAN: Or didn't it go out Wednesday?

LARRY SMITH: Thursday.

COUNCILPERSON THOMAS: So we gave them one business day to -- to go through it. Should it have -- why -- why did we -- why did we give it to them so late? What was the -- what was the -- what was the reason for that?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Novus. Novus system.

CHAIRPERSON PARDO: Right. Novus was down.

CHAIR PRO TEM DAVIS: Novus was down?

CITY ATTORNEY RYAN: It was done. The --

CHAIRPERSON PARDO: Novus was down.

CHAIR PRO TEM DAVIS: What time?

COUNCILPERSON THOMAS: It was done when?

CITY ATTORNEY RYAN: It was -- it was done on, I would say, Monday.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: It was done and completed on Monday. But the City is having a problem with our Novus system that transmit -- you know, commutes it around the offices and --

COUNCILPERSON THOMAS: Okay.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- I -- so it's a -- it's an IT problem --

CITY ATTORNEY RYAN: It just --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- that occurred.

COUNCILPERSON THOMAS: Okay. Could we not have gotten it to -- to them, though, even though we didn't get it -- even though our IT system was -- I just want to make sure they have fair -- enough time to --

LARRY SMITH: Let -- we're -- we're -- we're okay with -- we're okay with discussing it here.

CITY ATTORNEY RYAN: Let me say this. Right. Because I said to him, "You have a lot of changes. We can come to this meeting tonight and ask for a postponement if that's what you want. And he was adamant that they did not want a postponement. Therefore, we're here.

COUNCILPERSON THOMAS: Okay. No problem. Then I'm --

CITY ATTORNEY RYAN: Now, if you want him to go through each one of his additions and have staff rebut or accept, we can do it that way. I'm not sure how you want to do it.

CHAIRPERSON PARDO: We can (inaudible).

CITY ATTORNEY RYAN: But everything that's in red, they are recommending --

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: -- deletion or some modification. And we haven't spoken since either of us spoke to our clients.

LARRY SMITH: Right. I think we -- I think that Miss Ryan and I left to our own devices could probably work this out. But you're the client that she has and I've already talked to my client so I know where we stand. And I think we could work it out. But you have to be comfortable with it.

COUNCILPERSON THOMAS: Well, I'm gonna have to read it.

CHAIRPERSON PARDO: Right.

LARRY SMITH: I understand.

COUNCILPERSON THOMAS: You know, back and forth. So I mean, I'll -- I'll go and - - and get my -- my help -- meaning my glasses -- and I'll -- I'll try to do the best I can here but if I'm --

LARRY SMITH: And we appreciate that.

COUNCILPERSON THOMAS: -- if I'm not -- if I don't have the two of them, I'm -- I'm -- I'm gonna have a -- an issue so let me go ahead and get those and --

CHAIRPERSON PARDO: Well, I'll tell you right now.

CHAIR PRO TEM DAVIS: Start --

CHAIRPERSON PARDO: I have an issue with it. I can't sit here and go through everything at a public meeting while I'm trying to listen to you. I'm not going to be able to talk to my staff. I personally think that we should do -- we have a council meeting Wednesday, next Wednesday. Why can't we just postpone this and come back Wednesday night? The presentations have been made. We just then have to go to

Public Comment and then by Wednesday -- not by Wednesday. By the end of the week I would think we would know what our staff was going to agree with and what they're not going to agree with. And then that gives us all time. That's what I would say. And we're only talking about -- it's a week.

LARRY SMITH: Madam Chair, I -- I would all -- I would --

CHAIRPERSON PARDO: And you know, half the job is done already.

LARRY SMITH: Well, look, I would -- I would just respond this way. I'd love to get this done. I think the City Council would love to get this done. I'll bet the staff would love to get this done. I don't think it's going to be that complicated. Again, I apologize for the late notice of this thing. And you know, we'd like to go through it. I don't think it's going that be complicated.

CHAIRPERSON PARDO: Right. Because --

LARRY SMITH: Once Mr. Thomas gets his glasses.

CHAIRPERSON PARDO: -- this is your language. Of course it's not going to be complicated.

LARRY SMITH: No. No. No, it's not my language.

CHAIRPERSON PARDO: Come on.

CHAIR PRO TEM DAVIS: Madam Chair?

LARRY SMITH: It's not my language, ma'am.

CHAIRPERSON PARDO: We need --

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: -- the staff needs to have time to go through it. I feel very strongly about that. Go ahead, sir.

CHAIR PRO TEM DAVIS: When this Novus was down did the staff send a notice out to us letting us know that Novus was down?

CITY MANAGER JONES: Well, if what our -- if we're -- I recall what happened, it was that we were not able to stitch it to get it -- which is a part of the process. It's a lot of information in the backup and it was larger than any one system for attachments --

CHAIR PRO TEM DAVIS: Okay.

CITY MANAGER JONES: -- was able to hold. And that was our issue with Novus.

CHAIR PRO TEM DAVIS: Okay. Here -- here's my concern. The gentleman's here apologizing to us for being late but is anyone going to apologize to the public and apologize to him for getting the information late to them because of our Novus system was down? I don't think it's appropriate for professional for someone who's invested a lot of time and money throughout the entire community to do their due diligence so we can have a public meeting to apologize for something that started with us. Because our system was down.

So if he has something that he want to read today and show, we can listen to it. Now, however we make a decision after that, that's up to each individual board member. So you shouldn't be slamming him because our system was down. That's not appropriate. If the system wasn't down, then that'd be something different. But if he had one business day to respond to an item, there's no apology needed. I'm sorry. There's no apology necessary. I mean, we got it to you on Thursday night, whatever day it was, and you had one day to -- one day to look at it. We just got your item. I sat down and read it -- through it quite a bit and I'd like to hear your concerns. And as a matter of fact, Attorney Ryan stated that she seen some things that she do agree with you, which means she has read this document. So I'd like to hear, you know, what are the things that you did agree to, Miss Ryan?

COUNCILPERSON GUYTON: Madam Chair, or once you're done?

CHAIRPERSON PARDO: Yeah. Hold on. We're going way off the path.

CHAIR PRO TEM DAVIS: What -- what -- what are the things that you did -- no, I asked Miss Ryan a question. I have a question on the floor.

CITY ATTORNEY RYAN: Well, I think it would be best if we go through them and we literally went item --

CHAIR PRO TEM DAVIS: Okay. So do it that way.

CITY ATTORNEY RYAN: -- sentence by sentence. So as he goes --

CHAIR PRO TEM DAVIS: Okay.

CITY ATTORNEY RYAN: -- through it and then --

CHAIR PRO TEM DAVIS: Then you'll address it?

CITY ATTORNEY RYAN: -- I only had a few minutes to run it by Miss McKinney. So maybe she can address the issues. I -- you -- but we can do it that way 'cause it was --

CHAIR PRO TEM DAVIS: I'm fine with that.

CITY ATTORNEY RYAN: I appreciate it.

CHAIRPERSON PARDO: All right. Mr. Guyton.

COUNCILPERSON GUYTON: Thank you, Madam Chair. Let me just tell you my position. I am ready to get this behind me. I can't speak for the others. All of these Whereas's are only conditions of the project. We can agree with them or not. At this point we can get staff input as to their position on their recommendation and then we make a decision. We don't have to go through the entire project. I've already been through it.

Only thing this is, if we decide to approve it, what kind of conditions will we put on it? That's it, period. So I don't feel a need to put this off and I have no desire to put it off. I'm ready to make a decision one way or the other, get this behind me and then it goes to whatever next stage it's going to. I -- I'm -- I'm not trying to prolong this anymore. I mean, it's controversial. People have strong feelings about it. People need to know where we as a board stand and then whatever comes after that, it comes. I'm not one of those that prolong and procrastinate and I've read all of this and I'm ready to move. I'm -- I'm ready to move. I'm only speaking for me. So this is not a big deal to go through the conditions if we decide to approve it. That's all this is. Staff chime in, "I don't agree because --" then they say whatever they say and then we say, "This is how it's going to be, period." And we keep moving. There's no back and forth other than we -- we make the decision. So I'm ready to move. I don't know about the others.

CHAIRPERSON PARDO: Well, y'all heard how I feel. So obviously, you know, the public doesn't get included in this. But hey, whatever. You're not going to take their --

COUNCILPERSON GUYTON: The public is here now. That's -- yes, they do.

CHAIRPERSON PARDO: They're not here. They're not here. Okay? The public that has an interest in it did go -- they went through what was on the website, the package that we got. Okay? All of this stuff that we just received at 3:00, they haven't had time to go through it. They don't even know about it.

COUNCILPERSON GUYTON: Okay. Madam Chair, if I may say so, everyone who has an interest in this project either sent a letter or they're here.

CHAIRPERSON PARDO: That's not true.

COUNCILPERSON GUYTON: They're here. They -- they -- it's -- now, I don't know anybody --

CHAIRPERSON PARDO: You know what? I represent the district and I can tell you --

COUNCILPERSON GUYTON: Miss Chair?

CHAIRPERSON PARDO: -- I can tell you --

COUNCILPERSON GUYTON: I've gotten the e-mails from many in your district and those --

CHAIRPERSON PARDO: Right.

COUNCILPERSON GUYTON: -- who have an issue, they have expressed those concerns.

CHAIRPERSON PARDO: Whatever. All right, Mr. Smith. You want to go ahead?

COUNCILPERSON GUYTON: They're documented.

CHAIRPERSON PARDO: And Miss McKinney, you know, be available to chime in.

LARRY SMITH: Okay.

CHAIRPERSON PARDO: Go right ahead.

LARRY SMITH: Thank you, Madam Chair.

CHAIRPERSON PARDO: Hey, this was all part of the plan.

LARRY SMITH: I guess I'll just --

CHAIRPERSON PARDO: Go ahead.

LARRY SMITH: -- the -- I'll start from the top. The Whereas -- the first Whereas clause that's in red. The reason we object to that clause is because it's -- again, it's our position that there is no condition attached to the Zoning Board of Adjustment approval of the variances. With regard to -- and I don't know how you want to do this, Madam Chair.

CITY ATTORNEY RYAN: I'm going to chime in right after you get done with that issue.

LARRY SMITH: Okay. I -- I was going to go on to the next --

CITY ATTORNEY RYAN: Every -- it's every -- no. Are we going to agree to leave that in or not?

LARRY SMITH: Here's my -- here's my -- yes.

CITY ATTORNEY RYAN: Okay. Let me --

LARRY SMITH: We're leaving it in.

CITY ATTORNEY RYAN: Okay. Okay. Then let's not talk about it. Let's move on. So we're going to leave that in.

LARRY SMITH: We'll leave that in if we get approval based on the board finding that this project is "substantially consistent" with the elevation and site plan presented to the Zoning Board of Adjustment. I got no problem with that condition. Okay?

CITY ATTORNEY RYAN: Okay. Wonderful.

LARRY SMITH: I do think that the S --

COUNCILPERSON THOMAS: Now, which one was that? I'm sorry.

CITY ATTORNEY RYAN: That was the first one.

COUNCILPERSON THOMAS: Madam Chair?

CITY ATTORNEY RYAN: The one at the top.

LARRY SMITH: That's the very first one.

CITY ATTORNEY RYAN: The first one in red. I'll -- you want me to read it?

COUNCILPERSON THOMAS: "Whereas the Zoning Board of Adjustment granted the three aforementioned variances." That one?

CITY ATTORNEY RYAN: Correct. We're leaving that in.

COUNCILPERSON THOMAS: So staff agrees with that, as well as --

CITY ATTORNEY RYAN: Right. That was something that staff already had in the ordinance, because it is a fact.

COUNCILPERSON THOMAS: Okay. So why is it in red?

CITY ATTORNEY RYAN: He wanted it out because he has the transcript and says the transcript from the meeting doesn't match up to the ordinance that was approved -- I'm sorry, to the final order that was approved 11 years ago. If they had an issue with it, they could have raised the issue like any other developer --

COUNCILPERSON THOMAS: I got -- got no problem.

CITY ATTORNEY RYAN: -- at the time. You don't wait 11 years.

COUNCILPERSON THOMAS: But you say you -- you agree to that?

LARRY SMITH: I would like the S off of the word elevation, because I think that's more accurate because that was staff's recommended condition. If the board chose to adopt it, I think that should come off.

CITY ATTORNEY RYAN: Well, they put it in there because that's staff's S. It -- it's this staff's S.

LARRY SMITH: You -- you know, it's not this staff's S. This staff -- the written consent or the written action of the Board of Adjustment had a faint S. It was either typed in and Whited-Out or it was typed in. I don't know how it got on there but it's not the same type exactly. I don't think -- and that wasn't in the staff report and it wasn't in the

presentation that the staff made to the Zoning Board of Adjustment. It's a singular elevation.

COUNCILPERSON THOMAS: Do we have that? I'm sorry, Madam Chair. Do we --

CITY ATTORNEY RYAN: Yes.

COUNCILPERSON THOMAS: -- do we have that from --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes. That final order is in your book and there's little red numbers at the bottom of the pages in the right-hand corner. And it's on page 213 in that book. And that's the final order from the Zoning Board of Adjustment.

COUNCILPERSON THOMAS: On page 213?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes.

CITY ATTORNEY RYAN: Are you saying that the S is not in any version, any other version, or are you just saying you think it's light because it's from 2004?

LARRY SMITH: I -- it's light. It's -- no, it's not light 'cause it's 2004. It looks to me like it might have been put in mistakenly and then Whited-Out because that wasn't the recommended condition.

CITY ATTORNEY RYAN: But you're guessing.

LARRY SMITH: I am guessing. You're exactly right.

CITY ATTORNEY RYAN: No. We're leaving it in. You're guessing. That's not appropriate.

LARRY SMITH: All right. Second Whereas clause.

COUNCILPERSON THOMAS: Hold on.

CHAIR PRO TEM DAVIS: Hold on. Hold on. Hold on.

COUNCILPERSON THOMAS: Wait a minute. Let me --

CHAIRPERSON PARDO: No, no, no, no, no. No. There's only one person, sir.

COUNCILPERSON THOMAS: Let me -- let me see. Hold on. And 213, you say?

CITY ATTORNEY RYAN: You can say you disagree with it with you staff is not accepting that it looks like it was Whited-Out and added back in. It's from 2004.

COUNCILPERSON THOMAS: Two -- okay, Miss McKinney? You say it's on page 213?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes. If you look down the right-hand corner --

COUNCILPERSON THOMAS: All right.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- kind of, like, a third of the way between that big -- in that big book that you got. There's red letters. Do you --

COUNCILPERSON THOMAS: Okay.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- do you see the red -- I mean, sorry, red numbers.

CITY ATTORNEY RYAN: Use your glasses, please.

COUNCILPERSON THOMAS: Yes. Is that --

CITY ATTORNEY RYAN: That right there.

COUNCILPERSON THOMAS: I mean, that looks kind of suspect.

CITY ATTORNEY RYAN: But we don't know.

CHAIR PRO TEM DAVIS: It is suspect.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And -- and they did use typewriters in 2004 when we didn't have the Apple iPhone. They also used typewriters.

LARRY SMITH: We don't know -- to -- to Mr. Thomas's point and Miss Ryan's point, as well, we don't know for sure but we know that it wasn't in the staff report recommended condition and we know that when the staff member --

COUNCILPERSON THOMAS: Okay. Do we have that?

LARRY SMITH: I do.

COUNCILPERSON THOMAS: Can you give that to us, please? Let me -- let me ask this question 'cause obviously this S means something very significant. What does this S actually mean?

LARRY SMITH: Well, here's the deal.

CITY ATTORNEY RYAN: I have no idea.

LARRY SMITH: Chip Carlson was the applicant's lawyer in 2004.

COUNCILPERSON THOMAS: Okay.

LARRY SMITH: His application clearly had an elevation and a site plan attached to it.

COUNCILPERSON THOMAS: Okay.

LARRY SMITH: It's not clear to me, looking at the record of the Zoning Board of Adjustment, what was presented to the Zoning Board of Adjustment. But I do know what Chip Carlson put on his application. And it was a -- the front elevation from the street and it was a site plan which actually you saw those in -- in part of our presentation. Now, I don't know what else was put -- put on there. And all of a sudden we've got this S. I -- I choose to believe that it might have been typed in and by mistake and -- and Whited-Out.

COUNCILPERSON THOMAS: Right. Right. But I'm -- I'm past that part. I want to know what does it mean?

LARRY SMITH: What does it mean to me? What does it mean to our project?

COUNCILPERSON THOMAS: No. What does -- right. What does it mean for this document?

LARRY SMITH: I -- I believe that if we're going to accept the fact that there may have been a condition, that it's important to be accurate as to what the condition was. And the reason I say that is because you're going to be deciding -- it -- should you approve - - vote to approve this project, you're going to be deciding whether this project is "substantially consistent" with what was presented to the Zoning Board of Adjustment. That's why I think it's important.

COUNCILPERSON THOMAS: Okay. Do we have an original copy of this?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: That's the best version that we have from the public records.

COUNCILPERSON THOMAS: Even -- even, I mean --

CITY ATTORNEY RYAN: Does the applicant not have a copy of their own variance document that did not come from City staff in 2013, '14 or '15?

LARRY SMITH: I'm going to let Mr. **DILIP BAROT** answer that question. Mr. Barot has been involved with this project from the beginning.

CHAIRPERSON PARDO: Right.

LARRY SMITH: The property. And he knows this better than any of us. Just a moment.

CHAIRPERSON PARDO: What, knows whether or not he has the document?

LARRY SMITH: What's the question specifically?

CHAIRPERSON PARDO: Does he have the original document?

DILIP BAROT: Yes, we do.

CHAIRPERSON PARDO: Okay. Do you have it with you?

DILIP BAROT: We have provided that. I am asking my team member to get it. But the important things, I was there. I would like to tell the truth, that staff is trying to alter the public record. Very truly. I will provide you the evidence which will clearly show that three places, three documents are there from 2004. None of there had S. That is staff's -- its own staff report in 2004, then the minutes of the meeting which was the second document and actual resolution. So three -- three documents, if you look at it in 2004, there was no S. And we have those. We will be able to produce it. Staff is trying to alter the document. And I can go on public record.

COUNCILPERSON GUYTON: Madam Chair?

COUNCILPERSON THOMAS: Okay.

CHAIRPERSON PARDO: Okay. All right, sir. Yeah. This is outrageous.

DILIP BAROT: It is not outrageous.

CHAIRPERSON PARDO: All right, sir. Please.

COUNCILPERSON GUYTON: Come on.

COUNCILPERSON THOMAS: Okay.

COUNCILPERSON GUYTON: Mr. Barot. Mr. Barot. Okay. Let's --

CHAIRPERSON PARDO: Please.

COUNCILPERSON GUYTON: -- come on.

CHAIRPERSON PARDO: Go ahead.

COUNCILPERSON THOMAS: I -- I need somebody to explain to me what this S actually means.

DILIP BAROT: Yes, sir. What it means is very simply staff is trying to add S to they can --

CITY ATTORNEY RYAN: What does it mean?

DILIP BAROT: -- put three various elevations rather than the one elevation.

CHAIR PRO TEM DAVIS: (Inaudible).

DILIP BAROT: Because they want to say "substantially consistent" rather than the elevation which was submitted to Zoning Board of Adjustment in 2004, which was the

elevation from the street looking west. Looking east. That was the only elevation submitted to the Zoning Board of Adjustment. What staff showed you today was never submitted at the Zoning Board of Adjustment. We have the application and actual document.

CHAIR PRO TEM DAVIS: Hmm.

DILIP BAROT: That's why I said staff is altering the record we -- you have.

COUNCILPERSON THOMAS: Oh, okay. Mr. -- Mr. Barot, I -- I understand your frustration. I -- I don't -- I don't really want you to say those type of things if we don't have any type of --

CITY ATTORNEY RYAN: Right. And Mr. -- and Mr. Thomas, may I add this? We have met with Amrit Wellness on several occasions and at no point have you all ever raised with me the issue of an S on elevations ever before. This is the first I'm ever -- I'm hearing of this.

LARRY SMITH: Let -- let me -- let me say this. I have perhaps not to you, Miss Ryan, but we have raised this issue early -- I -- you know, I found out about this issue probably a year ago. And it's been -- the -- the S or no S has been a source of concern for me; however, and Mr. Barot's right. It -- it -- it is in the staff report no S. It's in the presentation of the staff to the Zoning Board of Adjustment, the recommended condition is no S. And it came -- and it came out the minutes of the meeting, a transcript of the meeting.

COUNCILPERSON THOMAS: Well, do you have that so we can see it?

LARRY SMITH: I have this.

CHAIR PRO TEM DAVIS: Bring it on.

COUNCILPERSON THOMAS: Is that the staff report and --

CITY ATTORNEY RYAN: And -- and --

LARRY SMITH: I have that.

COUNCILPERSON THOMAS: Well, yeah, would you please?

CITY ATTORNEY RYAN: And -- and also, the S is put in brackets, which means that it is a question. So I don't think --

LARRY SMITH: It is a question.

CITY ATTORNEY RYAN: -- staff was trying to hide that issue.

LARRY SMITH: I don't want to -- I don't want to say --

CITY ATTORNEY RYAN: If you look at the document it says elevation with a bracket around the S because nobody really knows. It looks as though -- it looks as though somebody either added it or tried to White it out. And over years the White Out may have gone away.

LARRY SMITH: That's the staff --

CITY ATTORNEY RYAN: So it could be one or the other. But I don't think that casting dispersions is the way to resolve the issue. And quite frankly, I think we should move on to the next one because --

COUNCILPERSON THOMAS: Sure.

CITY ATTORNEY RYAN: -- we've already agreed that we will leave in the first Whereas clause. And his second Whereas clause says that, "City staff understands the term "substantially consistent" to mean largely similar, almost identical, providing for variations not easily recognized." That is one of those issues where we have agreed that that statement belongs more properly in the background summary with what staff believes, because this is your resolution. So you know, we can hear from Miss McKinney, but I think it doesn't add or delete from the reality by taking that out. And I would agree that it should come out of the resolution, not out of the staff report.

CHAIRPERSON PARDO: All right. Miss McKinney, what's your opinion?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, when we drafted the resolution we tried to make sure that we told a clear story to the City Council. So we -- in that end we added this Whereas clause that -- to explain what our interpretation was for "substantially consistent". It's not mandatory that it be in the resolution and if it causes such displeasure and the council wants to take it out, I don't think it will change the intent of the story. But what we're -- that's why we included it, 'cause we wanted to explain what we thought "substantially consistent" -- and -- and usually in the Whereas clauses we try to tell the story.

CHAIRPERSON PARDO: Right. And then "substantially consistent" is still in the original variance.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes.

CHAIRPERSON PARDO: That language is in there?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes.

CHAIRPERSON PARDO: Okay.

CITY ATTORNEY RYAN: Mr. Smith?

LARRY SMITH: Okay. The next Whereas clause which -- so we're going to leave that in without the S if that's what the board chooses to do?

CITY ATTORNEY RYAN: No. We didn't say that.

CHAIRPERSON PARDO: We didn't say that.

LARRY SMITH: Okay.

CITY ATTORNEY RYAN: We -- I said we're going move on and --

LARRY SMITH: Move on. The second Whereas clause is --

COUNCILPERSON THOMAS: So you have -- excuse me, Madam Chair, just so I understand.

CHAIRPERSON PARDO: Go ahead.

COUNCILPERSON THOMAS: You have a question with the second Whereas with the S on variations?

LARRY SMITH: No.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: They're asking for the second Whereas clause to be removed.

CHAIR PRO TEM DAVIS: Where is the second --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And that's the one that I just explained that we included, that our interpretation of what "substantially consistent" meant in order to try to tell the story to the City Council, which is what we usually do where in the Whereas clauses because the resolution is usually the document that survives and gets translated. It's not a -- I don't think it's a problem legally because Whereas clauses tell the story. It's the conditions that apply to the project that are cast in stone. So we don't have difficulty removing it if the Council feels uncomfortable with it. But that's why we included it, just to explain the story and what our interpretation was.

COUNCILPERSON THOMAS: So Pam, you -- Miss Ryan, you agree with that?

CITY ATTORNEY RYAN: I don't have a problem with Miss McKinney's reasons for putting it in. In the spirit of compromise, what I've stated is, is that it is not necessary to tell the story, because it is staff's opinion. And that belongs in the -- more properly, in my opinion, in the background summary sheet, which is a part -- or in the staff report, which is a part of this entire presentation. But this is your resolution and I -- it's not a fact, their definition. So my position is I think it can come out safely and we're fine.

COUNCILPERSON THOMAS: Okay. Okay.

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: Go ahead.

CHAIR PRO TEM DAVIS: Really quick, just two questions. All the stuff that's in red has -- was that brought to the attention of the Planning & Zoning Board at the last meeting?

CHAIRPERSON PARDO: No.

LARRY SMITH: No.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No.

LARRY SMITH: We didn't have the resolution then.

CHAIR PRO TEM DAVIS: Oh.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No, you didn't.

CHAIR PRO TEM DAVIS: Was it -- were any of these items the discussions submitted before the board for discussion?

LARRY SMITH: Oh, yeah. I mean, all the issues were talked about, discussed thoroughly.

CITY ATTORNEY RYAN: Right.

CHAIR PRO TEM DAVIS: Well, what did Planning & Zoning say about these conditions? Did they approve this based on these conditions?

COUNCILPERSON GUYTON: They didn't get them.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: These were not conditions in the Planning & Zoning Board because they were part of the staff report.

CHAIR PRO TEM DAVIS: Okay.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And these aren't conditions now, either. These are part of the Whereas clauses which means it's the story leading up to the conditions.

CHAIR PRO TEM DAVIS: Okay. Okay. All right. Go ahead.

LARRY SMITH: Okay. The -- the third red Whereas clause starting with, "Whereas the historic elevation and site plan presented to the Zoning Board of Adjustment," I -- we're okay with that.

CITY ATTORNEY RYAN: Okay. Very good.

COUNCILPERSON THOMAS: So why is it in red?

CITY ATTORNEY RYAN: We've talked.

LARRY SMITH: Well, I -- I -- that's just after discussing it with Miss Ryan, I'm okay with it. I -- it -- you know, if you -- if you look at the letter that I sent her, you would see that it's -- well, it's in red now so obviously it's in red, right? So I wanted it out because I didn't like the way -- I just didn't like -- I didn't think that -- let me just give you my general feel of the -- the stuff that's in red here. It's kind of not necessary, you know? You're going to make your decision based on the evidence that's presented. I understand when -- now that I hear Miss McKinney say, you know, they're just trying to tell the story and give you some background. I understand that. And that's why we sort of -- I -- I recognize that so I can live with some of this. So --

CITY ATTORNEY RYAN: A compromise.

LARRY SMITH: -- one -- the one that begins with, "Whereas the --"

CITY ATTORNEY RYAN: So --

LARRY SMITH: "-- historic elevation and site plan presented to the Zoning Board of Adjustment," I'm okay with that after talking to my client. The next Whereas clause where it says, "Whereas the current Wellness Resort and Spa site plan application," I would like to propose, instead of just taking it out -- I would like to propose alternative language, and I'm not sure if Miss Ryan -- let me just say it and then maybe we can discuss it.

CHAIRPERSON PARDO: This is a big problem.

CITY ATTORNEY RYAN: Right.

LARRY SMITH: "Whereas the current Wellness Resort and Spa site plan application slightly modified building elevations massing in site configuration previously approved," semicolon, "and." So --

CITY ATTORNEY RYAN: We disagree with the word "slightly."

DIRECTOR OF COMMUNITY DEVELOPMENT MCKINNEY: We don't agree with that.

CITY ATTORNEY RYAN: Your "modified --" "modified" instead of "different," but "slightly," we're getting into "substantially consistent". What does all -- what do -- what do these words mean?

LARRY SMITH: Why don't we -- well, we are. But that's their job to decide what it -- whether it's "substantially consistent".

CITY ATTORNEY RYAN: Okay.

CHAIRPERSON PARDO: Right.

LARRY SMITH: So -- so I can live without the word "slightly," but I need -- I -- I want to make sure that we don't --

CITY ATTORNEY RYAN: I -- and I can live with the word "modified" instead of "different."

LARRY SMITH: Okay. We'll go with that.

CITY ATTORNEY RYAN: Council, we just want you all to consider this and we'll talk about it again when we get to your deliberation.

COUNCILPERSON THOMAS: Okay. And I just want both of y'all to know y'all are attorneys. So I mean, y'all are picking up words and we're not understanding what -- on the basis we would understand the definition but we don't understand the context in which it's used by to be able to explain whichever point is trying to be made. So whether it's the City's point or whether it's the applicant's point --

CITY ATTORNEY RYAN: Right. Right.

COUNCILPERSON THOMAS: -- we want to understand that part. So you all can't do the volleyball thing without letting us know.

LARRY SMITH: Okay. So -- so let me try to --

CITY ATTORNEY RYAN: There you go.

LARRY SMITH: -- explain where I was coming from when I wanted it out. Again, I think it's more or -- it's factual. Okay? You are looking at the evidence here. It's -- you -- you can clearly see that there are some changes from the 2004 project or the elevation and site plan presented to Zoning Board of Adjustment to this project. That's -- that's pretty --

COUNCILPERSON THOMAS: So that would be modification?

LARRY SMITH: That's modification. So there are some changes. So I can live without the word "slightly."

CITY ATTORNEY RYAN: Madam Chair, the -- the problem is the legalese. We are lawyers and so every single word takes on a significance for us.

COUNCILPERSON THOMAS: Right. That's what I was trying to say.

CITY ATTORNEY RYAN: That may not be apparent, you know --

COUNCILPERSON THOMAS: Right.

CITY ATTORNEY RYAN: -- so that's -- that's the problem. And, you know, again, I think we could have worked this out if we'd had more time in advance to work it out. Not blaming anyone for that. But --

LARRY SMITH: So the next -- so the next Whereas clause, "Whereas the Wellness Resort and Spa site plan application proposes to utilize a portion of the variance number --" and so forth, we're okay with that. I'm -- I'm definitely not okay --

CITY ATTORNEY RYAN: To leave that in?

LARRY SMITH: Leave that in. I'm -- I'm definitely -- the last Whereas in red on this page, I -- I would like that out. And frankly, here's why. Right? Staff has given their opinion. Our team has given our opinion. It comes back to the board to decide what to do. Staff's been -- I won't say it's irrelevant. Our opinion's not irrelevant. But it really comes back to you guys to figure out what it is you want to do. So what's the difference what staff's opinion is or what our opinion is when it comes back to the deliberation of the board? I'd like it out.

CITY ATTORNEY RYAN: Madam Chair?

CHAIRPERSON PARDO: Uh-huh.

CITY ATTORNEY RYAN: Again, staff's point was to tell the story. And this was a part of Community Development's attempt to do that. I -- I think it is an opinion and not necessarily factual and it belongs in the staff report and it belongs in the background summary, but it's not necessary in the resolution if the council is going to approve the project. If you're not going to approve the project, we may want to revisit all of these. And that's why I'm not asking you to say yes or no. We're just giving you staff's position and giving you the Wellness Center's -- Wellness Resort's position so that you can make a determination later. But if you do not approve the project, then it would be better to have these kinds of things in it.

CHAIR PRO TEM DAVIS: Madam Chair?

COUNCILPERSON THOMAS: Yeah, but --

CHAIR PRO TEM DAVIS: Oh, go ahead.

CHAIRPERSON PARDO: No, Miss Ryan?

CITY ATTORNEY RYAN: Yes, I'm done.

CHAIRPERSON PARDO: All right. Mr. Davis?

CHAIR PRO TEM DAVIS: No, go -- I'll -- Councilman Thomas still had the floor. I think he had another question.

COUNCILPERSON THOMAS: I just want to make sure. Have we come up with whether we thought this was "substantially consistent" or not? Because it says in this Whereas clause that we're saying that it's not "substantially consistent".

CITY ATTORNEY RYAN: Well, I think what it says is the City's staff's opinion. If you read it it says -- the very first sentence.

COUNCILPERSON THOMAS: Right.

CITY ATTORNEY RYAN: It talks about the -- 'cause we know -- we don't know what your position is. So what Miss McKinney attempted to do was to tell the story and say, Just so you guys are clear, staff does not believe it's consistent. Staff does not believe you should accept this and this -- these are our -- this is our position in these Whereas clauses. However, it would make sense to take that out if you approve the project. I -- I think it's okay to take that out.

COUNCILPERSON THOMAS: Okay.

LARRY SMITH: Okay.

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: Go ahead.

CHAIR PRO TEM DAVIS: I'll wait till you finish before I ask another question.

COUNCILPERSON THOMAS: No, I'm good.

CHAIR PRO TEM DAVIS: 'Cause I don't want to go back and forth. I just --

LARRY SMITH: The next issue that we have is actually in the conditions. We got three things we'd like to take -- you to take a look at. First is item number 3 under section 2 which actually is a condition of approval if you're going to approve this, because this resolution -- I don't want to say presumes you're going to approve it but it -- it -- it is drafted as if you were going to approve it and actually find it to be "substantially consistent" in another section. But this particular condition -- here's my -- I got a couple of issues with it. And actually, Miss Ryan, I'm just going to say, I'm okay with the demolition issue.

CITY ATTORNEY RYAN: Okay.

LARRY SMITH: Leave the demolition issue in. The reason I had it highlighted for the City Council members is because your code doesn't say the word "demolition." It says, "Site -- site preparation and land clearing shall not be considered construction." Well, you know, change your code. I think it would be -- behoove you to change your code. I'm willing to accept it for the purpose of this -- if you decide you're going to approve this project, and I hope you do and I encourage you to do that, of course, the word "demolition" I don't have a problem with. I'd like to have the second sentence out.

And the reason I'd like the second sentence -- this is the, "Building permit application and associated plans shall be submitted in its entirety and not be accepted by the City staff in a partial or incomplete manner." It's commonplace, my understanding, to, say, apply for a foundation permit on a big project, to -- to apply incrementally. So don't forget, we're supposed to have our building permits within 18 months of -- if you approve this project. Right? So it's typically incrementally -- the building permits are issued incrementally on a big project like this. And I don't want to get caught short

having this condition in here, having staff, for whatever reason, say, Your plans aren't complete. We need this or that, and all of a sudden, you know, the 18 months run. I just don't think it's appropriate. I think the building -- Florida Building Code allows for -- I -- I'll give you the foundation permit example 'cause I know it does. So I -- I don't think that's appropriate. Let's rely on the Florida Building Code and whatever the Florida Building Code and the City's modifications to the Florida Building Code if you have any. Let's go by those. Let's go by the code. That's why I'd like that out.

COUNCILPERSON THOMAS: Okay. Madam Chair, can someone say why we have it in?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Okay. Mary McKinney. I think Mr. Smith is confused. City issues foundation permits but only when entire set of building plans is submitted to the City and has been reviewed in a complete review, first round comments by all the departments, and none of the comments would lead to significant design changes in the structure. The foundation is part of the structure plans. That's when the City issues foundation permits. We don't have a problem issuing foundation permits but you have to have all your building permit plans in and reviewed by City departments before we'll issue a foundation permit.

LARRY SMITH: And I would -- I would just respond by saying, Let's rely on the building code. Do you have the building code there, Shama?

SHAMA BAROT: Uh-huh.

LARRY SMITH: This is the Florida Building Code. And it says that, you know, you could -- you can get a permit for foundations before the construction documents for the whole building or structure have been submitted. Now, I -- I -- I don't know your code -- your building code so well. But I'm presuming that you follow the Florida Building Code.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And I just said we will issue a foundation permit but you have to have all your build plans submitted and been reviewed by a first round of comments so that we know there's no changes to the foundation. So you can get a foundation permit but you have to submit entire set of construction plans.

LARRY SMITH: Well, and -- and again, to respond to Miss McKinney, that's not what the Florida Building Code says, or at least that's not the way I interpret it.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, you might --

LARRY SMITH: Not being overly --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- yeah, I think you're wrong. We have our building official here and he's ready to also testify as to that.

LARRY SMITH: Let me ask you this. Here's the question. Do we need it in the resolution?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, we just want to make things perfectly clear since this project has been sitting for 11 years and we don't want anyone to have any more confusion as to what they have to do or not do. So we're making it very clear.

COUNCILPERSON THOMAS: I -- I'd like to hear from my building official. I'd like to hear from my building official.

PETER RINGLE: PETER RINGLE, Building Official with the City. As far as foundation permits go, if you're going to issue a permit for the foundation, you need to have the plan substantially complete in order to do a review for life safety and for egress and the components. Okay? If you don't have a complete plan you don't know how all the parts will interact. The Blue submitted a complete set of building plans that went through a first round of comments. The plans are approximately 400 pages. We reviewed the plans. We found no significant changes so they were issued a foundation permit for that. If you submit a partially complete set, if the mechanical pages are missing, where's the mechanical equipment going to be? How are you going to know how the building will be constructed and how the foundation will support that? So if any portion of the plan is incomplete, you don't have the information you need to -- to design the complete structure.

COUNCILPERSON THOMAS: Okay. I understand that. So why would someone submit an incomplete set of plans?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: It happens.

CHAIRPERSON PARDO: (Inaudible).

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: It does happen frequently. They might forget something. They might have overlooked something. They might have a deficiency where one of their architects or engineers might not remember to include something so it does happen quite often.

COUNCILPERSON THOMAS: Okay. So basically this is put in to say, We want to make sure that your entire set of plans --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: So that they'll understand that.

COUNCILPERSON THOMAS: -- are in -- okay. No problem. So are we doing this just because this project has been in the pipeline for so long, or is this common --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: We just wanted to make it clear. And we could include this in every condition for every project in the future. But we were -- didn't want to have any confusion that maybe removing a tree was initiation of construction. We wanted to make it very clear what was initiation of construction and what you had to do to get any type of permit; that you had to submit a complete set of plans.

COUNCILPERSON THOMAS: Okay.

CHAIRPERSON PARDO: And Miss McKinney, so this issue, then, would really go back to 2004, right? When -- did we issue them a permit in 2004 when they knocked down the building? I recall it was either -- it wasn't in the variance. It was in the original plans that the council approved, right? It said they had 18 months to start construction, right?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes.

CHAIRPERSON PARDO: So they knocked down the building that was there.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Knocked down a portion of the buildings.

CHAIRPERSON PARDO: Right. And that was good enough --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: For the 18 months at that time.

CHAIRPERSON PARDO: -- for the 18 months.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: However, demolition is really part of site preparation so we wanted to make it very clear that demolishing a building --

CHAIRPERSON PARDO: That we're not going to give them another 11 years.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- does not initiate the 18 months time frame.

CHAIRPERSON PARDO: Okay.

LARRY SMITH: And -- and if I may --

CHAIRPERSON PARDO: And that's --

LARRY SMITH: -- I -- I --

CHAIRPERSON PARDO: Hold on a second.

LARRY SMITH: -- I agree -- okay.

CHAIRPERSON PARDO: So -- all right. So that's the reason why you put it in there?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes. Just to be very clear so everybody understood.

CHAIRPERSON PARDO: Right. Okay. All right. Go ahead, sir.

LARRY SMITH: If I may.

CHAIRPERSON PARDO: Whatever.

LARRY SMITH: **LARRY SMITH**, for the record, once again. I'm agreeing to the demolition added in there. What I have -- I still have a problem, why duplicate the code? The Florida -- I mean, I would presume that if you get incomplete sets of plans like was described, you know, mechanicals, you know, architect forgets something, you send it back and you say, Hey, you know, you need to, you know, make this right because it's in the Florida Building Code. And I'm sure that the building official has the discretion and the authority to do that. I don't need to have -- we don't need to have it in the resolution. That's what I'm asking you to take it out. That sentence. If it's in the building code and -- and Mr. Ringle has the authority to make that discretionary call, then you don't need it in your -- in your resolution. And I'd like to have it out. Does anyone else have any questions on that?

CHAIRPERSON PARDO: No, go ahead. Go ahead.

LARRY SMITH: Item 5. I -- I have -- again, this kind of goes with the building permit. I'm concerned that for whatever reason a building permit isn't issued through no fault of ours. So I'd like to offer a little alternative language, Miss Ryan, and for the Council's consideration, and say instead of "once approved," I would like to say "once a building permit has been issued and construction is commenced pursuant to this resolution, this resolution shall supersede any previous site plan approval," and so forth.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Uh-uh. No.

CITY ATTORNEY RYAN: I'll sidebar with you while we're having -- at -- when Public Comments is going on.

LARRY SMITH: Me?

CITY ATTORNEY RYAN: Yeah.

LARRY SMITH: Okay. And then finally, number 8. Oh, this is an issue that I think is just wrong. It's my understanding that the County took into consideration -- well, first of all, it's not our intent to not have this open to the public. I mean, the whole idea is this a resort and I would imagine that, you know, I -- I'm just going to say 90 -- 80, 90 percent, maybe more, of the participants in the spa are going to be resort hotel guests. But it's not intent to limit just the hotel guests. And this is a traffic-generated condition which I don't understand why it's in here. I wasn't quite involved in this. **JAMIE CROWLEY** is here and he can speak to this if need be. But Dan Weisberg was the County traffic person before he retired and now it's Maria Tejera. And Dan wrote e-mails, two of them, on July 31st saying that the -- we -- when we consider a resort hotel, we consider a spa kind of rolled into it. And we take into the consideration, because this is a pretty big spa. This is a 30,000 square foot spa. So he -- and he asked -- I think Jeff Gagnon asked for some clarification or somebody did from the City and Dan wrote back another e-mail on July 31st. We had the Planning & Zoning so -- so we got our traffic concurrency -- we got our traffic approval from the County. They had a meeting -- we

had our meeting at Planning & Zoning and then after that, the City wanted some more clarification, as I understand it. So they had a meeting -- the City's traffic consultant, our traffic consultant attended by phone. Mr. Crowley attended and I think Miss Barot was there.

SHAMA BAROT: (Nods head).

LARRY SMITH: And it's my understanding that the County reaffirmed its prior approval that the resort hotel approval for the traffic rolled in the 30,000 square foot spa. That's my understanding. And therefore, I think this is just a mistake and shouldn't be there.

CHAIRPERSON PARDO: Miss --

LARRY SMITH: And if you need -- you need specific comments on that, Jamie can answer that.

CHAIRPERSON PARDO: -- Miss McKinney.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Right. The spa is a 30,000 square-foot spa. The spa at PGA National, for anyone who's been there, is about 40,000 square feet. So you can draw an equivalency to that. It's a massive draw for the public.

CHAIRPERSON PARDO: Correct.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: The traffic letter that we received from the County just said, "We approve resort hotel and their amenities."

CHAIRPERSON PARDO: Correct.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: I spoke to the County a couple of times and said, "We have an issue with the traffic generated by the spa," which the County did not do any independent review of traffic analysis for the spa. There's also about 10,000 square feet of restaurants. However, the City staff -- we have a traffic consultant working for the City who met with the County traffic people and some members of the Wellness. And at that time, the -- it's my understanding that the Wellness applicant stated that they would reserve the spa for the hotel guests only.

That was the one meeting that I was not in attendance. In another meeting that I was in attendance to, the applicant stated that, also. So we put a condition in the resolution to protect the City that the traffic would -- or the spa would be for resort guests only, since that was what was stated to us at least on two separate occasions. We talked to the traffic engineer this evening who the City hired to review the traffic, who also attended that County meeting who has verified that that was the statement made at that meeting by the applicant. So for the protection of the City, we put the condition in there that the spa would be for resort hotel guests only since that had been stated by the applicant on several different -- at least two different occasions.

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: Okay. So Miss McKinney, did our consultant attempt to estimate how many guests would, you know -- outside guests would use the spa?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: You want to take that? If you'd like, our traffic engineer, **PATRICK FIGURELLA** with Calvin Giordano can answer any questions that you might have.

CHAIRPERSON PARDO: Sure. Okay.

PATRICK FIGURELLA: Good afternoon, Calvin Giordano. I am **PATRICK FIGURELLA**.

CHAIRPERSON PARDO: Good evening.

PATRICK FIGURELLA: The traffic engineer who reviewed that was a gentleman named Eric Shenesky [phonetic] whose wife just delivered a baby girl last week which is why he couldn't be here tonight. I was at the meeting that we were talking about at Palm Beach County Traffic. The issue that -- with regards to resort hotel and spa is that our traffic engineer pointed out in the Institute of Traffic Engineering Manual that traffic generation rates between resort hotel and hotel were very similar; whereas, this 30,000 square-foot spa which, as pointed out earlier, is somewhat similar in scale to the PGA Resort and Spa, which is heavily advertised and locally patronized spa, didn't seem to and nobody has been able to provide a specific study of resorts or -- or of spas. It didn't seem that the small difference between resort hotel and hotel would account for the size of the spa. So I --

COUNCILPERSON GUYTON: I'm --

CHAIRPERSON PARDO: Okay. All right. So then what we have in there is really just for the resort itself?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes. Yeah.

CHAIRPERSON PARDO: Not for the outside people who will be --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: That's what the condition states.

CHAIRPERSON PARDO: -- hopefully --

COUNCILPERSON GUYTON: Madam --

CHAIRPERSON PARDO: Okay. Which could be tremendous. You know, been to the PGA Spa. All right? I know how difficult it is at times even to find parking there when there's golfing and other activities going on there. Mr. Guyton?

CHAIR PRO TEM DAVIS: Miss -- it was --

COUNCILPERSON GUYTON: I think Mr. Davis --

CHAIRPERSON PARDO: I'm -- I'm sorry. Mr. Davis, go ahead.

CHAIR PRO TEM DAVIS: Miss McKinney, you refer to it as protection. What kind of protection the City would need?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: From the heavy traffic generated by the spa. I don't know some -- if you've been over -- I'm sure you've been over on A1A during the season and even without anything new added, it's pretty difficult sometimes to get out of the streets onto A1A.

CHAIRPERSON PARDO: Yeah.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: So we're trying to make sure that traffic is accommodated.

CHAIR PRO TEM DAVIS: Okay. So how many spas do we have located currently on -
- on the island now?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: We have one at 3800 N. Ocean and I think that's about 15,000 square feet maximum.

CHAIR PRO TEM DAVIS: So --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: There's some really tiny ones that are in some of the small buildings that really don't generate any traffic. I -- I --

CHAIR PRO TEM DAVIS: -- does -- does the Marriott have a spa?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: I think the Marriott spa is for their guests only.

UNIDENTIFIED SPEAKER: No.

CHAIR PRO TEM DAVIS: No, it's not.

CHAIRPERSON PARDO: No. No, no, no, no, no, no. The Marriott Resort is not because I'm a member. And I see my -- Roger in the back. No, that is open to the public.

CHAIR PRO TEM DAVIS: So -- so --

CHAIRPERSON PARDO: Their spa is open to the public.

CHAIR PRO TEM DAVIS: -- so my question is, if the Marriott get approved --

CHAIRPERSON PARDO: It's much smaller.

CHAIR PRO TEM DAVIS: -- for a spa to allow people, why not this one? What was the -- what it was problem?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And the -- the Marriott spa is also fairly small, too. This is a very big spa.

CHAIRPERSON PARDO: Right.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: It's 30,000 square feet.

CHAIRPERSON PARDO: And it was included.

CHAIR PRO TEM DAVIS: But the Marriott has a brand name, will draw people from all over the world. They don't necessarily have the name that -- recognition -- not to knock you -- quite yet that Marriott has so I'm trying to find out why would they be that much more -- have that much more of a draw than the Marriott? I think the competition would be good for everybody. It would be even less traffic for one spot versus another.

CHAIRPERSON PARDO: Uh-uh.

CHAIR PRO TEM DAVIS: So the traffic study should reflect that if you got more than one spa, if you've got three or four or five, the traffic would be dispersed a little more evenly versus one location while the traffic will be driven and -- and cramming up. I think it would be even more better benefit for the traffic over on the island if you was to have a little more competition with -- with spas. I'm not the professional. Just asking the question. How did -- how did we get to that?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Want to take that?

LARRY SMITH: I -- I would -- I'm going to let **JAMIE CROWLEY**, who's a lawyer --

CHAIR PRO TEM DAVIS: Yeah.

LARRY SMITH: -- with Gunster handle this. He was at the same meeting and I want to give -- have you give -- have him give you his perspective of how that meeting went. All I know is that Dan Weisberg and the County have signed off on the -- on the traffic generation study saying that the resort hotel spa doesn't need to be independently calculated when you've got a resort hotel. Jamie, could you speak to that?

JAMIE CROWLEY: Yes. Thanks. Thank you. Good evening. My name is **JAMIE CROWLEY**. I'm an attorney with the Gunster Law Firm in West Palm Beach.

CHAIRPERSON PARDO: Good evening.

JAMIE CROWLEY: So the first thing to mention is that because this project generates over 500 trip as day, the County regulations apply with respect to concurrency. Your code also refers to the IT Trip Generation Manual, which is where Mr. Weisberg concluded that resort hotels factor in that the guest that is are staying on the properties are going to stay on the property and use these facilities such as the spa and the

restaurants. So they're not getting off the property to drive around on the local roads to go to different spas or different restaurants so there's an internal capture.

And I think the number he used was 70 percent of a normal hotel they factor in for this sort of resort hotel. Now, that number was factored into the trip generation approval that the County issued. So Mr. Weisberg was asked by your staff on July 31st whether or not these accessory uses were, in fact, accessory and whether or not there was any restriction that they had to be restricted to the guest staying at the hotel. In both instances he responded no and he said that, "Resort hotels are similar to hotels in that they provide sleeping accommodations, restaurants, cocktail lounges, resort shops and guest services. The preliminary difference is that resort hotels cater to the tourist and vacation industry often providing wide variety of recreation facilities, golf, tennis, beach and other amenities. Mr. Weisberg concluded that it appears that the amenities listed below are consistent with the IT description and will not generate additional traffic." Now, that didn't come from me. That came from the head of the County's Traffic Division. So this question was specifically addressed by the County. We went and we met with Maria Tejera who's now the acting director and she said, "You know, when there are problems like this that come up, they usually come up at the time the traffic letter was -- was issued, which in this case was in April. It came to our attention, you know, after the Planning & Zoning meeting. We addressed this with the County on September 10th. So we never said that we were going to restrict the spa to our guests because --

COUNCILPERSON GUYTON: Okay.

JAMIE CROWLEY: -- I -- throughout this process it's been our understanding that they wanted the public to be able to use these facilities.

COUNCILPERSON GUYTON: Okay. Madam Chair?

JAMIE CROWLEY: What I would say is that --

COUNCILPERSON GUYTON: Could I --

JAMIE CROWLEY: -- is that the --

CHAIRPERSON PARDO: Let him finish.

JAMIE CROWLEY: -- the traffic trip generation accounted for the fact --

COUNCILPERSON GUYTON: Okay.

JAMIE CROWLEY: -- that the spa would be there.

COUNCILPERSON GUYTON: Okay. Madam Chair?

CHAIRPERSON PARDO: Go ahead, sir.

COUNCILPERSON GUYTON: Okay. Let me say this. 'Cause we really do need to move on and let them finish their presentation and we deliberate on whether we're going to approve it or not. We're getting bogged down in the minutia now. But let me just say on this traffic issue, the City is not the approving agency. That's a County responsibility. That is not our --

JAMIE CROWLEY: Correct.

COUNCILPERSON GUYTON: -- responsibility. Once that County review the trip data, that's -- that's their call. Now, we went a step further and hired a traffic consultant which -- and some know, I'm a planner. I thought that was a little unusual. But to question the County to see if they were accurate. We did what we did. But the data is still the same. It meets the traffic concurrency requirements. It's not outside of that. The other thing is that all of those hotels -- and he kind of mentioned it there -- has openings to the public. I go in all the time and have dinner and a drink and lunch and -- it's open to the public. This is inappropriate talking about restricting it and the public can't use it. I -- I don't think that's appropriate. And my other point is, this is private property. If they want to open it to the public, that's their choice. If the County said that the traffic is not going to exceed their requirements, why are we as a City even going there? I -- I mean, I think it's wholly inappropriate. We're getting tied down in the minutia. We have agency to -- agencies to consider those issues. We need to move forward. That's private property. If they want to have the public in it, that's their business. That -- that's their business. This is not our project. It's not a public project. It's private. Could we please move forward?

LARRY SMITH: Yes.

COUNCILPERSON GUYTON: Thank you.

JAMIE CROWLEY: Thank you.

CHAIRPERSON PARDO: Miss McKinney, do you have anything to say to that?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No.

CHAIRPERSON PARDO: Okay. Mr. Smith? Go ahead. I think someone's --

LARRY SMITH: Madam Chair, that concludes the --

CHAIRPERSON PARDO: -- (inaudible) --

LARRY SMITH: -- applicant's presentation.

CHAIRPERSON PARDO: You know what I mean?

LARRY SMITH: We're available to answer any questions after Public Comment.

CHAIRPERSON PARDO: Sure. Great. Thank you.

LARRY SMITH: Thank you.

CHAIRPERSON PARDO: Okay. **TRADRICK McCOY** and then Joseph Anderson.

TRADRICK McCOY: Good evening. **TRADRICK McCOY**, 1465 W. 30th Street.

CHAIRPERSON PARDO: Good evening.

TRADRICK McCOY: Madam Chair, Council, City Manager, it's real interesting to hear all of these comments, but I didn't hear anyone reference the actual minutes or the recording of the Zoning Board of Adjustments. And all of these issues that you guys brung up, we set a couple of hours at the P & Z Board and asked these same questions. In fact, Councilman Guyton or Councilman Thomas, I asked the question, "How is the staff report completed? Is there a typewriter on hand? Did somebody go back?" Because I -- I thought it was interesting that you would come up with a recommendation and it's typed and then you'll have an actual Advisory Board member there to sign off on it.

So I thought at some point there must have been a disconnect in the communication. We asked these same exact questions, which led me to believe -- and when I made the motion approving the application, that there were no substantial -- there were no, excuse me, substantially consistent conditions that was placed on it. In fact, the packet I want to say was over 560 pages. Within that there were certified minutes by a court reporter from the Zoning Board of Adjustment meeting. And in that meeting when we actually went down line by line, I remember specifically asking staff the question, "Can you please point to the line where there's specific conditions on this project?" And I think we went back and forth about some discussions but never was it identified. And again, I would restate my position. There aren't any substantial -- substantially consistent conditions on this project. You guys are getting, like you said, Councilman Guyton, bogged down in the micro details. You know, I think the micro details are specific for the Planning & Zoning Board. We -- we identify Planning & Zoning issues. You guys should take a macro approach.

Take the recommendation from Planning & Zoning Board just as it is, because we hashed out these same considerations, and move forward. Because if not, we'll be here till 11 going back and forth. And there's no way that you should put a resolution up here and go back and forth about a difference of opinion. That's -- that's micro -- that's staff-level stuff. That's not for the City Council. Those are my comments. And again, move the project forward and I hope it passes. Thanks.

CHAIRPERSON PARDO: Thank you. Joseph Anderson and then Deandre Poole. Mr. Anderson? Mr. Anderson? Okay. Dr. Deandre Poole and then Michael Brown. Dr. Poole? Okay. Michael Brown? Michael Brown? All right. Dr. Edwin Riley?

DR. RILEY: I wish I had a joke for a little levity but --

CHAIRPERSON PARDO: Hi. Please state your name for the record, sir.

DR. RILEY: So my name is Edwin Riley and I live here in Riviera Beach. I've been a resident of Palm Beach County since '89 and have lived in the State of Florida since 1970. My doctorate is in the field of Mind, Body, Medicine, Integrative Health Care with an emphasis on Stress Reduction. I think it's really a -- you want some of that?

COUNCILPERSON GUYTON: Yeah, I need it.

DR. RILEY: That's all I have to mention and everybody says, "Yeah, I could use some of that." So can I. So here's why I'm -- I'm here and why I'm impressed with what they're presenting as a proposal for the Wellness Center. I've been called a visionary and a pioneer in the wellness and spa movement because I was setting up protocols before wellness and spa became kind of a household name. And I'm happy to say that what has changed in the past few years in this whole umbrella that we're calling wellness and spa is very positive. It's not just about being pampered and going for a meal around the pool and having a massage and a facial. It's become a lot more than that in a time where it needs to have a change. And that's what I see that is being proposed here.

There's actually an evolution or a new mission with an increase in, as you well know and I bet there's no one in this whole room here who has not been touched with someone or is being touched by someone right now with cancer, obesity, anxiety, panic attacks and any other number of diseases that are very, very prevalent. And a lot of these people don't have a place or a direction where to go to get the information. In meeting just last week very briefly with Jim Brown and **SHAMA BAROT**, because I was interested in hearing what this Wellness Spa of such largess was going to mean and what it might mean setting it apart from other wellness centers. And what I've realized in talking to them is that they come from a place of the heart. They intend to reach out to the community and they expressed that to me. And there aren't that many wellness centers or spas, if there are any of them, that don't take that into consideration of where they're coming. It's more about money. And they are not a charity organization by any means. But at the same time, they expressed to me that they're willing to tithe to the community and ask focal groups within not only Riviera Beach but Palm Beach Shores.

CHAIRPERSON PARDO: Okay.

DR. RILEY: Or throughout the county of -- or elsewhere to come forward --

CHAIRPERSON PARDO: Okay.

DR. RILEY: -- to let them know what they really want to -- to have under this umbrella.

CHAIRPERSON PARDO: Okay, sir.

DR. RILEY: So I'm just going to wind it up right now.

CHAIRPERSON PARDO: Yeah, right now.

DR. RILEY: I just want to say that I'm very supportive of them.

CHAIRPERSON PARDO: That's great.

DR. RILEY: That -- that they have something that they're going to bring to the community with lectures and special events.

CHAIRPERSON PARDO: Okay, great. Thank you very much.

DR. RILEY: Thank you.

CHAIRPERSON PARDO: Judge Rogers.

COUNCILPERSON GUYTON: Sir -- sir, about that stress relief, do you have a card?

DR. RILEY: I'll get one to you after the meeting.

JUDGE RODGERS: Thank you for hearing from me. My name's Edward Rogers and I filled out a card but I filled it out improperly and I'm sorry and thank you for your kindness.

CHAIRPERSON PARDO: You're welcome.

JUDGE RODGERS: And don't know if you really want to hear what I have to say.

CHAIRPERSON PARDO: I know what you're going to say. I was at the P & Z meeting but you can say it.

JUDGE RODGERS: But I -- well, I appreciate you giving me the opportunity to say it. I want to support the building of the Health center. You know, we've been a long time trying to get something done here. And I'm surprised that this is causing this much trouble. We're not finding out the real reason of what's going on here. I don't think what's going on here is what I'm hearing is going on here. And I need this?

COUNCILPERSON GUYTON: Judge, yeah. Yes.

JUDGE RODGERS: I need to have -- I'd really like to find out what is going on 'cause I see no reason at all. I have never -- I've been in this town 50 years and on the council at least eight years. I've never seen one of those Miss McKinney alterations in which so many hoops are put up. So it's yes, well, we're -- we're willing to give it to you but you have to jump through a thousand hoops. That didn't make any sense at all. And I don't think that they're all necessary. As I said, I've been here a long time. And I'd like to tell the members of the council, each of you, that the solution to some of this stuff that goes on in Riviera Beach is politics. It's all politics. We don't like to talk about politics but politics are politics. And you are each elected to your offices. You have a duty to vote your opinion as to whatever it is. And if you decide just like the council here or Mrs. McKinney to override the commission, you can override the council.

So you do what you think -- think needs to be done here. And Lord knows that there's a lot of inequities here, and I see them here and I thought we were way past that. We -
- I thought we were way past the time when we had -- and -- and actually, a lot of

people here knows a lot of things that are going on here are just not right. They're not right. They're motivated by ill-tempered feelings. And they have no business here at all. You owe a city to do what's in the best interest for the city. Not what's in the best interest for some group will be -- and who will be inconvenienced because of what happens. We gotta share. We can't just take all for one group. We have to share. And the group that is trying to control the city here is just perhaps one-fourth of the city. You know, they've got to realize that they're going to be inconvenienced with two more cars on the highway or something like that. That's going to hurt somebody. It's gonna - a lot of people, you know -- if we could get rid of all people, we would, hey, get rid of all people. You know? And that will include a lot of us. I lived on Singer Island for a long time. And I know people said curse words at me every time they got behind me. But there's really nothing -- give the old man a little more minute -- little more time.

CHAIRPERSON PARDO: Great. Okay.

JUDGE RODGERS: There's really nothing going on here that should have so much to do about it. And we should still be friends after it's all over. So we've been trying to get something over there for -- for some time and this organization is bringing with it a hope, at least, for more employment. And we've been fooled a lot of times by that, you know? We -- we played the clown for a whole lot of people.

CHAIRPERSON PARDO: Oh, yeah.

JUDGE RODGERS: And we need to stop. Fifty years or so of something, we sold Singer Island for \$30,000. The whole mall over there. \$30,000, no taxes to pay. No parking lot. So we've been somebody's fool for a long time. And I'm not saying that I would guarantee this but I can tell you that I have asked for some safeguards to make sure that when we say they're going to hire local people, we don't see all people look like they just got off the boat from Colombia or somewhere working and locals sitting on the bridge on the way over to the mainland. And we've been at fault of that 'cause many of us rode by in the daytime and saw that happening and didn't say a doggone thing. We just let it go. We haven't said a thing at all. And I'm just hoping that this time I've talked to the developers there and I've asked if I could take an active part in there. So that I'll report to the City what's going on and I hope you --

CHAIRPERSON PARDO: Okay.

JUDGE RODGERS: -- take to task some of those people who are not dealing. You are in a position here, and I know this isn't supposed to be political, but you Democrats -- some of you Democrats, some of you pseudo-Democrats and some of you are closet Democrats. Some of you are passing for Democrats. But I hope you'll stand up and finally realize that you are in charge here. You can override everything here.

CHAIRPERSON PARDO: Right. Okay, Judge. We need to move on.

JUDGE RODGERS: Okay. Just to say one thing to close up. Nobody can question you on your opinion and what you make it. Nobody can even ask you what it was. So you have complete authority to do what your heart and your sense of integrity tells you to do. That's all I want to say. Do what's right.

CHAIRPERSON PARDO: Thank you, Judge. **LLOYD BROWN** and then **ROGER AMIDON**.

LLOYD BROWN: How you doing? I hope I have a little time like that. But I know you heard of a --

CHAIRPERSON PARDO: Wait, wait, wait. You need to say your name for the record.

LLOYD BROWN: **LLOYD BROWN**, 1464 W. 35th Street. I know y'all have heard of people, they call them Shadow People. They live under the bridges. They have no, you know, say so in the government. But I feel like on this side of the track, it's like a Shadow City. We really don't have no say so in this government. And then you know, I heard Mr. Pringle [sic] talking about a -- you know, inspections and all that. I mean, practice what you preach -- preach, sir, 'cause I -- I mean, I'm -- I'm here. I'm a living witness of a failure that you done and what your -- your department done. I mean, as far as Silver Beach Road, let me tell you something. It's time for elections.

So everybody's going to be involved in that. Everybody's going to come sit out there, "Yeah, I got something to do with it." Silver Beach Road been like that since I was in junior high school. Nobody done nothing. These people just got put in or whatever, they knew it was like that. Now it's time for elections or them going into another position in the government, everybody's got something, "Oh, yeah. I had something to do with that." Miss Taylor knew it was like that when she got in. It's been like that, like I say, for the longest. I mean, you just want to boost your election, you know? You know, you want to boost that, then, yeah, sit down, "I had something to do with Silver Beach Road." You know, I sit over there on the corner. And then as far as these jobs, these places they're talking about building over here --

CHAIRPERSON PARDO: Okay.

LLOYD BROWN: -- I sit on the bridge in the morning and I watch the traffic that go over there. The people that's working. Like the man just said, these people from out of -- you know, they're not even citizens of the United States. They're probably over here from different countries. I don't see anybody from my neighborhood working over in Singer's Island. I mean, we live in a Shadow City. The Shadow of Singer's Island. We don't have no rights, nothing. People aren't -- I mean, crime's still going up on my end, and the people over here talking about, "Well, we -- we're doing great. You know, we're Singer's Island. We're building these beaches." You can't even go over to the beach. And then this private place you're talking about, I really don't care about going to the spa. I mean, if they hired some people from my neighborhood, I'll be okay with that. But I know that's not going to be called for because the landscaping and all that, it's not going to be done by anybody I know, no landscape group that I knew. And it's like practice what you preach. You preach about the development of Riviera Beach but you only do it when it comes down to elections. And that's a shame.

CHAIRPERSON PARDO: All right. Thank you. **ROGER AMIDON** and then **MARIE DAVIS**.

ROGER AMIDON: Good evening, Madam Chair.

CHAIRPERSON PARDO: Good evening, sir.

ROGER AMIDON: Council members. **ROGER AMIDON.** I'm the general manager of the Palm Beach Marriott, Singer Island Beach Resort and Spa. I represent over 300 employees that do come from -- a majority of them do come from the local area and from Riviera Beach. I've also been the executive director in the past for Palm Beach County. And one thing that we were always striving for was finding developers to build more hotel rooms in Palm Beach County. Right now we have about -- just about 16,000 rooms in Palm Beach County. We generate about \$42 million in bed tax revenues and we have about 65,000 people employed in our hospitality industry right now.

With this development, I think it's pretty exciting. It tends to lean towards wellness tourism or medical tourism. And that is an untapped market out there. This wellness resort, in my opinion, will finish the hotel resort designation there on Singer Island. It will add, obviously, competition not only for my hotel but for the other hotels on the island. But competition is good. And I'm ready for it. I think this will be a first-class resort. I think it will probably tap into a great deal of the international market that we would like to see come to our area. We have six million visitors to Palm Beach County right now. Adding more hotels will only add more of those visitors coming here to spend their money in our communities. So I would strongly recommend to approve this project so we can put more people to work, we can have more hotel rooms so that more and more people can visit Palm Beach County. Thank you.

CHAIRPERSON PARDO: Thank you. **MARIE DAVIS?**

MARIE DAVIS: Good afternoon. My name is **MARIE DAVIS.** I'm a resident of 3001 Lake Drive on Singer Island. I have a couple of things to start. There were remarks made about the level of support that they have. Well, they -- in the -- the original plan from 2004 was approved and they had a lot of support from the Singer Island Civic Association and the Citizens for Responsible Growth, homeowners' associations, etc., and people across the street like me. Well, they don't necessarily have those. We're not opposed to that development. We're just opposed to the size of it. Also there were no -- we noted -- or at least I noted that there were no elevations reflected or no views from the west side look -- I mean, from the property looking west.

The western tower is the 20-story tower that is very, very close to the street; whereas, the old western tower was actually -- I don't know it's called for layered back so it didn't look so massive. Also, when I came in, Mr. Dilip is very upset with me because I'm not supporting the project and at -- said, you know, if I want to -- if I want to fight, he'll fight. I don't want to fight. And I also don't want to be intimidated by someone my size. And I'm not -- I feel like what I want to do is I want to compromise. And I have attempted and we've had meetings and we expected that he would compromise. We always thought these plans were in the works, and they're the just the same as they were. Anyway, I'm a -- I was a member of Planning & Zoning. I enjoyed it very much because we were able to shape our city for the future. After writing down the

indisputable history and facts and their claims, the old plan versus the new plan being substantially consistent, I can only come to one conclusion, that this is an in-run, a back-door attempt to ignore the ordinances and zoning code and variances and particularly variances. In an effort to obtain variances they call this plan an amendment.

There's a specific criteria creating variances and all criteria must be met. I don't -- I obviously will not have time to finish this, but where there's an existence of a special condition or circumstance, did the special condition exist which is peculiar to the land structures or buildings in the application? The answer is no, the Wellness Center had an original approved plan and changed it. What I think that they're attempting to do is - - and when you look at the other criteria, which I don't have time to recite, it appears that you have developers attempting to redesign the current zoning code for the City of Riviera Beach. And I urge you to deny this project or at least in the alternative, study it further until more residents from our city are here. Thank you.

CHAIRPERSON PARDO: Okay. Thank you. I have a couple of letters here that I've been asked to read into the record. Okay. This is from Dr. Julie Botel. "We have been told that City Council is planning to force the Amrit Wellness Resort developers to build the old 2004 project rather than the new 2015 design. We have a Tiara board meeting at 5 this evening and, therefore, we will not be able to attend the City Council meeting at which you will be taking up the issue of granting Amrit developers the right to build the new design. We strongly support allowing the developers to build the new design. If City Council forces the developers to use the old plan, it will not accomplish anything regarding environmental protections or encroachment past the 1997 CCCL line.

"At least the new plan pushes the project a bit west of the 1979 line. The new design moves the project much further away from the Tiara building, a difference of about 70 feet. The developer also -- has also agreed to terminate their proposed loading dock services, the Wellness Resort, so that it is less visible from Tiara units. In addition, the new project is much less dense than the old project and will have much less environmental impact. Again, we strongly urge City Council to permit the building of a new design. Please read this letter into the record. Sincerely, Dr. Julie Botel." "I would like to add my personal support for the Amrit Wellness Resort project. I have attached a letter I would like you to consider. Thank you, Jeff Fisher."

And then he goes on to say that he's a professor of real estate at Indiana University. "A committee of owners from the Tiara have met with developers of the Wellness Resort Spa on numerous occasions over the past year or so to resolve concerns that we had about the original development plans. The developers of WRS are responsible members of the community and have been very cooperative in working with the Tiara to address our concerns in the amended site plan while also meeting their objective of having a very modern and high-class design that should enhance the image of the entire island. The amended design moves the project much further away from the Tiara which is important to many of the owners.

"The developer has also agreed to relocate the loading dock services the Wellness Resort -- servicing the Wellness Resort so that it is less visible from the Tiara units. In addition, my understanding is that the amended project has a smaller footprint than the

original project and consequently should have less of environmental impact. I ask that you approve the amended site plan and allow WRS developers to build the improved plan." And that is Jeffrey Fisher, PhD. Okay.

Next, "Dear Council, I am very concerned about the approval of the new site plan the developers submitted for the Singer Island Wellness Resort. It should not be exempt from the 1997 Coastal Construction Control Line since they changed the original site plan. It is of the utmost importance that we protect our fragile coastline for residents and businesses. Our local economy depends on it. Therefore, I respectfully request that you vote against this project as currently submitted. Thank you, Lori Everett." And she's also a Singer Island resident. "To Chair Pardo and members of the Riviera Beach City Council. I am a year-round resident of Riviera Beach and have been for 11 plus years. I actively follow with great interest what happens in our city. You already know that at the August 27th, 2015 P & D Board meeting, despite our Riviera Beach Planning & Zoning administrator Jeff Gagnon's recommendation, as well as those of the speakers and organizations, that the developers plan be rejected, the board voted six-one in favor of the project.

"The board was influenced more by the economic factors and ignored the good and valid reasons for denying the previously agreed variance for the developers to use the 1979 Coastal Construction Control Line. As stewards of our city's assets, your consideration of the proposal must be a full-picture approach with heavy emphasis on the environmental impacts of allowing this project to be built so close to the beach. The developers should be required to use the 1979 CCCL. I urge you to deny approval of the application," from Mr. Kakkar. "Requesting site plan approval of the property located at 3100 N. Ocean Drive. Thank you, Vicky Saritas, [phonetic], Singer Island."

Okay. This is a long one so I'm not reading it all. "Dear Mayor and City Council members, as concerned residents residing in Yacht Harbor Estates, we are writing in regards to the proposed Wellness Resort and Spa oceanfront development. The smaller parcel is in Yacht Harbor Estates at Singer Island." And then they go into everything that happened at the P & Z meeting. Go on to say, "In our opinion -- our opinion of 'substantially differences' between the original versus the new proposed site plan are the elevations, the room numbers increasing, the change in the east and west tower layout and location.

"The new proposed site plan conceptual drawings depict two rectangular boxes versus the original site plan as an out-of-the-box concept. The design of the new towers massing study is not harmonious to the surrounding -- to the surroundings and obstructs their neighbors' views. The developer is claiming that the new site plan is within the zoning variances granted. True, but the Zoning Board of Adjustment motion clearly states elevations and site plan presented, i.e., the original 2015 -- 2005-approved site plan. How can the developer possibly be allowed to use a 10-year-old variance to submit a new site plan? We believe the decision is a no-brainer. Please do the right thing by either approving staff's recommendation denying the propose add site plan as submitted, or as an alternative, please defer until a further study. We would like this letter read into the record. Sincerely, Bernard and (Inaudible)."

All right. We're almost there. "We are unable to attend this meeting and ask that this e-mail be read into the record. We understand that a large number of jobs has been promised to Riviera Beach which had a significant bearing on the Planning & Zoning Board when they voted to approve this site plan for the Wellness Center. One dissenting vote. We are interested in the breakdown of the jobs that will be available. How many are part-time versus full time? How many jobs are in the job -- how many jobs are in each job category, management, administrative, cleaning, staff, bell persons and the like?

"Also, how many of these jobs by classification can be filled by Riviera Beach residents? What monitoring procedures are in place to verify these numbers once the project is completed and open for business? And what is the penalty for not fulfilling the promises made at the site -- at site review time? On a different -- different topic, the variances requested create massive buildings on our fragile island. There is -- where's the green space? We consider these variances totally out of scale and unacceptable. Please consider the impact of these variances carefully before casting your vote. Thank you, D. Damao [phonetic] and G. Rouse [phonetic], Singer Island."

"To our elected representatives: I am writing regarding the proposed construction on Ocean Boulevard on Singer Island known as the Wellness Resort and Spa. I am not opposed to the development of the site. I do oppose the scale of the development. The original plan was well-designed and minimized the negative impact on the surrounding residents, of which my property is one. The original plan -- if the original plan is pursued, I believe we all win. If the bait-and-switch oversized plan is approved, I think the residents such as myself lose. It's all about the scale. Approve the original smaller plan. David Hamilton, Singer Island." We've read that. Okay. We're at the last one. And this was, "To the Honorable Dawn Pardo, Chair." All right.

"Miss Pardo, would you kindly read my leck [phonetic], wreck --" sorry. "Would you kindly read my letter into the record. My family was amongst the earlier settlers in Riviera Beach since the 1900s. I was born on 21st Street and I still live in Riviera Beach. My uncle owned a grocery store on Broadway at 16th Street where I worked as a young boy. I was educated here and became a lawyer. My uncle, B. Fox Griffin, was mayor. Our family grew and we still live and own businesses and properties in Riviera Beach. We developed some of the Broadway corridor and Singer Island from the 1940s to the 1980s when Riviera Beach was a destination. I've seen many changes, some good, some bad, for its residents.

"Whether we live on Singer Island or the mainland all of us want growth, opportunity and prosperity for us and our families. We want our city to be the best. Residents are the lifeblood and heart of our city. We have a great vested interest that new -- than newcomers. I watched successful developers and others come and go through bankruptcy and foreclosure, often leaving taxpayers and residents to pick up the pieces. Apart from finances and profit, local successful developers study the location itself and already know their neighbors and communities. They take into consideration comments from their neighbors about the flow of air, obstruction of view, space. Residents want assurances this new development will enhance their quality of life. Some unsuccessful developers make a profit at the expense of residents, taxpayers and the community at large.

"The proposed development, the Wellness Resort, formerly the Amrit, is two blocks from my home. After reviewing the 2004 approvals, resolutions, site plans, elevations, the new proposed 2015 plan and P & Z minutes, it is unconscionable that an attorney or a developer would make such claims that this new proposed Wellness plan is substantially consistent with the original approved plan. I urge you to deny it. Sincerely, Zell Davis, Jr." (Applause). All right, please. And that is -- okay. And that is it. Okay. So at this time --

CITY ATTORNEY RYAN: Oh, did you have a (inaudible)?

CHAIRPERSON PARDO: For item 2.

CITY ATTORNEY RYAN: (Inaudible).

CHAIRPERSON PARDO: Uh-huh. Employee, yeah, application process. What?

ZEDRICK BARBER: You didn't read my comment card.

CHAIRPERSON PARDO: Because your comment card here says -- there wasn't a number on it. It says Employee Application Process. So is that for the add-on?

ZEDRICK: That's for the Wellness Center.

CHAIRPERSON PARDO: Okay. Well, I'm sorry, sir. It wasn't clear here so I will allow you to make your three-minute comment.

ZEDRICK BARBER: Thank you. For those -- **ZEDRICK BARBER, II**, 2640 Lake Shore Drive. For those of you who don't know me, I'm an attorney here in this community and I also have the pleasure of serving on the Planning & Zoning Board. I'd just like to first rebut one of the statements I heard in the letter that -- one of the letters that was read earlier stating that the Planning & Zoning Board's decision was based solely upon economic issues. That's false. And in fact, had that been the case, my vote may not have been what it was. And here is why. At the Planning & Zoning Board meeting, I inquired as to whether or not the Wellness Center would inquire on its applications whether those potential employees had any criminal convictions, criminal arrests or felonious convictions.

As many of you may know, a big issue that we have not only in this city but in cities throughout the nation and throughout the state is that many people who have been convicted of crimes served their time and have now come home and are now trying to reintegrate into our society, found themselves unable to do so. And the biggest reason in most cases is that they cannot obtain employment because of those prior and past criminal convictions. And so my question to the individuals from the Wellness Center was whether or not they would be inquiring as to whether or not their potential employees had those past criminal convictions during the application process.

Their answers were vague at best and at this point sitting in the meeting, most of the meeting tonight, I haven't heard that issue addressed at all. And so those I still stand

by my vote that the requests that are made are substantially consistent with the original variances that were granted by the Planning & Zoning Board, as well as the City Council approximately 10 years ago, what I want to do is ask that the Council hold these developers and developers to come in the future accountable and require them, make it a condition that in their application process, they do not ask their potential employees about their criminal history until at least they extend a conditional offer for employment. Thank you.

CHAIRPERSON PARDO: Thank you very much, sir. Okay. So at this time we'll have --

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: -- we'll listen to comments from the council. So I say we go down the dais and we'll start with Mr. --

CHAIR PRO TEM DAVIS: I just want to ask a question, a --

CHAIRPERSON PARDO: -- well, we'll start with Mr. Davis.

CHAIR PRO TEM DAVIS: -- few -- few questions.

CITY ATTORNEY RYAN: Hold -- hold on, Madam -- Madam Chair.

CHAIRPERSON PARDO: Yes.

CITY ATTORNEY RYAN: Just for the record, I think it will be best if when -- right before each of you speak, let the public know if you need to make a public disclosure on this issue.

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: Specifically if you've met with the developer, you should state that you've done that --

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: -- in your comments.

CHAIR PRO TEM DAVIS: I -- I will state that I have actually toured that site. I started my tour at the Tiara and I walked up from the Tiara top view all the way down to see the concerns from the Tiara residents. And then I proceeded over to the other -- the actual site itself to look at it. Then I went from the beach side to take a view and walk through the property so I can understand the variances and all the things that are being recommended before this board. So that's the one disclosure I do have. I mean, I really wanted -- when I -- when I vote, I like to know what's really going on, where we are, where we're going, who we are, and how are we going to get there. But I do have a question.

I'm looking at October 19, 2004 minutes from Planning & Zoning, and I'm also looking at August 27th, 2015 meeting minutes from Planning & Zoning. And I'd like to ask staff, can anyone point out specifics, substantial conditions? What's specifically substantially consistent with the condition in the -- in the minutes verbatim in either one -- either one of these meeting minutes? I need -- I would like to see that in both of these minutes. I -- I went and printed them out so I can make sure I stay consistent. 'Cause it's being mentioned but I'd like to see verbatim in the minutes where that's being mentioned in both of these meetings. That's the question I have.

CITY ATTORNEY RYAN: You're asking whether or not the minutes from the ZBA meeting and --

CHAIR PRO TEM DAVIS: Either one of them.

CITY ATTORNEY RYAN: -- the minutes from the P&Z meeting where --

CHAIR PRO TEM DAVIS: Yes.

CITY ATTORNEY RYAN: -- staff mentioned "substantially consistent"?

CHAIR PRO TEM DAVIS: Yes.

CITY ATTORNEY RYAN: Okay. All right.

CHAIR PRO TEM DAVIS: Verbatim. I have the minutes. I just want to --

CITY ATTORNEY RYAN: I know that it -- the minutes in the ZBA meeting -- it's definitely -- staff recommended that it be approved. The -- I want to find it for you so I can tell you --

CHAIR PRO TEM DAVIS: I want to see where it says verbatim "substantially --" what's "substantially consistent" verbatim in either one of those minutes.

CITY ATTORNEY RYAN: You might know more than staff.

CHAIR PRO TEM DAVIS: 'Cause it's been mentioned quite a bit tonight for the last two hours or so and I'd like to see it in both -- in either one of those meetings.

CITY ATTORNEY RYAN: Okay. And on page 218 of your packet that was given to you by staff, 218 of the --

CHAIR PRO TEM DAVIS: Which -- which meeting? Which meeting?

CITY ATTORNEY RYAN: This is the --

CHAIR PRO TEM DAVIS: I have -- I have the Planning & Zoning meetings so which one?

CITY ATTORNEY RYAN: Okay. Then it's -- this is the -- this is the only thing that I found. I didn't -- I didn't really review the Planning & Zoning Board minutes that closely. But under the ZBA comments on page 5 -- it's in page 218 if you have the book. It's page 5 --

CHAIR PRO TEM DAVIS: On the minutes?

CITY ATTORNEY RYAN: Oh, yeah. Or page 17. I don't know how they -- they have it --

CHAIR PRO TEM DAVIS: Go ahead. I'm -- I'm following.

CITY ATTORNEY RYAN: Okay. At the very top of page 17 it says and this is where staff was making the presentation and I believe it was Scott Evans.

CHAIR PRO TEM DAVIS: Where it starts, it says, "To give further information"? Is that where you are?

CITY ATTORNEY RYAN: No. Can you show him right here?

COUNCILPERSON THOMAS: "Proposed project"?

CITY ATTORNEY RYAN: "The proposed project," right. I'm trying to figure out who's - - who's talking. I think --

LARRY SMITH: If I may, it's Scott Evans.

CITY ATTORNEY RYAN: It's Scott Evans. Okay. Scott Evans talks for a couple of pages.

CHAIR PRO TEM DAVIS: 2004.

CITY ATTORNEY RYAN: And you're talking about 2004, right? The ZBA meeting?

CHAIR PRO TEM DAVIS: Either one of them.

CITY ATTORNEY RYAN: Okay. At the very top it says, "The proposed project, staff recommends that the board consider having the following condition if they vote for approval, that the applicant shall utilize the requested variances to develop the property substantially consistent with the elevation and site plan that's been presented to the variance board."

CHAIR PRO TEM DAVIS: Uh-huh. And they made a motion to approve that with all three, correct?

LARRY SMITH: No.

CITY ATTORNEY RYAN: Well, in -- again --

CHAIR PRO TEM DAVIS: Hold on. Let me ask you this question. When the motion was made for approval, what was that motion to do?

CITY ATTORNEY RYAN: First of all, the motions were all over the place.

CHAIR PRO TEM DAVIS: No, no, no, not --

CITY ATTORNEY RYAN: If you -- no.

CHAIR PRO TEM DAVIS: The final motion that was approved.

CITY ATTORNEY RYAN: Mr. Davis, there were several -- they had to make a motion for each variance.

CHAIR PRO TEM DAVIS: It was three motions. It's -- correct.

CITY ATTORNEY RYAN: Correct. And -- but my point is, is that we want to -- I'm not going to second-guess the board but they were all over the place and staff had to rein them in several times. But I'm -- I'm not getting caught up in what these --

CHAIR PRO TEM DAVIS: Hold on. Hold on. Let me ask you a question. Staff had to rein in the board?

CITY ATTORNEY RYAN: Right. In terms of what they needed to find. If you go through this, you -- if you read this, it says where they were trying to make motions.

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: "No, you need to make this finding."

CHAIR PRO TEM DAVIS: I saw those motions, yeah.

CITY ATTORNEY RYAN: "No, you need to make that finding." So that's what I mean by "rein in." They had to lead them to make the proper motion because when -- when you're dealing with variances, the motions have to be very specific. There are findings that you have to make. And the -- the attorney at the time, Kellie Killebrew --

CHAIR PRO TEM DAVIS: Okay.

CITY ATTORNEY RYAN: -- and when I say "rein them in," she just kept bringing them back to the issue, "You need to make this finding. You need to make that finding."

CHAIR PRO TEM DAVIS: Okay.

CITY ATTORNEY RYAN: And they went through that. So in the end, what -- what staff presented to them was an order. I don't know when the order was typed up. I do know that it has a date that's the same as the date of the meeting. And they checked off the boxes. I don't know who checked off the boxes. They checked off the boxes

and that portion about the "substantially complete" gives the impression that the board was accepting the request for the variance with staff's recommendation. Now, again --

CHAIR PRO TEM DAVIS: Say that again.

CITY ATTORNEY RYAN: -- that is what -- I'm -- you're giving that -- given that impression because that's what the order says. But I'm going to go back to this point, because none of us was there. The applicant was there. The applicant got a copy of the final order. The applicant -- if the applicant did not like the final order or disagreed with the final order --

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: -- then he could have appealed it. He could have asked for a rehearing. He could have done a number of things. To go back now and try to second-guess what was done, what was intended is not appropriate on their part and I don't believe appropriate on this council's part. We have the --

CHAIR PRO TEM DAVIS: So are there -- are there any board members here that were here before?

CITY ATTORNEY RYAN: It doesn't matter. It doesn't --

CHAIR PRO TEM DAVIS: No, no. No, I asked the question. Just yes or no. It -- it does -- it matters to me.

CITY ATTORNEY RYAN: I don't know who the board --

CHAIR PRO TEM DAVIS: Because I'm going to tell you the issue I have here. You know, what's the sense of us having all these different boards and they make approvals based on staff's recommendation? It's up to them to determine. And when it gets to us, I don't need -- who's to say to me that staff is gonna go back and put something else in there after we make approvals? That's my issue. I mean, this is something that came up in the 7-Eleven project. Same thing.

LARRY SMITH: They've been doing it a long time.

CHAIRPERSON PARDO: Hey, hey, hey.

CHAIR PRO TEM DAVIS: Mr. -- whoever is doing that, please.

CHAIRPERSON PARDO: Jesus.

CITY ATTORNEY RYAN: Okay.

CHAIR PRO TEM DAVIS: My thing is, I'm reading -- as you read both of these minutes and you go and listen to the minutes and watch the actual meetings, staff -- staff and -- made recommendation. The board had made their approvals. The board, the last meeting, was six to one that they voted with no -- just voted as is. Staff's

recommendations and the things that come back before us today came after the meeting once again. I'm tired of going back and forth. Is the -- is the staff working for the board or is the board working for staff? That's what I need to know in all these boards in the city. At some point this need to stop. Because this is how you get confusion.

You get all these letters coming before this board and you're confusing the public. Because they may not get all the information that we're getting. And I can understand some of the people in some -- and how they feel about the issues on that and I'm not here to say who's wrong and who's right. But I'm tired of standing before this board, trying to make a -- a fair decision and the Planning & Zoning makes a recommendation to this board and they're very consistent. They work very well together. They don't waste their time. They really go through it. And then when it gets here, Oh, by the way, staff felt this way. Well, staff should have stated that in the minutes in this meeting. And so when it comes here we make the final decision. Don't state what you want to state after the meeting and then tell us that you all are in a tight position. No, I'm not.

You're in a -- you're out of line. Whoever staff make a -- go and make those changes, they're out of line. Now, if you want to say, Councilman Davis, I'd like to sit down with you in your office so we can talk about this. I didn't bring it up, you know, but this is why, and then we can hash it out. But I don't like getting sideswiped like this because I'm looking at the public benefit. You're talking about jobs. And I don't want to think that -- forget the issue that Mr. Zedrick just brought up. That's something I'd like to hear from the actual property owner. He said that he brought something to your attention about people applying for jobs and being screened about their records. Have you even considered what Mr. Zedrick has stated tonight?

DILIP BAROT: May I speak?

CHAIR PRO TEM DAVIS: Yes. Yes, sir.

CHAIRPERSON PARDO: Go ahead.

DILIP BAROT: Yes, sir. And my answer --

CHAIRPERSON PARDO: Wait. You need to state your name for the record.

DILIP BAROT: My name -- yes, ma'am. My name is **DILIP BAROT**, and impart of the Wellness Resort team. When that question was asked, my answer to -- was very clear. We will not ask any potential employee about their past criminal record in the application. And that can be the condition if you wish to choose to put it. So we will not hold against them because they have some -- some sort of an issue with the law in the past.

CHAIR PRO TEM DAVIS: At least until you -- I mean, to say --

DILIP BAROT: Until --

CHAIR PRO TEM DAVIS: -- until you get to the interviewing process? Well, actually, receiving -- he's actually stated, if I go and prove to you that I'm qualified for a job --

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: -- a young lady or young man --

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: -- and you say, Wow, based on what you don't know, you wouldn't have hired me. Then when you get (inaudible), then there's the discussion being made. And that's what he's talking about.

DILIP BAROT: Yes, sir. And we have hired people with the -- having issues with the law and actually I have to report to the parole officer that those employees are behaving well. As of today it's a very high executive getting paid in six figure.

CHAIR PRO TEM DAVIS: Okay. Another thing. Would you be willing to put that in writing?

DILIP BAROT: I -- yes, sir. You can make a condition or if you'd like me to --

CHAIR PRO TEM DAVIS: Okay.

DILIP BAROT: -- put a condition, yes, sir.

CHAIR PRO TEM DAVIS: Another question.

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: Would you be willing to put in writing a certain percentage of jobs for Riviera Beach residents?

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: So you'd be the first one to do it.

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: This board would like to talk about a percentage? I mean, I --

DILIP BAROT: (Inaudible) never --

CHAIR PRO TEM DAVIS: -- I don't want to just say I'm asking for something. I'd like to get some board input on a percentage of Riviera Beach residents (inaudible).

COUNCILPERSON THOMAS: Yeah, what -- Mr. Barot, what -- what -- what percentage would you offer?

DILIP BAROT: Yes, sir. My request is that we -- because we're going to create this job creation institute, which Judge Rodger has been kind to take the leadership as he spoke, as the more people get trained, we like to gradually increase that percentage. Because this is a very big project, my request will be we start at 10 percent and slowly grow it as the more trained employees are available.

CHAIR PRO TEM DAVIS: Okay. Let me ask you another question.

DILIP BAROT: Yes.

CHAIR PRO TEM DAVIS: Starting as -- once construction is done, how many jobs do you dictate that will be in the very beginning of operation?

DILIP BAROT: The current -- currently the way our projection is 445 approximately.

CHAIR PRO TEM DAVIS: So that's 40 jobs.

DILIP BAROT: Forty job, yes, sir.

CHAIR PRO TEM DAVIS: I'll -- I'll -- me personally as a board member, I would feel more comfortable with 30 percent.

DILIP BAROT: Yes, sir. And we will definitely give that --

CHAIR PRO TEM DAVIS: Starting.

DILIP BAROT: -- we will make a target to the extent there are competent people available in the event. So our target will be 30 percent. We can keep it. But to the extent there has to be people available. If -- and that will be of a preference. In the event they cannot come forward --

CHAIR PRO TEM DAVIS: Uh-huh.

DILIP BAROT: -- then we still have to do the job.

CHAIR PRO TEM DAVIS: Well -- well, here's the thing. We have 30,000 roughly residents in this community. Okay?

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: And we have an extremely high unemployment rate. I'm sure if you're working with some of our local nonprofits to do -- help do the screening process, do the training just like other entities have done, um, to actually prepare people for a lot of these jobs, I believe people want to work. But they want to work for good wages, not minimum wage.

DILIP BAROT: Agree, sir.

CHAIR PRO TEM DAVIS: And -- and so when I say the 30 percent, if these type of jobs, they create benefits, retirement, careers, health insurance, a future for a family really will change the direction of this city. And I truly believe -- and I'm sure my colleagues on this board will understand that you won't have a problem finding 30 percent which would be not 40 jobs; it will be 120 jobs of your 400.

DILIP BAROT: Yes, sir. And just for record, also, sir, I was -- I started my career cleaning the bathrooms and mopping the floor in Riviera Beach.

CHAIR PRO TEM DAVIS: Uh-huh.

DILIP BAROT: And God has blessed me to reach where I can employ thousands of employee on payroll. So I'm very committed to do that and I -- I just want to have proper planning, if you can support us, creating the job training institute where it can really -- it's like a Catch-22.

CHAIR PRO TEM DAVIS: Well, if you create the job training and you're working with the judge --

DILIP BAROT: Judge Rodger.

CHAIR PRO TEM DAVIS: -- who -- who has a lot of vested interest in this community, I don't doubt that you can find -- hit that 30 percent mark.

DILIP BAROT: Yes, sir. And I --

CHAIR PRO TEM DAVIS: I don't doubt that you can find 120 people in this community to find work. If you just think about on Winn-Dixie alone, when they went out of business, we lost 100 jobs there alone, and they're still floating around trying to find work just off Winn-Dixie alone.

DILIP BAROT: I'm sorry to hear that.

CHAIR PRO TEM DAVIS: So you can find 120 people. We can help you out with that. We have different entities. You know, you got BRIDGES. You've got Community Partnership. You've got J.A.Y.'s Ministry. You have all these organizations that are very active as we speak that have the arm to assist you hitting that 30 percent mark. So I'd want to make sure. If you start off with 30 percent, you will set the tone for every other developer in this community. Because if you do 10 percent, they're going to ask for the same thing.

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: And then once again, we're going to get back to the history of somebody else coming back before this board, telling us what they -- what we want to hear.

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: Ten percent is very easy. I -- I think you can hit that with your eyes closed. You know?

DILIP BAROT: Yes, sir. And -- and I'm -- I -- I want to keep my words.

CHAIR PRO TEM DAVIS: Okay.

DILIP BAROT: So that's why I said what I said. But if you'd like to put target 30 percent --

CHAIR PRO TEM DAVIS: Yes.

DILIP BAROT: -- as -- at the end of the certain years, that will be writing. And start like, say, beginning 10 percent or 15 percent and then slowly grow as the -- we can train the people. Because without the trained people, we will not be able to provide the service we need to make this project sustainable. So --

CHAIR PRO TEM DAVIS: Could you list the jobs, all the jobs?

DILIP BAROT: Pardon?

CHAIR PRO TEM DAVIS: Could you list all the jobs so I can see where we are?

DILIP BAROT: List the job?

CHAIR PRO TEM DAVIS: Yeah. Just some of the jobs.

DILIP BAROT: The one which will be created on this particular --

CHAIR PRO TEM DAVIS: Yes.

DILIP BAROT: -- development? Yes, sir. There will be job into first of all, management. And I start from management. So at the management level, it will be job like Director of Operation for hotel. Then Director of Housekeeping. Director of the Spa. Director of the Food and Beverage. Then Director of the other ancillary services we may have. So that's the one job.

CHAIR PRO TEM DAVIS: Now, if you say 10 percent of upper administrative jobs, you got me.

DILIP BAROT: Pardon?

CHAIR PRO TEM DAVIS: If you say 10 percent of --

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: -- upper administrative jobs, now you have me.

DILIP BAROT: Yes, sir. That I can agree. Only thing my request will be you help me to find the qualified employee.

CHAIR PRO TEM DAVIS: I -- I have no problem with that.

DILIP BAROT: Thank you, sir. Yes.

COUNCILPERSON GUYTON: Madam Chair?

CHAIRPERSON PARDO: No, no, no. We're going to go down the line.

COUNCILPERSON GUYTON: He said he wanted board comment about percentages.

CHAIR PRO TEM DAVIS: Yeah. Yeah, I did say that.

CHAIRPERSON PARDO: I thought it would be --

COUNCILPERSON GUYTON: Okay.

CHAIR PRO TEM DAVIS: (Inaudible).

CHAIRPERSON PARDO: -- much better if we just go down the line.

COUNCILPERSON GUYTON: I'll wait. Okay.

CHAIRPERSON PARDO: Okay? So just, you know, jot your little note down and we can come back.

COUNCILPERSON GUYTON: (Inaudible) on the line.

CHAIR PRO TEM DAVIS: (Inaudible) time up.

CHAIRPERSON PARDO: Okay. Are you done?

CHAIR PRO TEM DAVIS: I'm done.

CHAIRPERSON PARDO: Okay. Mr. Thomas?

COUNCILPERSON THOMAS: Okay. I just wanted to make sure that when I was trying to go over this earlier in the meeting, it was condition 6 and 10. And I also want to talk to Mr. Delaney once again.

CITY ATTORNEY RYAN: Condition 6 or where -- the Whereas clause?

COUNCILPERSON THOMAS: Condition 6 and 10. When I heard Miss -- Miss McKinney reading them, I was just able to jot down really quickly 6 and 10.

CHAIRPERSON PARDO: Mr. Thomas, do you have any disclosures?

COUNCILPERSON THOMAS: In terms of --

COUNCILPERSON GUYTON: Meeting with them.

CITY ATTORNEY RYAN: Did you ever meet with them?

COUNCILPERSON THOMAS: Oh, yes. I met with -- I met with some parts of the team of -- of the -- the team. Yes, I did. And I met with some parts of the team.

CHAIRPERSON PARDO: That's gonna --

COUNCILPERSON THOMAS: The -- Miss -- Miss McKinney, can we go over 6 and 10 again for -- under the conditions?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Okay. Would you like me to read it?

COUNCILPERSON THOMAS: No, I can actually read that. "City Council authorize the staff to approve future amendments to the site plan administratively so long as the site plan does not deviate greater than 5 percent from the original approved submittal." I just want you to elaborate on exactly what that means.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: That means that if they have any minor adjustments to the site plan, that sometimes one dimension needs to be modified somewhat. That way we can just approve it if it's up to 5 percent of the total. So that they don't -- it's just something they can do in house so that they don't have to go through a process.

COUNCILPERSON THOMAS: Okay. So that will be fine. But what happens if the two don't agree? So say staff says, Well, we think you should do this, and the team says, Well, I think we're within the code, what -- what happens then?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, I don't know if Miss Ryan wants to talk about it but I would think that it would then have to go to City Council.

CITY ATTORNEY RYAN: Yeah.

COUNCILPERSON THOMAS: Okay. Okay. Well, I -- I think that that definitely needs to be discussed and addressed. Let's go to 10, please.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Right. That's about unity of title. They have two parcels and it's very -- it's a very common thing to join the parcels by way of a unity. That way the parcels are guaranteed as part of the development. And then the unity is recorded so that it's one distinct development.

COUNCILPERSON THOMAS: Right. And I also wanted -- and that -- that's fine. That I'm sure no one -- I -- I don't -- the -- the -- the -- did the applicant have any issue with that?

DILIP BAROT: No, sir.

CHAIRPERSON PARDO: Uh-uh.

COUNCILPERSON THOMAS: Oh, okay. All right. Let me just look at 9 again, as well. Can you -- can you explain that just a little bit more in-depth?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Because we have uses on the island that are adjacent to permanent residential that -- say the Marriott and they have outdoor events that generate music and stuff, this way --

COUNCILPERSON THOMAS: Okay.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- it puts the property owners that are going to buy units in this development on notice that next door there is -- there are developments that do have music and do have weddings and stuff so that you know in advance that this occurs. And we did this for the blue so that it's not a surprise. We get a lot of calls from individuals that say --

COUNCILPERSON THOMAS: Okay.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- We didn't know that it was going to be --

COUNCILPERSON THOMAS: Understood. Okay. That's what that means. Okay. Does the -- does the applicant have any other issues just with those conditions and I'll go back to the actual red line in a minute. Do -- the applicant's okay with all the conditions?

LARRY SMITH: We're okay with the ones you were questioning.

COUNCILPERSON THOMAS: On -- are -- are you not okay with some of those conditions?

LARRY SMITH: Well, the ones you just asked about, we're okay with.

COUNCILPERSON THOMAS: Okay. I -- I understand that. What about the remaining?

LARRY SMITH: Well, I think we needed a little more discussion.

CITY ATTORNEY RYAN: Only on the -- the ones that we talked about already.

LARRY SMITH: We need a little more discussion but, yes, we --

COUNCILPERSON THOMAS: On the -- which ones?

CITY MANAGER JONES: The ones in red.

LARRY SMITH: Number --

COUNCILPERSON THOMAS: No, I'm not going back to the red-line stuff yet.

CITY ATTORNEY RYAN: Okay. No. He's okay with it.

LARRY SMITH: Oh, okay. No. No. No, on the -- and stuff that's not red, we have no problem with it.

CITY MANAGER JONES: Yeah, no problem.

LARRY SMITH: If it's in blue or black, we're -- we're good with it.

COUNCILPERSON THOMAS: Okay. So we'll go back to that red stuff which is in another section and I'll find that in a minute. I want to talk to Mr. Delaney, though, for a moment. I had never got a chance to -- to meet you before. I'm glad to meet you. I heard that you worked for us in the past and it's always good to see a -- a former employee come back. However, there was a slide that you had up that I wanted to talk about in-depth and some of my colleagues didn't want to really -- me to talk about it at the time. So I waited till this time which hopefully they think is more appropriate. That would be it. Those are some -- some large numbers. And I vaguely heard you say -- and I went to my -- my MUNICODE to try to look up some other stuff while you were trying to finish saying that. But those numbers are generated how, again? And I -- I really want you to dumb it down as much as you can just for me only. But I want you to dumb that down as much as you can and say how you got to those numbers.

DON DELANEY: I take the estimated construction cost of the type of project with the technology, design, energy efficiency, and the square footage.

COUNCILPERSON THOMAS: Estimated construction cost.

DON DELANEY: Right. And I take --

COUNCILPERSON THOMAS: Just -- just for my own edification, and we will say that would be how much?

DON DELANEY: I'm trying to remember off the top of my head because there was more to it than that. And then you have to take the soft costs. You have to take the carrying costs of interest, loans, time. Then you have to take the valuation of the land and you take it all and package it together just like you would do for any development, from building a house to building a racetrack or a ball field. You follow all those normal practices, then you add those up and it came to 375.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: So then you take the 375.

COUNCILPERSON THOMAS: Which would be the assessed value?

DON DELANEY: Which --

COUNCILPERSON THOMAS: 'Cause I was about to say that you -- you should know what that is if you got a number but --

DON DELANEY: Right. So if you take the --

COUNCILPERSON THOMAS: -- it'd be --

DON DELANEY: -- if you take the value of all that --

COUNCILPERSON THOMAS: -- 375 million is what you're saying that that is?

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: Now, I want everyone to know, let's say you go to build a house and it's a \$200,000 house it costs you. It may assess at that. It probably should. Because the property appraiser -- the property assessor knows what things cost and there's permits you pulled and documents you pulled and all these forms -- remember the 500 pages application of building permits and the engineering documents? They all have costs. They all have costs. It has to be given to the City or the County or whoever you're pulling your permits -- all these things piled together all becomes part of public record. But the property assessor's office could go a little higher, could go a little lower. I mean, that would be -- they have that expertise.

COUNCILPERSON THOMAS: Okay. I -- I -- we'll agree to disagree on the property appraiser's assessment 'cause I disagree. They assess most of our properties on the west side extremely low. But we'll agree to disagree on that. I -- I want to go back to -- to breaking down this number here.

DON DELANEY: Okay. I wanted to add more to it. An appraisal that was done by the client for real financial purposes was 500 million total value at the end. I went --

COUNCILPERSON THOMAS: Five hundred million?

DON DELANEY: Five hundred million. I went conservative.

COUNCILPERSON THOMAS: Why?

DON DELANEY: Because one, it's my tendency.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: That's why my clients don't --

COUNCILPERSON THOMAS: Okay.

DON DELANEY: -- fall apart. Second, my experience tells me that the property appraiser's office is going to probably assess it as a lower value than the market will truly be worth.

COUNCILPERSON THOMAS: And why would that be on the most precious beautiful land right there on the water?

DON DELANEY: It's -- it's been -- it's been -- it's been their practice. And so since I'm a numbers professional, I go by what are past practices. So when you see a hotel sell for \$100 million, it may actually be assessed for only \$70 million. So I went conservative.

COUNCILPERSON THOMAS: Oh, so you agree with me about the property appraiser appraising stuff lower?

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: Absolutely.

COUNCILPERSON THOMAS: Glad that we agree.

DON DELANEY: Now we take that 375.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: Based on a conservative number.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: Below our appraisal. And we don't want to fool ourselves with our own appraisal because we gotta pay for it.

COUNCILPERSON THOMAS: Right.

DON DELANEY: We've gotta produce that. And if we took the 375 --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: -- which is about 75 percent of what the market valuation, financial valuation, underwriting valuation would be --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: -- and just multiply it times your current millage rate --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: Math. It comes to 3.227 million.

COUNCILPERSON THOMAS: 3.227 million.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: You see? You follow me okay there?

COUNCILPERSON THOMAS: I do.

DON DELANEY: Now, then we deducted what it currently pays in taxes, 'cause the City's already getting 53,000 a year under its ad valorem on that site.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: And so we don't double count that I subtract that out so the additional taxable value --

COUNCILPERSON THOMAS: Let me ask you a question, though.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: You're doing that at our current millage rate?

DON DELANEY: Yes.

COUNCILPERSON THOMAS: But we actually wouldn't see this until it actually comes online a few years later, right?

DON DELANEY: And it -- yes. And what I do is I deal with facts --

COUNCILPERSON THOMAS: So --

DON DELANEY: -- instead of conjecture. And I do know it may go up or may go down but it's -- bodies with power beyond the facts, I don't control for. So I give you the fact that existed at that point in time.

COUNCILPERSON THOMAS: I -- I get it. So I just need for my own knowledge to -- this could go up or it could go down.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Since it's been a --

DON DELANEY: Absolutely it can.

COUNCILPERSON THOMAS: -- since it's been a -- a constant thing that the millage has decreased every year, even if it's only a tenth. We could visibly say or reasonably say that that number will go down some.

DON DELANEY: I'd like to add to that. If this project is approved, and if this City generates another \$38 million over just the next 10 years, you may have the ability to serve the people you're trying to serve and even lower your millage rates more.

COUNCILPERSON THOMAS: Yeah. I'm getting to that point. That's why I need to make sure this is real and not a pie in the sky.

DON DELANEY: Okay. No, sir. I don't -- I don't do pie in the sky and I'm glad you're putting me through this diligence.

COUNCILPERSON THOMAS: Yes. Yes, sir, I -- I --

DON DELANEY: Now, everything we see on the right column, folks, everything you see on the right column --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: -- the impact fees, 438,000, the building permit fees, 950,000 --

COUNCILPERSON THOMAS: Okay. Let's just go -- let's just go back to where it says we're going to subtract the 53,000.

DON DELANEY: Yes.

COUNCILPERSON THOMAS: Then we're going to go down to total additional City ad valorem revenue. Please explain total City ad valorem revenue.

DON DELANEY: Okay. So the property now pays \$53,000 a year. Based on all the homework we did and the discussion we just had with the councilman, it's going to now pay, once it's CO'd, once it's done and on tax roll, 3.227 million. So you subtract the 53 that they're already paying. We don't give them a credit for that.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: 'Cause our goal is to find out what additional revenue is written directly to the City.

COUNCILPERSON THOMAS: Absolutely.

CHAIR PRO TEM DAVIS: Uh-huh.

DON DELANEY: So that's the 3.174 million. Then we move it to the right column 'cause that's the additional -- additional revenue for the City. Then we run through all the impact fees.

COUNCILPERSON THOMAS: Got it.

DON DELANEY: Utility connections.

COUNCILPERSON THOMAS: No, no, no, no. We're not going to go that fast.

DON DELANEY: Okay.

COUNCILPERSON THOMAS: We're going to keep it all going where -- one bite at a time here.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Okay. So the City municipal impact fees which will come directly to the City or is there any County fees in that impact fee?

DON DELANEY: This is all City.

COUNCILPERSON THOMAS: That's all City?

DON DELANEY: This is all -- yes, sir.

COUNCILPERSON THOMAS: Now, where are the --

DON DELANEY: And it --

COUNCILPERSON THOMAS: -- where -- where are the County's fees in that?

DON DELANEY: Well, I didn't do County for this because we're paying tons more fees to go to the County.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: School board.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: Florida Inland Navigation District.

COUNCILPERSON THOMAS: Right.

DON DELANEY: And there are special assessments, also. Library fees, if it's a municipal service taxes district.

COUNCILPERSON THOMAS: No. I just want to make sure that we don't -- we -- we've had some issues in the past where fee -- people didn't understand the -- the difference in fees. So I just want to make sure that that's all City impact fees that's coming --

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: -- all \$438,233?

DON DELANEY: That's correct.

COUNCILPERSON THOMAS: Okay. And if there's any change there I want to see that, too. The building permit fee. 950,000. That's all coming to the City?

DON DELANEY: City.

COUNCILPERSON THOMAS: The \$2,500 for plan review. All coming to the City?

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: The \$276,000 for Fire Rescue plan review. All coming to the City?

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Training surcharge fee. I hope it's coming to the City, but can you tell me what that is? 'Cause I don't know what that is.

DON DELANEY: No, I can't. What I can tell you is we got this list and worked with the City, so we didn't create any of these. We found exactly what's in the City's list of this is what you as a developer will owe. I've been to places, sir, where they've had radon impact fees, dog assessment park fees, all types of things. This is something unique to your city that I believe your staff could tell --

COUNCILPERSON THOMAS: No -- no problem. But wouldn't you like --

DON DELANEY: -- tell us that.

COUNCILPERSON THOMAS: -- to know what you're paying for?

DON DELANEY: I want to know that we're going to pay it.

COUNCILPERSON THOMAS: Well, I'm sure you are if you're going to get any permits. But I'm just trying to figure out -- can somebody tell me what the training surcharge fee is?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: I can tell you what it is. That's for mandatory training that our building inspectors have to have their licenses updated every year. So that's a fee that applicants pay in order for that to happen.

COUNCILPERSON THOMAS: Okay. \$230,000 for engineering plan fee. All that's coming to the City?

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Utility connections, \$1,310,501. All coming to the City?

DON DELANEY: That's correct.

COUNCILPERSON THOMAS: So that's a total cost of \$6,396,040 -- \$6,396,438. That's what you're going to write a check for immediately?

DON DELANEY: And that's just in the development phase in the first year/CO. That's not even going past that, which is where you're going to take me next.

COUNCILPERSON THOMAS: Right. Well, yeah, slow -- slow me -- slow me down just a little bit. You're going to write a check for \$6,396,438 immediately?

DON DELANEY: Well, whenever they're due.

COUNCILPERSON THOMAS: Exactly.

DON DELANEY: Yes.

COUNCILPERSON THOMAS: Which I hope are -- or is immediately.

DON DELANEY: It's -- it's all due in the development phase, the CO and first year on tax roll. It's all due then.

COUNCILPERSON THOMAS: Okay. So now let's get to the 10 year at 0 percent yearly growth. So are you basically saying that we're going to get -- you're saying that we're going to get this 31 million over 10 years but it's actually 3 million a year?

DON DELANEY: That's right. An additional 3.17 million as you took me through the discipline of the tax number --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: -- so from the time it's CO'd, which is development phase --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: -- now, going forward every year to the City, the City will receive an additional \$3.17 million above what they're receiving now.

COUNCILPERSON THOMAS: As long as the property appreciates?

DON DELANEY: No.

CHAIRPERSON PARDO: No. It's (inaudible).

DON DELANEY: If it doesn't appreciate at all. If it stays flat --

COUNCILPERSON THOMAS: So if it just stays at the --

CHAIRPERSON PARDO: Uh-huh

DON DELANEY: -- zero --

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: -- which, as an economist, I would tell you I don't project that happening. I see a seven-year trend of moderate to quality real estate moving forward.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: I see some other factors happening in seven years that may cause some change there but that's another story.

COUNCILPERSON THOMAS: Okay. So basically this -- you've got that number just by multiplying it times --

DON DELANEY: That's right.

COUNCILPERSON THOMAS: -- 10 years. You're saying --

DON DELANEY: Because it's just a fact. That's right.

COUNCILPERSON THOMAS: Okay. All right. So let me make sure that I understand this. So is there -- 'cause I know that sometimes we have developers that go and petition the -- the -- the taxes district to lower their taxes or do whatever that is.

DON DELANEY: Uh-huh.

COUNCILPERSON THOMAS: Is this a project that will be able to do that?

DON DELANEY: Everybody would have that right to do that.

COUNCILPERSON THOMAS: Okay.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: Can we legally put in that y'all couldn't do that?

DON DELANEY: No, sir.

COUNCILPERSON THOMAS: So what will stop you from saying, Okay. First year we're going to pay this. You know, maybe the second year, but after that we're gonna go down and say, Hey, listen. Taxing Board of Adjustments, or whoever it is, we want to -- we don't want to have to pay these fees anymore. We don't want to -- well, how do we insulate and protect ourself from that happening?

DON DELANEY: The elected property appraiser has a responsibility to follow the constitution. They have a responsibility to follow the charter. They have a responsibility to tax at a -- at a fair assessed value so you can't just go down and lobby someone or get someone to vote for you or take someone to lunch. If you've ever tried it for your home or your business, you find out that it's not very easy at all to get that to move. You have that right.

COUNCILPERSON THOMAS: But I think it's -- I think it's been done, though. I think it's been done with some of the --

DON DELANEY: Oh, absolutely. Absolutely.

COUNCILPERSON THOMAS: -- with some of the development over on the island. And I don't know which property it was but I know that it has been done.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: So what do we do to make sure that the nice relationship that it starts off being, you know -- I'm basically trying to -- you know, this is a marriage and I'm basically trying to get a -- you know, a prenup, you know, going here.

DON DELANEY: Uh-huh.

COUNCILPERSON THOMAS: You know, to make sure that, listen, we -- you're gonna -- we're gonna realize this, you know -- this money. Now, I believe that y'all are honorable people and I believe that business is going to do what you say you're going to do. But if you can reduce costs as a business owner, you try to do so. It's there. You're able to do it.

DON DELANEY: Yeah.

COUNCILPERSON THOMAS: I just want to make sure it's not done. I mean, what -- what parameters or what voluntary commitment could you give to us to say, Hey, we will not do that to the City?

DON DELANEY: I think we ought to bifurcate the two issues. One, everybody does have and should have that right to step forward and say, Am I being represented correctly? Am I being represented on my tax roll correctly? So I don't think there's any way to -- for that. And I think we're better off as a society that everybody has that right to say, Hey, I want to have my day to talk about that. So I know you're trying to protect your constituency.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: But we -- we do have that right. Everybody has that right to say, I don't think this is right.

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: Now, but you asked a bigger question. You said, "How do we give ourselves some comfort going forward that this is going to come out about like the -- that -- that man showed on the screen that night?"

COUNCILPERSON THOMAS: Uh-huh.

DON DELANEY: You start with a conservative premise, a cautious number, which is what we did. And since you were helpful to take me through the process, you see how we arrived at it and you saw that we started off with a low number. When my clients present to me, "The market says and the market dictates all," which I don't believe it does. I think it's a main factor at a certain point in time for certain things. "The market says it's 500 million." I say, "I understand that. You have to deal in that economic market." But you're going to argue for it to be a little lower when it's assessed. The assessor's office, based on real statistics and doing a regression analysis, which is simply looking in the history of what the facts are of how things are assessed, it's probably going to come out somewhere around 75 percent. So I built that in. So I built that in. And what else we did -- what else we did to be comfortable going forward is I put the 0 percent appreciation. Now, what I think will happen is the developer will probably say, "Yeah, I know it's assessed at -- appraised at 500 million but we're going to try to get it down to 375." And they have that right. Everybody has their day to do that. And I think the City, because property values are going up and you've got good stewardship, which is why we're trying to invest half a billion dollars here -- that you'll be able to lower your millage rate some. Perhaps. And that'll be your call. But I also think that the value of this property, which means also the taxable value of this property and your homes --

COUNCILPERSON THOMAS: I -- I understand, Mr. Delaney.

DON DELANEY: -- are going to go up.

COUNCILPERSON THOMAS: What I'm trying to do is make sure that we can reasonably expect \$38 million over the next 10 years.

DON DELANEY: You can reasonably expect that.

COUNCILPERSON THOMAS: Okay. Is that something that you're willing to voluntarily agree to?

DON DELANEY: I could not ask my client to do that, no, sir.

COUNCILPERSON THOMAS: Okay. Well, can you step aside one second, please?

DON DELANEY: Yeah. Remember now, sir, there are -- there are things beyond all our controls.

COUNCILPERSON THOMAS: I -- I -- I got it. No problem. You cannot ask your client to do that.

DON DELANEY: Yes, sir.

COUNCILPERSON THOMAS: But I can. Mr. Barot, would you step up, please? Mr. Barot?

DILIP BAROT: Yes, sir.

COUNCILPERSON THOMAS: Are you willing to agree that the City will realize that 38 million over the next 10 years?

DILIP BAROT: My -- like I said, the tax -- the value will be depending on the market. But we can say definitely make a commitment which you are asking from us.

COUNCILPERSON THOMAS: Yes.

DILIP BAROT: We will not apply for tax exempt, tax abatement or as a developer, some of the tax reduction.

COUNCILPERSON THOMAS: Now, I'm fine with that. If you're willing to do that, that provides the protection that I think that we need.

DILIP BAROT: Yes, sir. And it is in our best interest to raise the value, because we have a better economy benefit. Paying small tax will not encourage anybody who owns the property to reduce his or her property value. So --

COUNCILPERSON THOMAS: Okay.

DILIP BAROT: -- it's in our best interest that property value goes higher and higher. So I think our interest the same.

COUNCILPERSON THOMAS: I get it. I just want -- I just want to make sure, because I've seen it done where there have been developments where they go and petition and actually get their taxes lower.

DILIP BAROT: Yes, sir. And --

COUNCILPERSON THOMAS: So I just want to make sure that we don't say, Well, we're going to get 38 million over the next 10 years, and we don't quite get there. Now, if -- if -- if it's less due to the reduction in our millage, then that's fine. But what I'm saying is I don't want -- even though that is your right, I want you to voluntarily say, Hey, listen. I want to make sure that the City is going to get this money that we're saying that they're going to get. That -- that -- and that's just me asking.

DILIP BAROT: Yes, sir.

COUNCILPERSON THOMAS: You can tell me no.

DILIP BAROT: And -- and -- and you have a fair -- fair question. And like I said, based upon the current economy data available, that's the number and we -- we will not try to reduce it on our own. If the market reduces it or as you said, a millage rate or something --

COUNCILPERSON THOMAS: Understand.

DILIP BAROT: -- force beyond our control reduces it, we can't control. But we will not make direct efforts or action to reduce it artificially.

COUNCILPERSON THOMAS: Okay. So basically you're saying you won't go and you're going to voluntarily do that and you're willing to put that into whatever documents we need; that you're going to voluntarily not go and try to get a reduction?

DILIP BAROT: What I said earlier, yes, sir.

COUNCILPERSON THOMAS: Okay.

DILIP BAROT: Willing to.

COUNCILPERSON THOMAS: Okay.

DILIP BAROT: And -- and I want to say what --

JAMIE CROWLEY: Can I just clarify something?

DILIP BAROT: Yes, please.

JAMIE CROWLEY: Good evening. For the record, **JAMIE CROWLEY** again. I just want to be clear what we're talking about. So from time to time the County will make an assessment on property that the property owner disputes the value of the assessment. The rates for ad valorem rates are set by the County. So we're not going in -- we're not coming to you like, you know, all over the North County, you see these big deals happening and the developer comes in and says, We want a 10-year exemption from paying property taxes. We want all of this. We're not asking for any of that. But I would like to preserve for my client the right to -- if the County makes a -- an unfair assessment in the future that we don't think matches up to the value of the property at that time, I would like to preserve the right for them to go to the Value Adjustment Board, which is their constitutional right. And I don't think that they can waive that. But I -- I -- I do think that what he's saying, you know, he can agree that -- that we're not going to seek any of the incentives that these other jurisdictions are providing.

COUNCILPERSON THOMAS: No, I'm not asking about the incentives.

JAMIE CROWLEY: Nor --

COUNCILPERSON THOMAS: And I see everybody's, you know, huddling around and saying, Hey, don't make this. I'm doing what's in the best interest of this city.

JAMIE CROWLEY: I understand.

COUNCILPERSON THOMAS: All I'm saying is, be true to what you're saying on paper. That's all I'm saying. Don't come here right now and say, You're going to get all of this, and two years from now, we don't know why it's not coming in. It's because

somebody's gone down and saying, We don't want to pay that level of tax. That's all I'm asking you for. Now, he agreed to what I thought was -- was good enough. If you're saying that, No, we don't want our client to do that and he agrees to that, that's going to be a problem for me because that will make me think that you're saying even though you did this on a conservative number, that you're saying, Hey, sometime in the future we don't want to have to pay that 38 million that we're saying that the City is going to get.

JAMIE CROWLEY: But I'm not saying that exact number. What I'm just saying is that there -- there could be a -- a grossly unreasonable and unfair assessment by the County that's way out of proportion of what that is.

COUNCILPERSON THOMAS: I got it.

JAMIE CROWLEY: As -- as long as we're in that ballpark, then I think that we're okay. But I don't want to make the assertion that we'll never contest a property assessment, not the property. That's all I'm saying.

DILIP BAROT: He's not asking.

COUNCILPERSON THOMAS: I'm -- I'm not -- I'm not saying that. What I'm saying is what you and the rest of these wonderful people here are saying is, City, we want you to realize what this project is doing, how it's going to impact through job -- through jobs and revenue. We're putting it on paper. We have it up on your screen. We have it in color. I went down each and every aspect of that so that I understood exactly what it is. What I'm saying is, you're going to have to be true to what you're saying on paper. That's all I'm asking you to do.

JAMIE CROWLEY: And I don't think we have a problem saying that we're going to be true to what we put on that screen.

COUNCILPERSON THOMAS: Okay. So you /TOEPBT have a problem with putting that in writing, as well?

JAMIE CROWLEY: That's -- I mean, that's up to Mr. Dilip.

DILIP BAROT: It -- yes, sir. What I said earlier --

COUNCILPERSON THOMAS: Yes.

DILIP BAROT: -- if I can read verbatim, we can have an agreement for that.

COUNCILPERSON THOMAS: That's all I'm -- yes, sir?

DILIP BAROT: And -- and I want to have one other commitment from us.

COUNCILPERSON THOMAS: Uh-huh.

DILIP BAROT: Which was Mr. Davis had asked about job. And that commitment from us which can be part of this approval is that we will totally take initiative to fund and create this Job Creation Institute which Judge Rodger has been kind to create, which will help us. We have a vested interest that that will create a qualified employee to help us, but also it will help many people, including the residents. So that can be part of the commitment.

COUNCILPERSON THOMAS: Exactly. Exactly. And I'm -- I'm -- I'm good with that. You wanted to jump in?

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: All right. Wait.

CHAIR PRO TEM DAVIS: I -- there's -- there's one more condition I want to make sure that he -- that he keep it on the record. Mr. Thomas still has the floor.

COUNCILPERSON THOMAS: Oh, yeah. I'm not -- I'll -- I'll -- I want to go to that red line then I'll be done. Thank you for your -- for your -- for your agreeance. I know that your -- your staff member's probably not the happiest with me but I hope the residents are. So in that first Whereas -- I'm back with the resolution now. In that first Whereas, you're basically saying that you want that S to be taken off of the -- off of "elevations"?

LARRY SMITH: That is correct.

COUNCILPERSON THOMAS: Okay. So we never did discuss -- we went past that. I don't know whether the board wants to -- to deal with that. I just want to go over briefly so we'll come back to that. And then you say you're okay with the number 2 Whereas coming out of the actual agreement? And I think staff was saying that they were okay, too, with the second Whereas in red?

LARRY SMITH: Yes. That's correct.

COUNCILPERSON THOMAS: "Whereas City staff understands the term 'substantially consistent' to mean largely similar," that whereas, you're saying that staff and you were okay with bringing that totally out?

LARRY SMITH: I want it out. I believe Miss Ryan and -- and maybe Miss McKinney are okay with it.

COUNCILPERSON THOMAS: Oh, okay. Somebody's already put -- oh, no, that -- that's --

LARRY SMITH: Well, we did that.

COUNCILPERSON THOMAS: Are we -- oh, is this your computer stuff that we're (inaudible)?

LARRY SMITH: We're -- we're doing that as we're going, yeah.

CITY ATTORNEY RYAN: At the time, right now.

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: They're doing it now.

COUNCILPERSON THOMAS: So staff --

CITY ATTORNEY RYAN: Okay.

COUNCILPERSON THOMAS: -- is okay with that since it's already --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: It's just part of the story. If you want it to come out, it can come out.

COUNCILPERSON THOMAS: It's okay with that? Okay. All right. Well, I'm okay with it coming out. And then staff and the applicant, they're okay with the third Whereas?

LARRY SMITH: "Whereas the historic elevation"? Yes.

COUNCILPERSON THOMAS: Yes.

LARRY SMITH: We're okay with that.

COUNCILPERSON THOMAS: Okay. So we can move past that. The fourth Whereas was okay, as well?

LARRY SMITH: We -- we were going to -- we discussed changing the word to -- "different" to "modified."

COUNCILPERSON THOMAS: Okay. So I heard staff say "modification" or "modify."

LARRY SMITH: "Modified."

COUNCILPERSON THOMAS: Is that fine with the applicant, as well?

LARRY SMITH: It is.

COUNCILPERSON THOMAS: That's -- Miss McKinney, that's fine?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Fine.

COUNCILPERSON THOMAS: Okay. The fifth Whereas, you're okay with that one?

LARRY SMITH: Yes.

COUNCILPERSON THOMAS: Okay.

LARRY SMITH: Yes.

COUNCILPERSON THOMAS: So we're back to the -- the 6 and the first Whereas. So the sixth Whereas, you wanted that to be totally taken out?

LARRY SMITH: Yes.

COUNCILPERSON THOMAS: And staff was saying that they did not want that taken out?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, we still feel it's part -- that's part of the story. I mean, you can take it out but --

CITY ATTORNEY RYAN: Kind of the same analysis as the second Whereas clause in question.

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: Just staff's -- it's just staff's position. So it -- it --

COUNCILPERSON THOMAS: So it --

CITY ATTORNEY RYAN: -- it can come out without affecting the resolution.

COUNCILPERSON THOMAS: Okay. So I mean, I'm okay with that coming out, then. Okay. So going back to the first one, the S. Have we come to an agreement on -- on this -- this -- this S?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: That's fine.

COUNCILPERSON THOMAS: You're fine with the S coming out?

CITY ATTORNEY RYAN: Fine.

COUNCILPERSON THOMAS: Okay. Well, then, I'm good. That's all for me.

LARRY SMITH: If I -- if I could just say one thing. And I'm -- I appreciate Miss McKinney agreeing to that. If you're going to have that first Whereas clause and you're going to make a -- a conclusion that there was a condition at the Zoning Board of Adjustment, 'cause you know I -- I'm going to preserve my position on the record that there wasn't. But if you're going to that's fine. But I would appreciate a finding of fact that this project is substantially consistent with the elevation and site plan presented to the Zoning Board of Adjustment. And -- and I think that protect -- if you're going to approve this, now. And I think that protects the City and it protects the applicant. Because we're using variances which you're making a determination that there was a condition.

CITY ATTORNEY RYAN: He's correct.

COUNCILPERSON THOMAS: Miss Ryan?

CITY ATTORNEY RYAN: I think he's probably correct on that. Staff has said to you they do not believe it is substantially consistent. However, this is one of those issues that really is a finding of fact for you. Because I think essentially, if it is -- if it's -- if it is not substantially -- oh, I want to make --

CITY MANAGER JONES: Consistent.

CITY ATTORNEY RYAN: -- consistent. If it's not substantially consistent, then I don't think you can approve the project. So I think that --

COUNCILPERSON THOMAS: Okay. I understand that exactly.

CITY ATTORNEY RYAN: -- he's correct that you should --

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: -- make a definite finding in --

COUNCILPERSON THOMAS: Okay. So where would that go?

CITY ATTORNEY RYAN: Well, it's already there. If you look at Section 1.

COUNCILPERSON THOMAS: Section 1?

CITY ATTORNEY RYAN: "The City Council finds that the application," blah, blah, blah, and it says, "is substantially consistent with the site plan and elevations provided by the Board of Adjustment in 2004." And --

LARRY SMITH: And I would tell -- I -- I'm sorry.

CITY ATTORNEY RYAN: "-- and also consistent with the City's Comprehensive Plan and the City's Land Development Regulations." So what Miss McKinney was doing was saying, Look. This is what staff -- this is how staff feels. Staff presented that to the Planning & Zoning Board. The Planning & Zoning Board still voted in favor of the project, thus finding that it was substantially consistent. And we've given you the documentation. We still don't feel that it's substantially consistent; however, it is a decision for council to make. And if we're -- we're moving those Whereas clauses and the council believes it's substantially consistent, then the Section 1 covers it.

LARRY SMITH: And -- and if I may, that word "elevation" has an S on the end. So to be consistent --

CHAIR PRO TEM DAVIS: Yeah, because it does.

CITY ATTORNEY RYAN: You know, I'm -- I -- I -- did you agree to take that S off?

CHAIRPERSON PARDO: No.

CHAIR PRO TEM DAVIS: Yes, she did earlier. She did.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: (Inaudible). It's in the brackets. It's -- it's very light. I don't see it as being -- changing the intent of the order.

CITY ATTORNEY RYAN: Okay.

COUNCILPERSON THOMAS: Okay. So we're agreeing that the S's -- the S come off?

CITY ATTORNEY RYAN: I won't get involved in that.

CHAIR PRO TEM DAVIS: Isn't that a board decision?

CHAIRPERSON PARDO: No. You're our attorney.

CITY ATTORNEY RYAN: No. But it -- it is --

CHAIRPERSON PARDO: You need to get involved in it.

CITY ATTORNEY RYAN: -- it is -- your staff has stated that they don't have a problem with it coming out. This was --

COUNCILPERSON THOMAS: Okay.

CHAIRPERSON PARDO: Even though it was presented to us in our backup there?

CITY ATTORNEY RYAN: (No audible response).

CHAIRPERSON PARDO: Whatever.

COUNCILPERSON THOMAS: Okay. So we're agreeing that it's --

CITY ATTORNEY RYAN: Okey-dokey.

COUNCILPERSON THOMAS: -- that the S on any -- anything else --

CITY ATTORNEY RYAN: Oh, you need to go to the sections if you're going to -- if you're going through the entire document.

COUNCILPERSON THOMAS: I went through the sections where they were red that I had issues with.

CITY ATTORNEY RYAN: Continue on section -- on page 2, section 2, number 3.

COUNCILPERSON GUYTON: Well, if it's agreed upon, can't staff just go through these without us --

CITY ATTORNEY RYAN: Well, we don't know if it's agreed -- well, we have -- there's an issue on this one. We need to discuss this next one.

COUNCILPERSON THOMAS: Okay. On page 2?

CITY ATTORNEY RYAN: Because he agreed to the word "demolition" staying in.

COUNCILPERSON THOMAS: Uh-huh.

CITY ATTORNEY RYAN: However, it's my understanding that they feel very strongly that the rest of that last sentence, the entire last sentence should be removed. Is that correct?

COUNCILPERSON THOMAS: And that's on 3?

LARRY SMITH: That's page 3, number 3, section -- section 2, number 3 on page 3.

CITY MANAGER JONES: Three of six.

COUNCILPERSON THOMAS: It's page 3.

LARRY SMITH: It's -- it's what's highlighted in blue up here.

CITY ATTORNEY RYAN: And that's -- that was the issue that came about because of -- they were discussing --

COUNCILPERSON THOMAS: Oh, number 3. Okay.

CITY ATTORNEY RYAN: -- the foundational permit and --

COUNCILPERSON THOMAS: Oh, this was under Conditions again. I had left Conditions. Okay.

CITY ATTORNEY RYAN: Correct.

COUNCILPERSON THOMAS: "Structure must be initiated to -- initiated within 18 months of the effective date of this resolution." I mean --

CITY ATTORNEY RYAN: Right. They're okay with that.

LARRY SMITH: No, no. We're okay with that.

CITY ATTORNEY RYAN: And they're okay with the second sentence. But it's the third sentence that -- that --

COUNCILPERSON THOMAS: "Building permit application and associated plans and documents shall be submitted in its entirety, shall not be accepted by the opinion city staff in a partial or incomplete manner." Okay. Listen. In all fairness -- in all fairness, I understand that the market took a hit. I understand all of that. But some parameters need to be in this to ensure that you're going to build and that this does not become another long process what -- that doesn't happen. So I mean, I'm willing to change.

Me. I'm willing to change. But I want to make sure that something is in there to say, Okay. We definitely have to build.

LARRY SMITH: But the Florida Building Code already -- as I understand what was explained earlier, the Florida Building Code already takes care of this.

CHAIR PRO TEM DAVIS: Thank you.

LARRY SMITH: In other words, if a plan comes in and the architect forgot something, then they're going to, I guess, send it back and say, No, you gotta bring in whatever it is. I don't need to -- I don't think it needs to be in the -- in the resolution of approval, is what I -- my point. I think they have the discretion. The building official has that discretion under the Florida Building Code.

COUNCILPERSON THOMAS: Miss Ryan, do you agree with that?

CITY ATTORNEY RYAN: I will just say this. Because we've had so many different interpretations about words and what they mean, the clearer we can be in this document, the better. If the building code applies, then guess what? This resolution cannot trump the building code. So we know that the most we can ever do is what the building code says. I think Community Development wanted this language in here so that it is clear as to what needs to be done. This has been an exhausting couple of years trying to figure out what everything means and that's why you see so much in these conditions tonight. Because we're trying to be as clear as possible so that no one will say, That's not what the council intended.

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: And they'll go to this resolution and we just want to be as -- as clear as possible. I don't see how the language hurts. It's up to the council but staff would recommend we keep it in.

COUNCILPERSON GUYTON: Madam Chair? I just asked Mr. Thomas -- well, I didn't ask Mr. Thomas was he done or not but --

COUNCILPERSON THOMAS: Yeah. I'm -- I'm -- I'm not done but --

COUNCILPERSON GUYTON: -- I say --

COUNCILPERSON THOMAS: -- if (inaudible) --

COUNCILPERSON GUYTON: -- I -- I just have a quick question about this issue. As I see this, this is standard language for all of our applicants. Am I right, Miss McKinney?

DIRECTOR OF COMMUNITY DEVELOPMENT MCKINNEY: Yeah. We're trying to make it very clear to everyone.

COUNCILPERSON GUYTON: Yeah.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: That you have to do these things in order to go forward. So there's no confusion --

COUNCILPERSON GUYTON: And --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- when they come in.

COUNCILPERSON GUYTON: Okay. And let me also clarify. As I understand what you're requesting for the various departments that have to approve their respective section of the plans, fire and others, you're saying that you want everything at once so that all of those departments can give their input?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Exactly. We do.

COUNCILPERSON GUYTON: Okay. That's --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: We want a comprehensive package.

COUNCILPERSON GUYTON: -- I think that's reasonable.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And --

COUNCILPERSON GUYTON: What -- what -- what -- what -- whatever departments have to review your plans, get everything together, Fire, Utilities, whatever area, landscaping, what -- pull it all together. Here's a complete set of plans. City, review it.

CHAIRPERSON PARDO: All right. Mr. Thomas, want to continue?

COUNCILPERSON THOMAS: Yes. I'm not -- I'm really not convinced that -- that number 3 should be altered unless you tell me -- unless you give me some other -- unless you give me some other reason why you think it should be altered.

LARRY SMITH: Mr. Thomas, I apologize. I'm -- I didn't -- could you ask again?

COUNCILPERSON THOMAS: Right. Yeah, number 3.

LARRY SMITH: Yes.

COUNCILPERSON THOMAS: I don't really -- I -- I haven't been convinced as --

LARRY SMITH: Okay. All right.

COUNCILPERSON THOMAS: -- why that should be altered.

LARRY SMITH: Let me -- let me offer something that might settle the issue. Right where that little thing's blinking right there --

COUNCILPERSON THOMAS: Uh-huh.

LARRY SMITH: -- can we add something like "as provided" or "per the Florida Building Code"?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Sure. That's fine.

COUNCILPERSON THOMAS: You agree to that?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: That's fine.

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: Well --

COUNCILPERSON GUYTON: Mary? Okay.

CITY ATTORNEY RYAN: -- well, that was my point.

COUNCILPERSON GUYTON: Okay.

CITY ATTORNEY RYAN: We can't do anything --

COUNCILPERSON GUYTON: Okay. Okay.

COUNCILPERSON THOMAS: Okay.

COUNCILPERSON GUYTON: Let's keep moving.

COUNCILPERSON THOMAS: That's fine.

CITY ATTORNEY RYAN: Okay. All right. All right. Let's move -- let's move it.

COUNCILPERSON THOMAS: Okay.

CITY ATTORNEY RYAN: Okay.

COUNCILPERSON THOMAS: If -- if that's fine, that's fine with -- with me. And then you have 5?

LARRY SMITH: I -- I do have an issue with 5. What I -- actually, that language -- I'm not sure. Did --

SHAMA BAROT: It's edited.

LARRY SMITH: Yeah. We talked to -- I talked to Miss Ryan a little bit about that.

CITY ATTORNEY RYAN: Right.

LARRY SMITH: I don't know how she feels. I think that she might be okay with it. It's up to you.

COUNCILPERSON THOMAS: Miss Ryan, are you -- you okay with this language?

CITY ATTORNEY RYAN: I'm looking at Mary. It doesn't make me -- no issues jump out at me but I'm looking at Mary.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: I -- I don't think it's appropriate that we're talking about a building permit. That -- that's when the resolution -- I think when you approved this resolution, it supersedes any other previous approvals. Not when a building permit is issued. It's when this resolution is approved.

COUNCILPERSON GUYTON: Uh-huh.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And that's basically what this is saying.

COUNCILPERSON GUYTON: Okay.

LARRY SMITH: And I'm not so sure that's -- that's true. I mean, my -- my feeling is that -- what I don't want to get caught up in is some kind of litigation, we can't get done, we don't get our building permit. I mean, we don't -- you know, the 18 months runs and we have a problem. Listen. I'm trying to -- like Miss Ryan protecting you, I'm trying to protect my client from the unforeseen. That's all I'm trying to do. Believe me, after all this, there's -- there's a definite intent to get moving on this project and hopefully we'll get our permits and get moving and it'll -- it'll get done. But I'm a little uncomfortable. We -- we had -- let me -- let me say something else, too. We gave the City, our client -- our property owner gave the City 7 -- \$670,000. \$670,000. Market went kaput and they didn't have --

CITY ATTORNEY RYAN: Please say why. Don't just say you gave us \$670,000.

LARRY SMITH: Well, it's -- there was MEHOP. There was a requirement in the earlier approval.

CITY ATTORNEY RYAN: Okay. Right.

LARRY SMITH: To give 570 of -- of -- for -- for MEHOP and then 100,000 for landscaping, I think it was. For --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Right. But you have to remember, you got a density bonus, which is --

LARRY SMITH: We did.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- you got additional density for that MEHOP contribution. So it wasn't you gave the City that money. It has to be clear.

COUNCILPERSON THOMAS: So we can call that one even.

LARRY SMITH: But -- but not if we -- not if something goes haywire on this one and we can't build that one.

COUNCILPERSON THOMAS: I -- I got it. I -- I understand. I understand. So I mean, what would be something reasonable?

LARRY SMITH: I -- I thought this was a reasonable compromise.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No.

LARRY SMITH: I mean, I -- I don't --

COUNCILPERSON THOMAS: Well, what -- what do you -- what did you think was a reasonable compromise?

CITY ATTORNEY RYAN: Adding the underlined language.

COUNCILPERSON THOMAS: "Once a building permit has been issued and construction has commenced pursuant to --"

CITY ATTORNEY RYAN: -- "pursuant," yeah, "to this resolution --"

COUNCILPERSON THOMAS: "-- to this resolution, this resolution supersedes --"

CITY ATTORNEY RYAN: "-- this resolution shall supersede." So they're saying once they actually get started they will agree that anything that we have issued to them in the past will go away.

COUNCILPERSON GUYTON: If they get their building permit, once they actually get their permit -- go away.

CITY ATTORNEY RYAN: And that includes those variances and the old site plan. We're not going to hold on to anything else after that.

COUNCILPERSON THOMAS: Okay. But you don't -- you don't think that's reasonable?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No.

CHAIRPERSON PARDO: No.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: I think this resolution approves this development before you.

CHAIRPERSON PARDO: Right.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: And that supersedes any before. Just like every other site plan amendment resolution you approve has superseded the resolution you approved before. Not when you go -- come in in five

years and get a building permit. That's not the way it works. That's not the way it works anywhere.

CHAIRPERSON PARDO: Right.

COUNCILPERSON THOMAS: Okay. So let me make sure I understand this. So you're basically saying that they can get this 18 months -- they can start --

CITY ATTORNEY RYAN: About (inaudible) litigation.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: They're saying that --

COUNCILPERSON THOMAS: -- their --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- if they get this approval and for some reason they can't build this project, they can go back and rely on the old approval that they had, is what they're saying.

COUNCILPERSON THOMAS: No. That's not what they're saying, right?

LARRY SMITH: So -- so --

CITY ATTORNEY RYAN: That's -- that is a worst-case scenario.

LARRY SMITH: -- that's not exactly what we're trying to say here.

COUNCILPERSON THOMAS: I hope not.

LARRY SMITH: No. That's not exactly --

COUNCILPERSON THOMAS: Okay.

LARRY SMITH: Let -- let me suggest something different.

COUNCILPERSON THOMAS: Uh-huh.

LARRY SMITH: Perhaps we can -- 'cause we're -- I'm concerned maybe we get tied up in litigation.

CITY ATTORNEY RYAN: Right.

LARRY SMITH: We got an approval. How about once the resolution has -- "Once this resolution has been approved and all time periods have expired pursuant to any litigation," something along those lines?

CITY ATTORNEY RYAN: Right. And litigation --

LARRY SMITH: Final -- "Final disposition of any litigation?"

COUNCILPERSON GUYTON: Mr. Chairman, I have a question about litigation. You're saying if someone outside of the City challenge this project --

LARRY SMITH: Right.

COUNCILPERSON GUYTON: -- and it's put on hold --

CITY ATTORNEY RYAN: Right.

COUNCILPERSON GUYTON: -- for reasons beyond your control --

LARRY SMITH: Right.

COUNCILPERSON THOMAS: Oh.

COUNCILPERSON GUYTON: -- if -- if there are reasons within your control I'm not supporting that. But if you get sued and then you have to go to court and you're fighting and --

COUNCILPERSON THOMAS: Okay.

COUNCILPERSON GUYTON: -- and you can't meet that 18 months because of that litigation, things out of your control, but if it's within your control, I'm not supporting that. But if it's out of your control --

COUNCILPERSON THOMAS: Okay.

LARRY SMITH: That's fine.

COUNCILPERSON GUYTON: -- that's -- that's reasonable.

COUNCILPERSON THOMAS: Yeah. That -- that is very reasonable.

LARRY SMITH: That's fair.

COUNCILPERSON GUYTON: If -- if it's within your control, now -- listen to the words.

LARRY SMITH: I heard you.

COUNCILPERSON GUYTON: If it's within your control, you're not getting this break. But if someone sued you, you're tied up with litigation outside of the City because they didn't like the project. They run down there, filed a lawsuit. They get an injunction. You have to stop, that's reasonable. But --

LARRY SMITH: And maybe -- and -- and -- and maybe nobody will -- will file a lawsuit.

COUNCILPERSON GUYTON: And maybe nobody will. But I just want a clarification of -- well, you just referred to litigation and you didn't clarify. You didn't explain it. But

then it dawned on me that there are people -- and it has happened in our city and can happen again, that will go file a lawsuit on a project that they don't like.

LARRY SMITH: Sure.

COUNCILPERSON THOMAS: Yeah. It's going to happen. I mean --

COUNCILPERSON GUYTON: So --

COUNCILPERSON THOMAS: -- clearly, because there's a court reporter sitting here. So I would -- I would say that that's probably a reasonable thought.

CITY ATTORNEY RYAN: Is that your court reporter?

COUNCILPERSON THOMAS: But -- but my --

LARRY SMITH: That's (inaudible) court reporter.

CITY ATTORNEY RYAN: Oh, okay.

COUNCILPERSON THOMAS: -- oh, okay. Well, maybe not. But my issue is I understand it exactly the way Mr. Guyton just put that and I -- and I'm okay with that. I just want to make sure that there's still some type of reasonable time. So in other words -- and I'm not trying to be condescending, but I don't want this to be another long process, if you know what I'm saying. I don't want to be coming back or another council to be dealing with this in 10 years saying, Wait a minute.

CITY ATTORNEY RYAN: That's the problem. That's the issue.

COUNCILPERSON THOMAS: We done -- so that's what I -- that's what I want to make sure. So I still want it reasonable. So if someone is suing you or -- or causing an issue, a delay, I get it. I understand. But we want to make sure that you're going to build this project.

LARRY SMITH: All right. We --

DILIP BAROT: That's what we are saying, sir.

COUNCILPERSON THOMAS: Okay.

DILIP BAROT: Yeah.

COUNCILPERSON THOMAS: That -- that's fine. That's fine with me. And then -- so then we're -- we're cool with number 5. And then number 8 is the last one.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No. No, we're not --

LARRY SMITH: No. No, no.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: -- we don't agree with the building permit language.

CITY ATTORNEY RYAN: No. We're saying we're going to take that out.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Okay.

CITY ATTORNEY RYAN: That's coming out.

LARRY SMITH: We're going to take it out but I want something in there that --

CITY ATTORNEY RYAN: Right. We gotta work on it.

LARRY SMITH: Okay.

CITY ATTORNEY RYAN: He -- you can't sit here and work on that.

LARRY SMITH: All right.

CITY ATTORNEY RYAN: Let him go forward. We know it's got to be something like -- I'm working on it now, "30 days after this resolution, barring any --"

CHAIRPERSON PARDO: All right. So this is coming back to us?

COUNCILPERSON THOMAS: I don't -- yeah.

CITY ATTORNEY RYAN: I'm going to go work on it in a few minutes after.

COUNCILPERSON THOMAS: The -- the number 8, basically we're taking that out, right? Everybody -- we -- the public needs to be able to utilize --

LARRY SMITH: I -- I would like it out.

COUNCILPERSON THOMAS: Okay. I'm fine with that.

LARRY SMITH: I want -- I want the public to be able to come to the spa.

COUNCILPERSON GUYTON: Yeah. I'm okay with that.

COUNCILPERSON THOMAS: Yeah. I would like -- yeah, I would like for the public to be able to do that.

COUNCILPERSON GUYTON: Take that out.

COUNCILPERSON THOMAS: Yeah. I'm -- I'm okay with that.

COUNCILPERSON GUYTON: If they want public to come to their facility, I'm fine with that.

COUNCILPERSON THOMAS: Yeah. Yeah. I'm okay with that.

COUNCILPERSON GUYTON: I think it's a good idea.

COUNCILPERSON THOMAS: Okay. So you -- so the only thing that we didn't agree to here is the number 5 or taking number 5 but adding some language that --

COUNCILPERSON GUYTON: And Pam's working on it now.

COUNCILPERSON THOMAS: And Miss Ryan's working it?

CITY ATTORNEY RYAN: Yeah.

COUNCILPERSON THOMAS: Okay.

COUNCILPERSON GUYTON: (Inaudible).

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Can I make one comment? I think you added two conditions. Councilman Davis said that 10 percent of the upper administrative jobs reserved for Riviera Beach residents. I think that would be a condition for the resolution, correct?

CITY ATTORNEY RYAN: I think he said he -- you wanted it to be a condition, didn't you?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Right. And then number 16 will be, "They will not apply for a tax adjustment."

CITY ATTORNEY RYAN: I don't know if we can --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Is that correct?

COUNCILPERSON THOMAS: Yeah. Yeah. They voluntarily said they would want it in there.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Put that in the -- those are two conditions.

COUNCILPERSON GUYTON: Hey, and -- and -- right. And for -- hey, and for clarification, the upper management -- that was condition -- qualified. We -- we need qualified people, 'cause one thing, I don't want to be embarrassed, too.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Qualified upper administrative.

COUNCILPERSON GUYTON: Yes.

COUNCILPERSON THOMAS: Okay.

COUNCILPERSON GUYTON: Yes. If we have qualified people in our community, they need to get first shot.

DILIP BAROT: Yes. And that's our target.

COUNCILPERSON GUYTON: But -- but we're not just going to throw anybody in there who don't have the qualifications.

COUNCILPERSON THOMAS: Yeah. I'm okay with that.

COUNCILPERSON GUYTON: I won't support that.

CHAIR PRO TEM DAVIS: Madam Chair?

COUNCILPERSON THOMAS: I'm okay with that.

CHAIRPERSON PARDO: Go ahead.

CHAIR PRO TEM DAVIS: See, this is the issue I have. And I think we're all moving in the right direction. But this is why people don't come home. 'Cause when you start questioning whether our people are qualified, that's a problem. We have people qualified. We just have to make it very welcoming.

COUNCILPERSON GUYTON: And that's what we said. If they're qualified --

CHAIR PRO TEM DAVIS: This -- right. I know but -- but --

COUNCILPERSON GUYTON: -- they get the opportunity.

CHAIR PRO TEM DAVIS: -- when we keep discussing it -- he's already stated that he's willing to create -- work with **JUDGE RODGERS** to create the organization to do the training, do the research and bring those qualified people on hand. So he's already -- he's already putting --

COUNCILPERSON GUYTON: I said (inaudible).

CHAIR PRO TEM DAVIS: -- an arm in place to help us all out. That's all I'm saying.

COUNCILPERSON GUYTON: Okay.

CHAIR PRO TEM DAVIS: Because when people are sitting at home, we don't want them interpreting -- some people take it the wrong way. And there's --

COUNCILPERSON GUYTON: No. I -- I want the people to understand that, you know, we need to go and get our skill set in place so when the opportunity present itself, here's my degree. Here's my experience and I'm qualified and I want the job. That's all I'm saying.

CHAIR PRO TEM DAVIS: Yeah.

COUNCILPERSON GUYTON: We don't have handouts here.

CHAIR PRO TEM DAVIS: But listen, I understand.

COUNCILPERSON GUYTON: That's all I'm saying.

CHAIR PRO TEM DAVIS: I -- I understand that.

COUNCILPERSON GUYTON: I want our people to be motivated.

CHAIR PRO TEM DAVIS: Okay.

COUNCILPERSON THOMAS: Madam Chair, I'm -- I'm done with my comments, though.

CHAIRPERSON PARDO: Oh, yeah. Hold -- okay. Thank you.

CHAIR PRO TEM DAVIS: Okay. Let me finish --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Want us to take the word "qualified" out?

COUNCILPERSON GUYTON: No.

CHAIR PRO TEM DAVIS: Well, but he's already stated he's going to move that direction on record. That he was going to focus on training and qualifying people from Riviera Beach. He did state that earlier.

LARRY SMITH: We're going to target that, though.

CHAIR PRO TEM DAVIS: Yeah. That we -- that's what he said, he's going to target -- target it, right.

DILIP BAROT: Yes, sir.

CHAIR PRO TEM DAVIS: I have -- my thinking -- let's not forget what Mr. Zedrick talked about, about the record. I'm not going to leave that out.

DILIP BAROT: You can add.

CHAIR PRO TEM DAVIS: You know, they brought something before this board. But just to stay consistent in where we are with moving forward, the Planning & Zoning Board has already went through all this stuff.

LARRY SMITH: Uh-huh.

CHAIR PRO TEM DAVIS: Any item that was not brought before this board should be stricken off that document. Because if the board didn't review it, we shouldn't be discussing it at that time. I mean, seriously. Because in that case, we can -- we can

keep approving things on either board and things can change as they leave -- leave and come to the board. That's not -- how are we going to govern like that? We don't know what changes are going to happen once they leave here or when another board comes before us. Let's say all of us are gone and then there's a change made because staff is still here.

COUNCILPERSON GUYTON: Can I please have my time now? We're supposed to (inaudible).

CHAIR PRO TEM DAVIS: No. I just want to make sure that we stay consistent with understanding -- like, for instance, we keep talking about what's "substantially consistent." Let me stay here for 30 seconds. You can have the -- you can have the floor.

COUNCILPERSON GUYTON: We -- we -- we --

CHAIR PRO TEM DAVIS: I'm reading page 22.

COUNCILPERSON GUYTON: -- but you're going to have your time.

CHAIR PRO TEM DAVIS: On page 22 -- 30 seconds, Guyton. You can have the floor. Thirty -- page 32, if you look at item 10 in the minutes from Planning & Zoning, Mr. Barber asked Guyton -- Guyton a question. He said, "How did staff develop definition for 'substantially consistent'?" He asked that question at that meeting. You know what the answer was? It says, "The City code is currently silent on that term."

COUNCILPERSON GUYTON: Okay. All right. Thank you, Mr. Chairman. Can I have my comments now?

CHAIR PRO TEM DAVIS: So it's up -- so it's up to this board.

CHAIRPERSON PARDO: Yeah. Go ahead.

COUNCILPERSON GUYTON: Okay. Very quickly 'cause we're running out of time and we have a deadline that we're to be in here.

CHAIRPERSON PARDO: And we have another item after this.

COUNCILPERSON GUYTON: And another item. On -- on the -- Miss McKinney, I -- I have a couple of quick questions on -- on the code. And let me preface my comments with the fact -- comment, please, that our staff, Community Development and many of our other staffs are some of the best in the county. Mary and Jeff are certified as planners and most -- some in our industry are not certified. But they have gone a step beyond and I, too, am a planner. I'm not certified. But there are times, too, when we have different position on some issues. But that doesn't mean that they're incompetent or not qualified and the attacks on staff I really don't appreciate. Let me say that publicly.

So now having said that, there are a couple of questions that I -- I have regarding the actual compliance or noncompliance with the codes. In our summary we had identified three of the issues. And -- and let me -- let me also say before I start, I'm a strong property rights advocate. When -- when I look at a project, I'm looking at whether it's complying with the code. I'm not trying to put my emotions in whether I like it or don't like it, because if it's complying with the code, as far as I'm concerned, my -- my hands are tied. I'm -- I'm not fixing to try to tell people what to do on their property if they are complying with the City codes. We can make recommendations and they can voluntarily agree to them. That's -- that's fine. But sometime I think some people get the idea that we can just dictate to people what they're going to do on their property. I don't subscribe to that thought process. So that is why I'm questioning whether they are complying with our codes. In the summary, the first one, it says, "The current regulation under Section 31-529(a) limits the east-to-west length to 200 feet. The applicant is requesting 170 feet east-to-west variance for the building which would allow a 370-foot long building." Miss McKinney, does that mean that they are in compliance with that variance?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: The -- what they are proposing is in compliance with that variance.

COUNCILPERSON GUYTON: Okay. That's -- that's what I want to know. The next one, "The current regulation under Section 31-529(7) limits the north-south width to 120 feet. The applicant is requesting a 75-foot north-to-south width variance for the building, which would allow 190-foot wide building." Are they in compliance with that variance?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: When -- when they -- when you say "in compliance," they -- they're not using the same variance, which is --

COUNCILPERSON GUYTON: Yeah. Okay. Well, when I say "in compliance," are they exceeding what they have been authorized?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No.

COUNCILPERSON GUYTON: That's my question. So I consider that in compliance. Those were two. The other -- third variance is dealing with the -- there is one variance that they have elected not to use. Am I correct?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes.

COUNCILPERSON GUYTON: Okay. So they're not -- even though they were approved for it, they're not going to take advantage of that variance. They're just --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: They're not using it.

COUNCILPERSON GUYTON: Okay. So the density code, is there any portion of this project that -- that does not comply with the density code?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: No.

COUNCILPERSON GUYTON: Is there any part of this project that does not comply with the setback code?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, providing they have the variances.

COUNCILPERSON GUYTON: No, no, I mean with the variance.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Yes.

COUNCILPERSON GUYTON: Yeah, as long as they stay within --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: As long as they have -- right.

COUNCILPERSON GUYTON: -- what they've been authorized.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: The variances.

COUNCILPERSON GUYTON: So that would be a no indicating that -- I said is there anything -- do they -- do they not comply with the setback code?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Well, they have to use the variances to comply with the setback codes.

COUNCILPERSON GUYTON: To use the variance. So that mean that they are in compliance, in -- in -- in my opinion.

LARRY SMITH: And --

COUNCILPERSON GUYTON: Larry, you're done with me. I'm making some certain points here and it's going to go to the heart of the project here. So they're being authorized their variances, but as you indicated, they're not using them all but it's enough to get the project off the ground because that's what they've requested. Whatever they've requested it's within the limit that they've been authorized?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Right. They're different but they're within.

COUNCILPERSON GUYTON: They're different but they're within that limit of what they've been authorized. Okay. This issue of "substantially compliance" -- I mean, excuse me, "substantially consistent," what I did -- and as I indicated, I, too, am a planner. And so I went to what we have in our industry like the lawyers do. They have the Black Law Dictionary. We have the Planner's Dictionary, for terms related to planning. My undergrad is in business but my graduate degree is Urban and Regional Planning. So I'm looking for this term that everybody is all up in arms about. I mean, together. Not separately. Not words. Not substantially and then consistent. Cannot find it anywhere. If you will notice it's broken down into two words. The term was presented as a term together.

So now I did find where a couple of communities, they had custom a substantially consistent definition that they consider. There is no industry standard term of "substantially consistent." I was unable to find it anywhere. Google, Planner's Dictionary, called some of my colleagues, my professors. No. The point I'm making is if we or the Board of Adjustment develop or require a term, it needs to be defined. I think it's inappropriate for us to impose something that we don't have a definition for. With me that's a problem. My last point is, I don't even think it's applicable in this situation. In the minutes, what is important to me is what that motion was and what they voted on. We have verbatim minutes that was done by a court reporter that we, the City, hired. Not the developer. We hired the court reporter to do verbatim minutes. On the first motion -- I'm not going to go through all three of them but they're all similar -- on the first motion with -- on the first variance, it said -- hold on. Let me find my spot here real quick. I lost my spot here. Okay.

Chair Perry: "Okay. Let's start with the 170-foot east-to-west. That's the first variance." I'm reading this from verbatim minutes. Oh, I'm sorry. For my colleagues who want to follow along, in the red it's page 228 and it's the bottom-right corner. It's page 60 of the actual verbatim minutes. "Okay. Let's start with the 170-foot east-to-west. That's the first variance." And as -- as has been noted, you'll find that the motion was all over the place but I'm -- where I'm going with this is did "substantially consistent" come up in this actual motion? It can be talked about a million times. It does not matter. What matters is when they put a motion on the floor and they vote for it. That is what matters in this setting, in government setting or any meeting setting. It's the motion that carries. Not all of the discussion behind it. The motion.

"Okay. Let's start with the 170-foot east-to-west. That's the first variance. This variance has to meet -- and these are the special conditions -- meet the special variance criteria. One is that a special condition of circumstance exists which is peculiar to the land, structure or building involving the application. Okay?" That's a question. Miss Killebrew, who I see the attorney referenced earlier, who was the attorney, she said, "Madam Chair, what you could do at this point is just call for a motion.

And whether, again, it's a motion to approve the variance or deny it and then the motion should -- if it's approval, the motion should go through each of the criteria and say why, you know, it meets the criteria. If it's for denial, then you only need to cite one criteria that you find if the variance fails." I'm not really Marc Rubio now. Chair Perry: "Okay. So may we have a motion to approve or deny the 100 and -- foot east-to-west variance for the building? The variance has to meet that there is circumstances that exists --" and I'm reading quote, now, so if the grammar is all screwed up, I'm -- I'm just reading what's here -- "that exists is peculiar to the land and the structure of the building that's involved. The second one is that there is a special condition or circumstances that does not result from the action or inaction of the applicant. Okay?"

And number three, the granting the variance request would not confer on the applicants any special privilege that is denied to other --" and it says "[inaudible]." "And four, that it is a hardship on the applicant." All of these things are required to get a variance. "Those are the four criteria --" I'm still reading -- "that we have to use in order to

approve or deny the variance for the 100 and -- foot east-to-west. Can I have someone make a motion to accept or deny that particular variance?" Miss Hubbard: "I move that we accept --" and then they said "[inaudible]" and then Chair Perry, I see "[Inaudible] been moved and seconded."

Miss Killebrew, who was the attorney, "Madam Chair, I'm sorry. You need to --" and I'm reading what -- quotes -- "the motion needs to specify that you use all four criteria for or something or that nature. The motion needs to be more specific for the record because the code requires that the board recognize that each of these criteria have been met." Miss Hubbard: "Okay. I move that all four criteria had been met by the applicant and that we approve this particular variance." Miss Killebrew: "You need to go through for the record, to go through the criteria. With your motion you need to say that the board finds that special conditions exist or they do not. In this case you're making a motion for approval. So you would find that the special conditions existed and the same thing for number 2, 3 and 4. This has to be very specific."

Miss Hubbard: "I move that there were special conditions and circumstances for the applicant not created by the applicant that approving this will not allow any special privileges for the applicant and that approving this that were -- that would be no hardship conditions --" I'm reading as it's -- is quoted here -- "conditions created and there aren't any hardship conditions exist." Miss Killebrew: "No, no. If you approve that, if you go that route, if you find that no hardship conditions exist, then you're going to deny the variance. If you find that the hardship conditions do exist, that's the ground for approving the variance. So you need to clarify that." Miss Hubbard: "Okay. I apologize to the applicant and the [inaudible]. I move that there were conditions of hardship for the applicant so, therefore, we should approve this variance for the applicant." Miss Reid: "I second that."

Chair Perry: "This -- this has been moved and seconded that the applicant meets all four criteria for variance. One, that there does exist a special condition or circumstance; and two, that the condition was not created by the applicant; and three, that there is no special privileges conferred by the applicant; and four, that there is no hardship condition that exists. All in favor, show a raise of hands. All opposed, question? Motion passed." Nowhere in the motion the term "substantially consistent" was ever mentioned.

Now we get to the action form. And let me just say I don't think there was no hanky-panky with staff, but I will say that the action form that was signed after that motion, it had a term in it that was not in the motion that was approved. As a result of the motion not having consistently -- I mean, "substantially consistent" in it, I don't think we should even entertain it. You cannot approve a motion and then on a form it's something different. We can't take an action as a council and then there's a form to fill out and then the motion is different. There were no conditions in the motion. There was nothing that even related or alluded to "substantially consistent."

Personally, I'm not even considering that term. It wasn't part of the motion. All three of the motions were very similar to this. None of them mentioned "substantially consistent." And if this were ever to be challenged you know what they're going to look at? What was the motion? What did you vote on? That is what is going to be the

determining factor of whether this issue, in my opinion, "substantially consistent," is even relevant. So as a result of that, I wouldn't care how many times it would -- this was mentioned in other documents and in discussions and -- and all of these other things. What counts is what's in the motion. None of the motions had it. I'm not considering it. It's not even an issue with me. And it took up all of our time tonight about something that wasn't even in the motion. So that's my position. The other thing that was pointed out is that this project complies with all of the codes and ordinances.

That's why I went through that at the beginning. I'm not supporting it if does not comply with our codes and ordinances. So I dealt with them individually. So somebody -- I'm not opposing something where I don't have a substantive reason to deny it. It complies with our density code. It complies with our setbacks. That term "substantially consistent" was nowhere in any motion. There's no reason for me to deny it. Period. That is my position. That's how I will be voting tonight. I am prepared to put a motion on the floor to approve with the conditions that have been discussed tonight, but my colleague -- Councilwoman Miller-Anderson has not made her comments. And when she's done, I'm ready to put a motion on the floor.

CHAIRPERSON PARDO: Maybe after I speak.

COUNCILPERSON GUYTON: Oh, I'm sorry, Madam Chair. Of course.

CHAIRPERSON PARDO: Well, we all know we're -- how this is going down anyway. So, okay. Are you done, sir?

COUNCILPERSON GUYTON: I am done.

CHAIRPERSON PARDO: All right. Miss Anderson.

COUNCILPERSON MILLER-ANDERSON: It doesn't happen very often but I actually agree with Mr. Guyton. You know, I know this has been a very controversial topic but as we've sat here for the past four hours, I have not heard anything to make me feel that this is something we should not approve. I -- I am very -- I'm in support of it, one, because I -- I expect for it to bring jobs to our city. But the fact that it is complying with everything that we have put before them, I don't see the -- the sense in continuing to deny them when they're trying to build up our community. I'm not going to give a whole long dissertation like Mr. Guyton, but again, everything is clear, following the rules. Whatever we've asked them even to a point of including the 10 percent of upper management. I think that was a very bold move of him to even agree to that. So that demonstrates his commitment to this project. So I'm very much in support of it. And that -- I mean, that's really all I need to say.

CHAIRPERSON PARDO: Okay. Thank you. Okay. So Mr. Smith, are you ready?

LARRY SMITH: Well, I'm just discussing the additional conditions that were mentioned, which we will put in now. And --

CHAIRPERSON PARDO: All right. Well, I have some questions for you.

LARRY SMITH: Okay.

CHAIRPERSON PARDO: So last summer when we were discussing the Coastal Construction Control Line --

LARRY SMITH: Uh-huh.

CHAIRPERSON PARDO: Right? We were moving it further --

LARRY SMITH: I remember.

CHAIRPERSON PARDO: -- west.

LARRY SMITH: I remember.

CHAIRPERSON PARDO: One of my colleagues up here asked if the -- hold on a second. What did I put here? If the new building footprint was the same as the 2004 one. Okay? And you guys said yes. And that's when the council said, "Okay. We're going to exempt you from the new code." Right? From the '79 -- from the '97 code and you can move forward with your '79 line. But then tonight someone made the comment that the footprint changed. So are you guys going to move your building further west? Or is it going to stay just the seven feet west so you accommodate the balconies?

LARRY SMITH: We're going to stay seven feet west to accommodate the balconies. Let me -- let me clarify what you just said, though.

CHAIRPERSON PARDO: Okay.

LARRY SMITH: We had our application in --

CHAIRPERSON PARDO: Uh-huh.

LARRY SMITH: -- before there was any discussion of a moratorium. And the council chose to -- I hate to use the word exempt us, but to not hold us to the moratorium at the time. We had a lot of other things to do. In order, make the Tiara residents happy, 'cause they were very concerned about this project. So our client went to the Tiara, went to the other next-door neighbor, tried to make the immediate neighbors happy. And I think they've done that.

CHAIRPERSON PARDO: Right. But this project is more about --

LARRY SMITH: But the reason --

CHAIRPERSON PARDO: -- you know, it's not just the Tiara.

LARRY SMITH: No. I understand that. I understand that. But -- but that was what we were sort of directed to do and we did it. But the reason, in my opinion, and Miss Ryan can speak up if she wants to, but the reason I say that we're -- I hate -- again, the reason I -- I think that we're not held to the new line, the '97 line, is because we had an

application in before there was any discussion of changing that line. That line came up and the first time it came up I didn't even know about it because it was the north end of the island and Cari Podesta came and said, "Oh, no, you gotta put it across the whole island. You can't treat everybody differently." And then, you know, all of a sudden we're in it. You -- you know and I know that there's never been a real problem at this location. So -- and I understand why the initial thrust of that '97 moving the line back was at the north end of the island because there are some problems up there. But the reason I think we're except -- and I hate to use the word "exempt," but the reason I think that we can still build to that '79 [sic] line is because we had our application in. It's like a baseball game. You don't --

CHAIRPERSON PARDO: All right. That's fine. I'm just bringing it up because when I did go through the --

LARRY SMITH: Okay. You don't change --

CHAIRPERSON PARDO: -- minutes and one of my --

LARRY SMITH: Okay.

CHAIRPERSON PARDO: -- colleagues did say, "Okay. If you're going to keep the footprint the same --" and you had agreed, then that person was okay with it. All right. We'll move on. When do you anticipate the construction to commence?

LARRY SMITH: Beg your pardon? I'm sorry.

CHAIRPERSON PARDO: Construction. When do you anticipate it's going to commence?

LARRY SMITH: Well, within 18 months. We're hoping to get our building permits within 18 months.

CHAIRPERSON PARDO: Okay. And then your building plans? What percentage are they complete?

LARRY SMITH: Well, right now I don't think we've probably started construction plans because until you get an approval, you don't --

CHAIRPERSON PARDO: Right. I'm just asking. So you haven't --

LARRY SMITH: I doubt they've started --

CHAIRPERSON PARDO: -- so we just -- okay. So it's just the, you know --

LARRY SMITH: -- I doubt --

CHAIRPERSON PARDO: -- all of the sketches?

LARRY SMITH: -- I wouldn't --

CHAIRPERSON PARDO: Well, here's your little --

LARRY SMITH: Have you started construction plans? No.

DILIP BAROT: We have a conceptual plan done.

CHAIRPERSON PARDO: Uh-huh.

DILIP BAROT: And we are ready to go in schematic based upon the approval.

CHAIRPERSON PARDO: Okay. And then will all -- will both buildings be built simultaneously?

DILIP BAROT: That is our intent, yes, ma'am.

LARRY SMITH: But I don't want that to be a condition of approval because things change and it's typical that you're going to build one and not the other. Now, I -- I didn't hear this before but I don't want a condition that says we can't phase this -- this project. I don't think it's intended to be phased but I'm concerned that there's a condition.

CHAIRPERSON PARDO: Okay. Okay. Fine. Well, I'm concerned that you're going to build one part of it and then the rest of it is just going to sit there.

LARRY SMITH: Well, again, that's not the intent.

CHAIRPERSON PARDO: Okay. So --

LARRY SMITH: But neither was --

CHAIRPERSON PARDO: -- is there something that we can put in, Miss McKinney?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: We have a condition that they meet -- obtain a certificate of occupancy for the entire project within five years.

LARRY SMITH: Five years.

CHAIRPERSON PARDO: Okay. All right. That's fine. And then going back to the Coastal Construction Control Line. You know, I fought really hard for that line. And the property right now may not be affected. But who knows? Maybe down the road we'll get, you know, breakwaters down at the north end and then find out that, you know, they do -- they negatively impact the south end. And I don't want the people -- since you guys are going to build seven feet west of the '79 [sic] line, I just don't want anyone coming back to the City saying, You need to, you know, give us money to renourish the beach. So what I would like to see -- and would you guys be amenable if we -- you know, if you could put something in, a disclaimer in, you know -- in your sales memorandum -- right? Because some of these are going to be sold, right? Some of them are the resort units? So if you could put something in it that says, you know, "The -- the City of Riviera Beach will not provide any beach funding for beach

renourishment"? You know, I don't want this to come back to us years later if something happens down on the south end and the beaches down there start eroding. Because, you know, you chose not to build on, you know -- to move back to the '97 line.

LARRY SMITH: You're asking --

CHAIRPERSON PARDO: You know, and this is the problem. And this is why I pushed really hard to move those lines back. When the previous administration -- and it was after Mr. Barot got his variance in 2004 -- you know, we saw some new development down on the north end of the island. And they were allowed to build on that '79 line. And Toll Brothers came in. They sold the development and then the residents started coming to us. Hurricane Sandy came through and then they start, you know, ringing our phones off the hook saying, "You need to renourish our beaches. We're taxpayers. You need to renourish the beaches." And we did it because there was never a disclaimer in those documents. And I just don't want it to happen years from now. To have, you know, everyone -- all the taxpayers here have to renourish the beach because the developer chose to build on that '79 line when he had -- when everyone else moving forward had to build on the '79 -- on the '97 line. So are you guys amenable to that or no? Of course not.

LARRY SMITH: I don't think so.

CHAIRPERSON PARDO: What do you think, Miss --

LARRY SMITH: I mean, I wouldn't -- I -- I'd feel as -- on behalf of my client, I would want to be treated every --

CHAIRPERSON PARDO: Uh-huh.

LARRY SMITH: -- like everybody else along the -- along the line. And you've got a lot of development that's beyond this '97 line as it is.

CHAIRPERSON PARDO: That's been there a long time.

LARRY SMITH: And we were there before any discussion of the ordinance.

CHAIRPERSON PARDO: Long time.

LARRY SMITH: And that's -- that's our position.

CHAIRPERSON PARDO: Sure. Right. And you had 11 years to build and you didn't. Miss McKinney, do -- do they still have fines on the property?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: You know, I'm sorry but I didn't check to see if they have fines running on the property.

CHAIRPERSON PARDO: Okay. I'm just curious. You know, because for years the residents on Singer Island and the Tiara residents and everyone else driving by, you

know, we all witnessed the homeless camp on the south end of the property and, you know, everything else that was going on there. And, you know, I think it's a lame excuse, personally, that, you know, you guys say that you weren't able to build because of the economic downturn when other developers were able to come through and build projects over on the island. And not just the island but all around South Florida. So let me just make sure there's nothing else that I have. And then, you know, I had -- I was questioning the parking but I guess with the 442 employees, that you guys are anticipating parking will still be okay, right? Because there'll be eight hours so you'll have, like, 140 employees at a time there. Okay. So that's all I have.

COUNCILPERSON MILLER-ANDERSON: Madam Chair?

CHAIRPERSON PARDO: Yes, ma'am.

COUNCILPERSON MILLER-ANDERSON: I did want to just go back on record. I remember Miss Ryan saying for us to disclose. I did meet with them some time ago. So --

COUNCILPERSON GUYTON: And -- and so did I -- so did I, as I do with all of those projects that come into our town. They try to meet with us so --

CHAIRPERSON PARDO: Okay. And I'll go on the record. On September 2nd I met with Mr. Barot. I did receive calls from Attorney Smith but I didn't return them. I received a bunch of e-mails from Lynne Hubbard, who I guess was working with you guys. And then I received -- let's see, I have e-mails from Mr. Brown, from Lobbyist Fred Angelo and also from Ron Davis. And -- all right. That's what I have. Okay. So Council, at this point what do you want to do?

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: Sir?

CHAIR PRO TEM DAVIS: I would just like to see -- do y'all have the Ban-the-Box item on there?

LARRY SMITH: We don't yet but we will.

CHAIR PRO TEM DAVIS: But it will be on there?

LARRY SMITH: Well, let's -- we'll just put it on there right now.

CITY ATTORNEY RYAN: Which issue?

CHAIR PRO TEM DAVIS: Huh?

CITY ATTORNEY RYAN: Which issue are you talking about?

CHAIR PRO TEM DAVIS: Banning the boxes reference --

CHAIRPERSON PARDO: Ban the box.

CHAIR PRO TEM DAVIS: -- as people apply for jobs, that that item --

COUNCILPERSON GUYTON: They don't have that box.

CHAIR PRO TEM DAVIS: -- they don't have that box on it that checks off to say whether or not if you are --

CITY ATTORNEY RYAN: Oh.

CHAIR PRO TEM DAVIS: Yeah.

CITY ATTORNEY RYAN: You know --

CHAIR PRO TEM DAVIS: He's agreed to it so --

CITY ATTORNEY RYAN: We really should maybe put this on --

CHAIR PRO TEM DAVIS: -- he's already agreed to it.

CITY ATTORNEY RYAN: -- the agenda.

CHAIR PRO TEM DAVIS: No, he's already --

CITY ATTORNEY RYAN: Well, because we should work out the language and put this on consent.

LARRY SMITH: I think we're good.

CHAIR PRO TEM DAVIS: Are we? Good. I'm not trying to bring this back. Let's just move forward.

COUNCILPERSON GUYTON: I'm ready to make a motion tonight.

CHAIR PRO TEM DAVIS: Make it a substitute motion.

CITY ATTORNEY RYAN: I -- I understand but what I'm saying is, you know, you guys are talking about with the -- that they did a ZBA -- we don't want to have anything in this document that's not precisely what council is agreeing to. And we're still working on language.

LARRY SMITH: I think we got it

CITY ATTORNEY RYAN: Oh, I think you don't.

LARRY SMITH: I hope we do.

CHAIR PRO TEM DAVIS: Well, you gotta --

CITY ATTORNEY RYAN: I have some language for the tax issue that I want to give you.

LARRY SMITH: Okay. Okay.

CITY ATTORNEY RYAN: But let's start from the top.

CHAIRPERSON PARDO: Okay. So someone want to make a motion or --

LARRY SMITH: Well -- well, would --

CHAIRPERSON PARDO: -- you want to go through all of this again?

LARRY SMITH: -- Miss Ryan has a -- an issue with the tax language.

CHAIRPERSON PARDO: What do you want to do?

UNIDENTIFIED SPEAKER: (Inaudible).

COUNCILPERSON GUYTON: Yeah. Yeah. I'm -- I'm ready to put a motion on the floor with the conditions that have been approved. And I think there is one that Miss Ryan is trying to --

LARRY SMITH: And -- and we need to add the Ban the Box.

CHAIR PRO TEM DAVIS: Correct.

COUNCILPERSON GUYTON: -- get confirmation on.

LARRY SMITH: So that would be number 15 -- 16.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Give me a minute.

COUNCILPERSON GUYTON: Are you working on another condition or modifying some language?

LARRY SMITH: We're talking --

CITY ATTORNEY RYAN: I'm under number 15.

JAMIE CROWLEY: We're working on the tax abatement.

LARRY SMITH: -- and the Ban-the-Box issue would be more appropriately as that the Wellness Resort and Spa will not --

COUNCILPERSON GUYTON: I think we can do the motion based on what we have tonight and you can still work on that tax language. I don't know if it's going to be a deal-breaker or not. I don't see that language -- maybe I'm wrong -- is there somebody from your team that thinks that that language could be a deal-breaker?

LARRY SMITH: Well, I think we're -- you've got it here.

CITY ATTORNEY RYAN: We'll --

LARRY SMITH: I think we're -- we're good with it. Wellness Resort and Spa --

CITY ATTORNEY RYAN: "Will not apply for a tax abatement to reduce taxes due to the City." Does -- your other attorney said that that language was not --

JAMIE CROWLEY: No, we're okay with that.

CITY ATTORNEY RYAN: You're okay with that language?

JAMIE CROWLEY: Yeah.

CITY ATTORNEY RYAN: The way it is?

JAMIE CROWLEY: (Inaudible).

COUNCILPERSON GUYTON: Are you good, Miss Ryan?

CITY ATTORNEY RYAN: I'm not really sure what it means.

COUNCILPERSON THOMAS: Well, I -- is that what I was asking about.

CITY ATTORNEY RYAN: Right. This is your issue. Are you saying you don't ever want them to -- to ask for an abatement?

COUNCILPERSON THOMAS: No. No. I want to make sure that they don't ask within those 10 years to --

CITY ATTORNEY RYAN: You need to put 10 years in there.

COUNCILPERSON THOMAS: -- have it reduced.

CITY ATTORNEY RYAN: If it's 10 years let's put it in there. I want us to be as clear as possible so that there is no misunderstandings.

COUNCILPERSON GUYTON: Will not apply for tax abatement.

CITY ATTORNEY RYAN: Okay. Then that's perfect.

COUNCILPERSON GUYTON: Okay. We good now?

LARRY SMITH: We -- you need to finish 16.

COUNCILPERSON THOMAS: That you will voluntarily not ask.

LARRY SMITH: Okay.

CITY ATTORNEY RYAN: Yeah. I think we may want to say "voluntarily."

COUNCILPERSON THOMAS: Yeah. Definitely.

CITY ATTORNEY RYAN: Well, I mean, I guess --

LARRY SMITH: "Will not voluntarily" in front of "apply."

CITY ATTORNEY RYAN: -- (inaudible) --

LARRY SMITH: There. Mark, yeah, right there.

CITY ATTORNEY RYAN: And we have a catch-all just in case any of this turns out to be unconstitutional or unenforceable.

COUNCILPERSON GUYTON: Okay. The attorneys worked out the catch-all?

CITY ATTORNEY RYAN: Yeah, put a catch-all in the -- in the resolution that says, "If any portion is held to be invalid it will not affect the validity of the remainder --"

COUNCILPERSON GUYTON: Oh, that's in -- that's standard.

CITY ATTORNEY RYAN: "-- of the document," right.

COUNCILPERSON GUYTON: Yes.

CITY ATTORNEY RYAN: I don't really understand Ban the Box so I'm not going to --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: So, Attorney Ryan, is that 10 years from the final certificate of occupancy being issued? 'Cause that way the project is complete.

CITY ATTORNEY RYAN: That's a good point. Within 10 years --

COUNCILPERSON GUYTON: Yes.

CHAIRPERSON PARDO: (Inaudible) just sitting here --

COUNCILPERSON THOMAS: That's fine with me.

CITY ATTORNEY RYAN: -- of the certificate --

CHAIRPERSON PARDO: -- pushing it through.

CHAIR PRO TEM DAVIS: That's right.

CITY ATTORNEY RYAN: -- of occupancy.

CHAIRPERSON PARDO: It's going to come back and bite you.

LARRY SMITH: Is that okay with you, Dilip?

DILIP BAROT: Yeah.

CHAIRPERSON PARDO: You wait and see.

LARRY SMITH: Okay.

CITY ATTORNEY RYAN: And the -- on number 14, the three years that we're putting, is that from any point or does that start now? When are we starting the -- the -- the three years for the preference for the jobs.

LARRY SMITH: Certificate of occupancy?

CITY ATTORNEY RYAN: Huh?

LARRY SMITH: Certificate of -- after seal?

CITY ATTORNEY RYAN: Well --

DILIP BAROT: Until that we will not have a permanent (inaudible) job.

CITY ATTORNEY RYAN: But isn't that part of it? Mr. Davis, weren't you trying to target the construction phase? You want --

CHAIR PRO TEM DAVIS: No, all. Before construction and after construction.

CITY ATTORNEY RYAN: So you want it to start --

LARRY SMITH: Oh, okay.

CITY ATTORNEY RYAN: Okay.

CHAIR PRO TEM DAVIS: Uh-huh.

CITY ATTORNEY RYAN: Okay.

LARRY SMITH: Right. From --

CITY ATTORNEY RYAN: So we don't want to say certificate of occupancy.

LARRY SMITH: -- from approval, then. From approval.

CITY ATTORNEY RYAN: For -- from approval?

LARRY SMITH: Correct. Approval. Okay.

CITY ATTORNEY RYAN: We want them to be a part of the process.

DILIP BAROT: Okay. Okay. I'm (inaudible).

CHAIRPERSON PARDO: And who's going to monitor it?

CHAIR PRO TEM DAVIS: **JUDGE RODGERS.**

CHAIRPERSON PARDO: Who's monitoring?

DILIP BAROT: **JUDGE RODGERS.**

CHAIR PRO TEM DAVIS: **JUDGE RODGERS** has already stated that he will be working with them to do the monitoring.

CHAIRPERSON PARDO: Okay. And then that is -- the reports are coming back to us?

CHAIR PRO TEM DAVIS: Judge, you heard that?

JUDGE RODGERS: Yes, I did. And I (inaudible). Repeat it to me again.

CHAIR PRO TEM DAVIS: We need someone to monitor the -- the process.

CHAIRPERSON PARDO: And then will we be getting reports, also?

JUDGE RODGERS: Yes, ma'am. (Inaudible).

CHAIRPERSON PARDO: Of course. Okay. All right. Who else?

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: Put that in the condition?

COUNCILPERSON GUYTON: Okay. Are we good now?

LARRY SMITH: Sixteen. Well, the -- the 16, we need to finish --

CHAIRPERSON PARDO: Of course. They want to put more in.

LARRY SMITH: -- Ban the Box.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: You should put the reports coming back to the City Council as a condition.

CHAIRPERSON PARDO: Yeah. Yes.

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: As included in the conditions.

CITY ATTORNEY RYAN: "A minimum of three years from approval, with reports -- with --"

CHAIRPERSON PARDO: Employment.

CITY ATTORNEY RYAN: "-- quarterly reports -- coming back with quarterly reports," and number 14, "With quarterly -- comma, with quarterly reports made to the --"

CHAIRPERSON PARDO: Council.

CITY ATTORNEY RYAN: "-- to the City --"

COUNCILPERSON GUYTON: "Submitted to the Council."

CITY ATTORNEY RYAN: "Submitted to the City manager."

LARRY SMITH: Can we do yearly instead of quarterly?

CHAIR PRO TEM DAVIS: That's fine.

CITY ATTORNEY RYAN: How about semiannually?

CHAIRPERSON PARDO: The project will be over.

LARRY SMITH: I'm just thinking of the --

COUNCILPERSON THOMAS: I'm fine with yearly.

CHAIR PRO TEM DAVIS: I'm fine with yearly.

CITY ATTORNEY RYAN: Really? Okay.

CHAIR PRO TEM DAVIS: Yes. I'm fine with it.

CHAIRPERSON PARDO: And --

CITY ATTORNEY RYAN: It's only three years.

CHAIRPERSON PARDO: Exactly. So how are you going to hold them accountable?

CHAIR PRO TEM DAVIS: Well, let's do six months.

CITY ATTORNEY RYAN: I think we should do semiannually.

CHAIR PRO TEM DAVIS: Yeah. That's halfway. Six months.

CHAIRPERSON PARDO: Semiannually.

DILIP BAROT: That's fine.

LARRY SMITH: Okay.

CITY ATTORNEY RYAN: I agree. I think it should be -- yeah.

JUDGE RODGERS: I'll be reporting (inaudible). Whenever I think you need to know about it.

CITY ATTORNEY RYAN: Okay.

LARRY SMITH: Okay. Number 16, how about this.

CHAIRPERSON PARDO: This is taking (inaudible) long (inaudible).

LARRY SMITH: Wellness Resort --

CHAIRPERSON PARDO: (Inaudible).

LARRY SMITH: -- you know where it says -- who's -- will -- "will not ask applicants for employment -- applicants for employment about past criminal history on the initial application"? Is that the -- that's the intent of ban the box, isn't it?

COUNCILPERSON GUYTON: Yeah. Just support ban the box. Right.

CHAIR PRO TEM DAVIS: (Inaudible) -- what came before Planning & Zoning?

ZEDRICK BARBER: Until an offer for employment is extended.

CHAIRPERSON PARDO: Oh, wait, wait, wait, wait, sir. Sir, no, no, no, no. You need to -- please.

CHAIR PRO TEM DAVIS: We -- I -- I just want to make sure on the record --

ZEDRICK BARBER: He asked me to speak.

CHAIR PRO TEM DAVIS: -- that it was stated before Planning & Zoning.

CHAIRPERSON PARDO: Yeah. No.

CHAIR PRO TEM DAVIS: 'Cause --

CHAIRPERSON PARDO: No. We have the attorneys up here now. But thank you.

LARRY SMITH: "Until an offer for employment is extended."

CHAIR PRO TEM DAVIS: Thank you.

CITY ATTORNEY RYAN: Under where the "nor" -- oh, oh, oh.

LARRY SMITH: "Will not -- the Wellness Resort --" oh, "nor its successors --"

CHAIRPERSON PARDO: Oh.

LARRY SMITH: "-- will not ask applicants for employment --"

CHAIRPERSON PARDO: Oh, their successors.

LARRY SMITH: "-- about past criminal history until an offer for employment is extended."

CITY ATTORNEY RYAN: Okay. I think it's "or."

LARRY SMITH: I think we're done.

CITY ATTORNEY RYAN: I think it's --

LARRY SMITH: Let's -- let's (inaudible).

COUNCILPERSON GUYTON: Okay. We -- we need to wrap this up.

DILIP BAROT: Okay. We are ready.

COUNCILPERSON GUYTON: Okay? All righty?

DILIP BAROT: Yes.

COUNCILPERSON GUYTON: Okay. I'm ready to put a motion on the floor that we approve the project with the conditions that have been outlined and approved by the applicant and the City Council.

CHAIR PRO TEM DAVIS: Second.

CHAIRPERSON PARDO: Okay. Madam Clerk?

CITY CLERK ANTHONY: Councilperson Anderson?

COUNCILPERSON MILLER-ANDERSON: Me? Yes. I forgot my name. Yes.

CITY ATTORNEY RYAN: Oh, that's real nice.

COUNCILPERSON GUYTON: Joe, did you hear that?

CITY CLERK ANTHONY: **COUNCILPERSON GUYTON?**

COUNCILPERSON GUYTON: Yes.

CITY CLERK ANTHONY: **COUNCILPERSON THOMAS?**

COUNCILPERSON THOMAS: Yes.

CITY CLERK ANTHONY: Pro Tem Davis?

CHAIR PRO TEM DAVIS: Yes.

CITY CLERK ANTHONY: Chair Pardo?

CHAIRPERSON PARDO: Absolutely not. This whole process was a travesty.

CITY CLERK ANTHONY: The motion is approved with Councilperson Pardo dissenting.

CHAIRPERSON PARDO: Okay. Thank you. Please.

LARRY SMITH: Thank you for your time.

CHAIRPERSON PARDO: Yeah. Thank you, too.

LARRY SMITH: We appreciate it.

CHAIRPERSON PARDO: All right. We're going to move on now to item 2. All right. City Manager requests that the City Council accept the appointment of Mr. Bruce L. Davis as Human Resource Director from the City of --

COUNCILPERSON THOMAS: Move approval.

CHAIRPERSON PARDO: -- for -- is there a second?

COUNCILPERSON GUYTON: Second.

CHAIRPERSON PARDO: All right. We have one public comment card. **TRADRICK McCOY?**

TRADRICK McCOY: Good evening again. **TRADRICK McCOY**, 1465 W. 30th Street.

CHAIRPERSON PARDO: I never pronounce his name right.

TRADRICK McCOY: I would ask that --

DIRECTOR OF COMMUNITY DEVELOPMENT McKINNEY: (Inaudible).

UNIDENTIFIED SPEAKER: We're good. Good. Congratulations.

CHAIRPERSON PARDO: Hold on a second, sir. We're still running a meeting. Okay. Sir, go ahead.

TRADRICK McCOY: **TRADRICK McCOY**, 1465 W. 30th Street. I would ask that you put the same trust in the Planning & Zoning Board that Councilman Guyton brought up. I

mean, this is ridiculous. You guys just spent four hours rehashing everything that we went back through on the Planning & Zoning Board. Now, I'm not saying that you shouldn't ask those questions but at least consider or give more weight to what you -- you pay your volunteers to do, because you're now about to deliberate and have discussion on somebody that you actually hire. Now, imagine that. If we take from our own time to come and share with our city, I mean, I think we should be afforded more than just getting blown over or our opinions not even being considered or our input being thought.

I mean, I -- I just was sitting back here thinking about some of these things that you guys were going through and it -- it -- in -- in great fashion, Councilman Guyton, that's exactly what should have happened. All I can say is politics and bureaucracy. But that's where we are. So you know, I'm afraid to say it but we just have to live with it. And that's why we are appointed as public servants. Additionally, we can't have processes in place if we don't follow through with it. I know there was a huge discussion about the procurement process when it came to engineers bids maybe a couple months back when it went all the way through the process and then -- and then it came down to, I guess, the selection process of two applicants and then you finally decide at the end we wanted to deviate from it.

Then why really even have a process if that's how it's going to work? I mean, it says a lot. It's a waste of taxpayers' time and money. I mean, money that, you know, we all pay. Additionally, I -- I will say again good job pointing out the irregularities, Councilman Guyton, and the word hanky-panky is exactly what it was. Hanky-panky and we'll see it again because that's what it is. And if we have staff that would allow it to go through, you've got to hold them responsible. There's no excuse that that should have even went through all of that.

CHAIRPERSON PARDO: Okay. We're talking about Human Resources Director right now.

TRADRICK McCOY: Right. But I -- I'm -- I'm drawing a conclusion of --

CHAIRPERSON PARDO: All right. We're over that topic.

TRADRICK McCOY: -- of, you know, the same trust that you put in the Planning & Zoning Board is what we should have of our staff. So I would appreciate if we'd take a holistic approach in trying to address these issues because there's deficiencies not only in the Planning & Zoning Department, but in the whole citywide as a whole. So thank you again for the comments and good night.

CHAIRPERSON PARDO: Okay. Thank you, sir. All right. Miss Jones?

CITY MANAGER JONES: Yes. Members of Council, this is a continuation of an item that was on the agenda for last week. And if you'll recall, there was a discussion as it relates to residency in contacting Mr. Davis. He is willing within the 12-month period to move to the City of Riviera Beach and so I would like for you to approve the appointment of Bruce Davis as the Human Resources Director.

CHAIR PRO TEM DAVIS: Madam Chair?

CHAIRPERSON PARDO: Sir?

CHAIR PRO TEM DAVIS: Was this advertised?

CITY MANAGER JONES: Was what advertised?

CHAIR PRO TEM DAVIS: No, this -- this -- this -- this decision, this addition tonight.

CITY MANAGER JONES: It met the requirements of, like, with any meeting. You can add on items.

COUNCILPERSON GUYTON: It's an add-on.

CITY MANAGER JONES: It's just an add-on. I don't know what you mean by advertise.

CHAIR PRO TEM DAVIS: What I mean is an item of this significance, HR Director for someone to potentially maybe have wanted to speak on this, it should have been advertised so those who could have showed up to the meeting, if they had any concerns, whether they want to support it or not, and state their position. That's what I'm -- that's my -- my point.

CHAIRPERSON PARDO: All right.

CITY MANAGER JONES: Oh. Well, I'm -- I'm sorry but 'cause I didn't speak -- he didn't get back with me until this weekend.

CHAIR PRO TEM DAVIS: Okay.

CITY MANAGER JONES: And so I spoke with the Chair and she gave me permission to add it to the -- but I do understand what you're saying about --

CHAIR PRO TEM DAVIS: Yeah. I'm fine with you adding it. You know --

CITY MANAGER JONES: -- Tabatha public.

CHAIR PRO TEM DAVIS: -- just if we got time, just make sure the public knows 'cause I don't want to get slammed later. Not that we will but we've gotta protect ourselves.

CITY MANAGER JONES: I understand.

CHAIR PRO TEM DAVIS: All right.

CHAIRPERSON PARDO: Okay. Anyone else? All right, Madam Clerk?

CITY CLERK ANTHONY: **COUNCILPERSON GUYTON.**

COUNCILPERSON MILLER-ANDERSON: (Inaudible).

CHAIR PRO TEM DAVIS: Hold on.

COUNCILPERSON MILLER-ANDERSON: Oh.

COUNCILPERSON GUYTON: The HR Director.

COUNCILPERSON MILLER-ANDERSON: I'm looking at the TV. It says, "A discussion to waive the residency requirements." So what are we --

CITY MANAGER JONES: (Inaudible).

CHAIRPERSON PARDO: That's not right.

CHAIR PRO TEM DAVIS: (Inaudible) saying on TV.

COUNCILPERSON MILLER-ANDERSON: Okay.

CITY MANAGER JONES: We took it down real quick.

COUNCILPERSON MILLER-ANDERSON: Okay.

CHAIRPERSON PARDO: Wait. Hold on 'cause we have a --

COUNCILPERSON MILLER-ANDERSON: Okay.

CHAIRPERSON PARDO: -- we have a motion and a second?

COUNCILPERSON GUYTON: Yes, we do.

CITY CLERK ANTHONY: Yes, we do.

CITY MANAGER JONES: Yes.

CHAIRPERSON PARDO: Yes. Okay. All right. Everyone else good?

COUNCILPERSON MILLER-ANDERSON: As long as we --

CHAIRPERSON PARDO: Yeah.

COUNCILPERSON MILLER-ANDERSON: -- not waiving?

CHAIRPERSON PARDO: No, no, no, no.

COUNCILPERSON MILLER-ANDERSON: Okay.

CHAIRPERSON PARDO: He's moving.

COUNCILPERSON MILLER-ANDERSON: All right.

CHAIRPERSON PARDO: He's moving to the Riv.

COUNCILPERSON MILLER-ANDERSON: Right.

CHAIRPERSON PARDO: Okay. Madam Clerk?

COUNCILPERSON GUYTON: To the Riv. (Inaudible).

CITY CLERK ANTHONY: **COUNCILPERSON GUYTON?**

COUNCILPERSON GUYTON: Yes.

CITY CLERK ANTHONY: **COUNCILPERSON THOMAS?**

COUNCILPERSON THOMAS: Yes.

CITY CLERK ANTHONY: Councilman Anderson?

COUNCILPERSON MILLER-ANDERSON: Yes.

CITY CLERK ANTHONY: Pro Tem Davis?

CHAIR PRO TEM DAVIS: Yes.

CITY CLERK ANTHONY: Chair Pardo?

CHAIRPERSON PARDO: Yes.

CITY CLERK ANTHONY: Unanimous vote.

CHAIRPERSON PARDO: Okay. Thank you. All right. Anyone have any other business?

CITY MANAGER JONES: Only one last piece of business and I will put it also on the website. I failed in my comments on last week to mention that Police Chief Clarence Williams had asked for a 90-day administrative leave without pay. That has been granted to him. In his absence, Assistant Chief Robert Coppin will be the Acting Chief of Police. And we will put it on our Facebook page, as well as our website.

CHAIRPERSON PARDO: Okay. Anything else?

COUNCILPERSON MILLER-ANDERSON: Madam Chair, I just want to make --

CHAIRPERSON PARDO: Yes, ma'am.

COUNCILPERSON MILLER-ANDERSON: -- two announcements.

CHAIRPERSON PARDO: Okay.

COUNCILPERSON MILLER-ANDERSON: This Saturday I will be having a Saturday Chat where Councilwoman Miller-Anderson will have about several different department heads at 11 a.m. on Saturday morning. Please come out. Also, this Thursday the superintendent of school will be at Suncoast High School trying to get community feedback regarding the -- developing a strategic plan while he's here. It will be at 4:30 on Thursday at Suncoast. I'm sorry. 4:30 is for the employees. 6:30 is for the community. So 6:30 for the community members at Suncoast to meet with the superintendent. That's it. Thank you.

CHAIRPERSON PARDO: All right. Anyone else?

CHAIR PRO TEM DAVIS: Yes, Madam Chair.

CHAIRPERSON PARDO: Go ahead.

CHAIR PRO TEM DAVIS: I would just like to remind the residents this Saturday you will have the -- once again the Community Flea Market at the old Ivy Green site, which is the Riviera Beach Housing Authority, which is on -- taking Blue Heron going south on Congress. Just one block on your right-hand side. So this Saturday's flea market, I believe it starts at 8:00 and the booths are 20 bucks apiece. So this Saturday is flea market from 8 to -- I believe it's 2 or 3:00. I could be off about an hour or two, but I just want to put that on notice that people know that we do have this continuous event that's been doing really well in our community.

CHAIRPERSON PARDO: Anyone else? Okay. Thank you all for staying.

ADJOURNMENT

CHAIRPERSON PARDO: We are adjourned.

There being no further business, the meeting was duly adjourned at 9:52 p.m.

APPROVED:

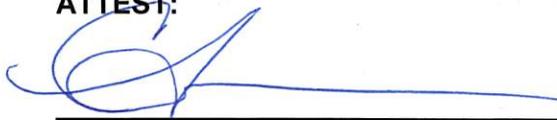


THOMAS A. MASTERS
MAYOR

ABSENT

DAWN S. PARDO
CHAIRPERSON

ATTEST:



CLAUDENE L. ANTHONY
CERTIFIED MUNICIPAL CLERK
CITY CLERK



TERENCE D. DAVIS
CHAIR PRO TEM



BRUCE A. GUYTON
COUNCILPERSON

ABSENT

KASHAMBA L. MILLER-ANDERSON
COUNCILPERSON



CEDRICK A. THOMAS
COUNCILPERSON

MOTIONED BY: B. GUYTON

SECONDED BY: C. THOMAS

B. GUYTON AYE

K. MILLER-ANDERSON ABSENT

C. THOMAS AYE

D. PARDO ABSENT

T. DAVIS AYE

DATE APPROVED: NOVEMBER 18, 2015