PLANNING AND ZONING BOARD
CITY OF FORT LAUDERDALE
CITY HALL COMMISSION CHAMBERS – 1ST FLOOR
100 NORTH ANDREWS AVENUE
FORT LAUDERDALE, FLORIDA
TUESDAY, JANUARY 18, 2011 – 6:30 P.M.

Cumulative

		June 2010-May 2011	
Board Members	**Attendance**	**Present**	**Absent**
Patrick McTigue, Chair	P	7	1
Rochelle Golub, Vice Chair	P	7	1
Maria Freeman (6:47)	P	6	2
Leo Hansen	P	7	0
Catherine Maus	P	7	1
Mike Moskowitz	A	3	1
Michelle Tuggle	P	8	0
Tom Welch	P	7	1
Peter Witschen (6:36)	P	7	1

Staff
Greg Brewton, Director of Planning and Zoning
Sharon Miller, Assistant City Attorney
Mike Ciesielski, Planner II
Anthony Fajardo, Planner III
Thomas Lodge, Planner II
Yvonne Redding, Planner II
Cheryl Felder, Service Clerk
Mohammed Malik, Chief Zoning Examiner
Jay Sajadi, Public Works
J. Opperlee, Recording Secretary, Prototype, Inc.

Communications to City Commission

None.

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	Case Number	Applicant
1.	23-R-10** *	Beach Boys Plaza / Children's Inflatable Water Slide Program
2.	76-R-10**	Holy Cross Long Term Care, Inc.
3.	1-Z-11** *	Louis James
4.	63-R-10**	Archdiocese of Miami and Cardinal Gibbons High School

5. Communications to City Commission
6. For the Good of the City

Special Notes:

Local Planning Agency (LPA) items (*) – In these cases, the Planning and Zoning Board will act as the Local Planning Agency (LPA). Recommendation of approval will include a finding of consistency with the City's Comprehensive Plan and the criteria for rezoning (in the case of rezoning requests).

Quasi-Judicial items (**) – Board members disclose any communication or site visit they have had pursuant to Section 47-1.13 of the ULDR. All persons speaking on quasi-judicial matters will be sworn in and will be subject to cross-examination.

Chair McTigue called the meeting to order at 6:33 p.m. and all stood for the Pledge of Allegiance. The Chair introduced the Board members, and Director Brewton introduced the Staff members present. Attorney Miller explained the quasi-judicial process used by the Board.

Mr. Witschen arrived at 6:36 p.m.

Motion made by Vice Chair Golub, seconded by Ms. Maus, to approve the minutes of the November 30, 2010 special meeting. In a voice vote, the **motion** passed unanimously.

Motion made by Vice Chair Golub, seconded by Ms. Maus, to approve the minutes of the December 15, 2010 meeting. In a voice vote, the **motion** passed unanimously.

Chair McTigue advised that the Applicant for Item 3 has requested that this Item be deferred until the March 16, 2011 meeting. **Motion** made by Ms. Maus, seconded by Vice Chair Golub, to approve the deferral. In a voice vote, the **motion** passed unanimously.

1.	**Beach Boys Plaza/Children's Inflatable Water Slide Program**		**Thomas Lodge**	**23R10**
	Request: ** *	**Site Plan Level III Review / Addition of a Children's Inflatable Waterslide and approval of a 10 foot setback for the Trolley Welcome Center**		
	Legal Description:	All of that portion of Lots 1,2 and 3, Block 2, Re-Amended Plat of Block A, and 2 of the amended plat of LAS OLAS BY THE SEA, according to the plat thereof, as recorded in P.B. 1, P. 16 of the Public Records of Broward County, Florida, lying West of the West right-of-way line of State Road A1A, and also lying East of the East right-of-way line of Seabreeze Boulevard		
	Address:	4015 South Fort Lauderdale Beach Boulevard		
	General Location:	East side bound by Fort Lauderdale Beach Boulevard, West side bound by Seabreeze Boulevard, between Southeast 5 Street and East Las Olas Boulevard		
	District:	2		
		DEFERRED FROM THE NOVEMBER 17, 2010 MEETING.		

Disclosures were made, and any members of the public wishing to speak on this Item were sworn in.

Ralph Riehl, representing the South Florida Tourism Council, showed a video presentation of the proposed water slide. He recalled that the Application had first come before the Board in November 2010, and they had requested that he present it to the Beach Redevelopment Board. He had made this presentation in December, and the Beach Redevelopment Board had given the project its unanimous approval.

Thomas Lodge, Planner, said the proposal is for a 35 ft. high, 47 ft. wide, and 151 ft. long children's inflatable slide. The site is a 50 ft. wide strip at the southern end of the property. In addition, in 1990 the tourist information trolley was permitted on the site at a 20 ft. setback from the A1A property line; in 1996, the trolley was placed at a 10 ft. setback from this property line without a permit, which is prohibited by the ULDR unless it is approved by the City Commission. The Applicant was seeking approval of the 10 ft. setback at this time.

He noted that the Beach Redevelopment Board had approved the water slide unanimously, with the condition that the case be reviewed again in five years.

Vice Chair Golub requested clarification of the specific Applicant. Mr. Lodge said the South Florida Tourism Council is the Applicant and will operate the slide. Vice Chair Golub also asked for clarification of the width of the slide, noting that the width of the lot itself is 50 ft. Mr. Riehl clarified that the inflatable legs of the slide are 47 ft. in width. He said there is a 10 ft. setback to the south, where the first leg will be placed, and the other leg will be "on the property...at the Beach Boys Plaza."

Vice Chair Golub explained that she would have difficulty voting to approve the Application because "[the] detail is so lacking that I'm not sure what it is that I'm voting for." She requested clarification of whether or not the operation would be for profit. Mr. Riehl said it is a for-profit activity, as the cost of the structure must be covered; however, the South Florida Tourism Council is a not-for-profit organization.

Vice Chair Golub said when she made a site visit, she was unable to walk the entire site because there is "fencing with decorative nails" on the east side of the property. She said there was a sign on the site for the water slide. Mr. Riehl said the lot is 310 ft. deep x 220 ft. wide, with a 50 ft. section that is used for the Trolley Welcome Center. He showed the Board a slide of the site.

Ms. Freeman arrived at 6:47 p.m.

Vice Chair Golub said she had been unable to identify how the water slide would stay within its 50 ft. lot, or how the area would be fenced off, how customers would congregate, and "the flow" within the space. Mr. Riehl showed the site plan and explained that customers would come through the gate and follow a prepared path to the slide, which is "10 ft. from the Marriott Courtyard." Customers would then climb the stairs to the slide and slide down. Vice Chair Golub asked if "any consumer traffic" would come to the north side of the slide. Mr. Riehl said it would not. Vice Chair Golub stated that the request appeared to be for "a variable size site plan" rather than a 50 ft. site. Mr. Riehl pointed out that the fence is "about 8 ft. away" from one of the legs of the slide.

Vice Chair Golub asked if the slide was intended to be a dry or a water slide. Mr. Riehl replied that the slide itself could be used dry or wet. The slide would be blown up each morning and taken down at sundown. Vice Chair Golub asked if a permanent cyclone fence would be erected around the site. Mr. Riehl said the fence would be erected for safety reasons.

Ms. Maus noted that the Application is required to meet neighborhood compatibility, and asked if there were any additional responses Mr. Riehl wished to add to the Application other than "it's compatible." Mr. Riehl said there were not. Ms. Maus asked why the 20 ft. setback on the east side of the property cannot be met. Mr. Riehl said there is no reason this cannot be met, but stated

that the restaurant on one side of the site has a 5 ft. setback, while the stairs on the opposite side have "zero setback."

He said in 1996 the Welcome Center was placed at 10 ft. because no one had realized the requirement was for 20 ft. He asserted that it had "worked fine there for the last 15 years," and as there were no complaints, the request was made to leave it as is.

Ms. Maus asked if Mr. Riehl had reviewed the stated intent and purpose of the ABA zoning district. Mr. Riehl said he had. Ms. Maus read the intent aloud, noting that it is meant for "high-quality destination resort uses" and should provide "incentives for quality development and redevelopment" and allow improvements that are "responsive to the character, design, and planned improvements as described in the Revitalization Plan." She did not feel that the proposed slide was consistent with the intent of the zoning district. Mr. Riehl said he did not agree, and said the proposed slide "not only meet[s] the requirements but probably exceeds them." He said one of the stated purposes of the Beach CRA was to bring family-oriented activities to the beach, and that ABA zoning is for hotels and tourism-related businesses.

Ms. Maus noted that the Staff Report says the property is required to meet a 20 ft. setback from the right-of-way property line, and asked if the adjacent properties to which Mr. Riehl had referred also meet this setback. Mr. Lodge said he felt one of these might be the Beach Boys Plaza building. He did not know if the restaurant met this requirement. Director Brewton said he would assume if the buildings are closer than 20 ft. unless they were approved for a lesser setback, for which they would have had to come before the Board and go through Site Plan Level IV.

Chair McTigue asked where customers would park at the site. Mr. Riehl said parking would be on the west end of the lot on Sea Breeze Boulevard. Chair McTigue asked if any overflow parking could be done on the north side of the property. Mr. Riehl said there are "on the north of us... [there are] estimate over 120 spots," and a City parking lot is to the north of this area.

Chair McTigue noted that the Application states wood or rubber mulch would be used at the site, and suggested that rubber would be preferable, as wood mulch could lead to customers getting splinters.

Ms. Tuggle noted that the minutes of the December 2010 Beach Redevelopment Board meeting were included in the Application, and read that the Application had been through the Development Review Committee (DRC) and "received a pre-Planning and Zoning Board sign-off." Mr. Lodge explained that this is the approval of the DRC members, given prior to coming before the Planning and Zoning Board.

Ms. Tuggle said there were also concerns stated regarding the crosswalk to the beach, which she did not recall discussing when the Application first came before the Board. Mr. Lodge said this issue was raised at the Beach Redevelopment Board meeting; the suggestion was to add an extra crosswalk, although no such crosswalk has been requested by Staff.

Ms. Tuggle requested further clarification of how the 47 ft. slide would fit on the 50 ft. lot. Mr. Lodge said the legs of the slide appear to extend past the 50 ft. lot; however, the 50 ft. site is part of a larger parcel of property on which the legs would be placed. He added that setbacks were considered "for the entire site," not just the 50 ft. lot.

Vice Chair Golub referred to "sheet 4 of 10," noting that there is a fence at the east end; "in front of it is the trolley;" and a landscape area is noted. She asked if the brick plaza would remain at its current location and the slide would "come over it and end on the brick plaza." Mr. Riehl said a small portion of the slide would be in the plaza. Vice Chair Golub asked where the safety fence would be placed to prevent people from "walking under or around the supports of the slide." Mr. Riehl pointed out the location of the fence on the site plan, and agreed with Vice Chair Golub that once an individual is inside the fence, they can move around the site with the supervision of site employees.

There being no further questions from the Board at this time, Chair McTigue opened the public hearing. As there were no members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Motion made by Ms. Maus, seconded by Ms. Freeman, to approve the Application. In a roll call vote, the **motion** failed 1-7 (Chair McTigue, Vice Chair Golub, Mr. Hansen, Ms. Maus, Ms. Tuggle, Mr. Welch, and Mr. Witschen dissenting).

2.	**Holy Cross Long Term Care, Inc.**	**Michael Ciesielski**	**76R10**
	Request: **	**Conditional Use Approval of a Level V Social Service Residential Facility in a B-1 Zoning District**	
	Legal Description:	Lots 1, 2, and 3, Block 1, Mary Knoll, P.B. 39, P. 48, of the Public Records of Broward County, Florida	
	Address:	1223 NE 53 Street	
	General Location:	NW corner of North Federal Highway and NE 53 Street	
	District:	1	

Disclosures were made, and any members of the public wishing to speak on this Item were sworn in.

Steve Tilbrook, representing the Applicant, showed a PowerPoint presentation with photos of the proposed project. He said the Sunrise Center and CIF, Inc., are the contract purchasers of the site. The existing facility is zoned B-1 and is part of the Boulevard Business District.

Mr. Tilbrook said the proposal would reuse the former Mercy Manor Nursing Home facility. The site is roughly .5 acres, with "backout" parking on NE 53 Street. The Applicant proposes to convert the existing facility into an inpatient medical detoxification facility. Building improvements would achieve full compliance with the ULDR. The Application has been through DRC and meets all Code requirements.

The renovation would include a 1500 sq. ft. addition to the building, new landscaping and enhanced buffer requirements, new landscaping along N Federal Highway, new parking areas, a buffer wall, and enhanced security. New siding, roof, windows, and doors would be added to the building, which is approximately 11,126 sq. ft. It is a one-storey building with an enhanced lobby area on one portion of the second floor. There are broad setbacks from N Federal Highway, as well as the west side of the site.

He showed a slide of the site plan, which would remove the backout parking, service area, and pavement along N Federal Highway. Mr. Tilbrook explained that the facility is intended to provide privacy and enhanced landscaping in a residential setting, which he characterized as "a unique use within a business corridor."

The improved facility would include new backout parking; buffering along the west boundary, including a new 8 ft. high concrete wall and 14 new trees; setbacks of 23 ft. 9 in. on the west side; and no egress from the building or use of the property on the west side of the building. The N Federal Highway corridor would have a 32 ft. setback, with 200% of landscaping requirements met. On NE 53 Street, removal of backout parking would enhance the streetscape, and there will be two driveway entrances into the parking area. Both driveways will have an east-only egress to prevent access for commercial traffic into the neighborhood.

Mr. Tilbrook said the facility would include private and semiprivate rooms, dining rooms, treatment rooms, exam rooms, a living room, and staff offices. He showed slides of some of these rooms.

He stated that part of the challenge of the Applicant's outreach process lies in explaining the purpose of a medical detoxification facility. Mr. Tilbrook said the

Sunrise Center would be a sub-acute facility that provides medical services for individuals who do not require a hospital setting. It is a voluntary facility for adults only. Care is short-term, with a 5.7 day average length of stay. He stated it is neither a drug or alcohol treatment center nor a pain clinic. There is no outpatient service and patients must be referred by a medical doctor.

The facility is operated pursuant to Florida law and is regulated, licensed, and accredited by the state. Regulations are listed in Section 65D-30 of the Florida Administrative Code. It is managed by a full-time Executive Director and a professional staff, including physicians, registered nurses, certified addiction counselors, and a Director of Nursing who also serves as a community liaison. He noted that Sunrise is licensed by the Florida Department of Children and Families, and is also affiliated with area hospitals. Patients must be medically diagnosed with a primary substance abuse disorder. The majority are dependent upon alcohol and prescription medications. Both male and female patients will be treated at the facility, and patients must be discharged by a doctor.

He continued that the following types of patients are not accepted by the facility:

- Anyone who has been remanded by the criminal justice system;
- Acute psychiatric patients;
- Patients ordered to be treated against their will.

Transportation for the facility is provided by facility staff only. Patients are not allowed to drive to or park at the facility. No guests or visitors are allowed during the detoxification process.

Mr. Tilbrook said the Applicant has spent three to four months doing outreach within the Knoll Ridge community, which is adjacent to the facility. There is no longer an active neighborhood association, but the Applicant has met with former leaders of this association, allowed them to tour existing facilities, and addressed their questions. They have also met with all the abutting property owners. Mr. Tilbrook entered letters of support into the record at this time, along with "extensive outreach documentation."

He concluded that the project meets setback, landscaping, lighting, parking, and sidewalk requirements, and also meets the requirements for a Social Service Residential Facility. He explained that there is a dispersal requirement for such facilities, which states that these facilities must be located 1500 ft. away from any other SSRF locations or child care facilities. The facility would also meet floor space, outdoor use, and administrative requirements.

Mr. Tilbrook stated that the issues with conditional use approval are neighborhood compatibility, access, and traffic generation. The facility also meets the requirements of the Fort Lauderdale Comprehensive Plan. Conditions exist that reduce impacts on the permitted uses within the zoning district. He

concluded that the Application has a letter of support from its neighbor to the north, is compatible with the medical facility located to the south, and would generate very little traffic, noise, or activity. Extensive buffering, including the 8 ft. concrete wall, would minimize the site's impact on the surrounding community.

He stated that the proximity of the proposed use to other similar uses has no impact on the character of the zoning district, as it is more than 1500 ft. away from these uses. No adverse affects to the health, welfare, or safety of the adjoining properties are expected.

Mike Ciesielski, Planner, said the request was required to meet four specific requirements: adequacy, neighborhood compatibility, conditional use requirements, and Section 47-18.32.E. of the ULDR , which dealt with standards for SSRF development approval. Narratives describing these four requirements were provided in the members' information packets. He said if the Board determines that the Application meets the ULDR standards and criteria for Site Plan Level III, it can be approved or approved with conditions; if not, the conditional use permit would be denied.

Vice Chair Golub asked if the Board approves the conditional use for this specific tenant and the tenant leaves the property, the next tenant or owner would need to appear before the City to engage in a similar use. Attorney Miller clarified that the conditional use cannot be limited to the current Applicant, although conditions can be added that would require any subsequent use "to be just like that use."

Mr. Tilbrook offered the following conditions that would limit or clarify the proposed use:

- Facility shall be a sub-acute medical detoxification facility as set forth in Chapter 397 of the Florida Statutes;
- Facility shall be a short-term care inpatient facility as set forth in Chapter 397 of the Florida Statutes.

Vice Chair Golub observed that a new tile roof does not need to be a condition for the future. Mr. Tilbrook explained that this was suggested by a neighbor to the property, and varies from the composite roof listed in the Application. Another variation is the 8 ft. wall, which was also requested by a neighbor.

Vice Chair Golub asked if the proposed facility was a "lockdown" facility. Mr. Tilbrook said it is a voluntary facility from which patients must be medically stabilized and discharged before they may leave. Vice Chair Golub asked if this restriction was inherent in the definition of a sub-acute detoxification facility. Linda Burns, Director of Nursing at the Sunrise Detox Center in Lake Worth, said clients may not "come and go as they please," as they are medically compromised. They are not allowed to "take a walk" or otherwise be brought into

the surrounding community. She clarified that this is inherent in the definition of this type of facility.

Vice Chair Golub asked if the proposed 8 ft. wall is taller than Code permits. Mr. Ciesielski said when non-residential property abuts residential property, the height may go up to 10 ft.

Ms. Tuggle noted that the emails sent by the Applicant as part of community outreach sought to reach two individuals for whom no follow-up input or responses are shown. Mr. Tilbrook said one individual's last email indicated that she saw no issues with the facility, but she did not write in support of it. The Applicant also spoke on the phone with the second individual and "addressed all of her questions," as well as allowed her to tour the Lake Worth facility. He recalled that she had asked if the Applicant would reimburse the Knoll Ridge neighborhood for the cost of neighborhood entryway signs, and advised that the Applicant had not offered this condition, as it is "a non-standard condition of approval." The Applicant has given the individual a "gentleman's agreement" that they would be willing to meet this condition.

Ms. Tuggle asked if there had been community posting with regard to the Application. Mr. Tilbrook said a meeting was scheduled at Holy Cross Hospital early on in the process, but the Applicant had been unable to hold the meeting. Outreach had been done through neighborhood "leaders" to ask who should be contacted within the community.

Mr. Witschen said Sunrise's other two facilities, which are in Lake Worth and New Jersey, are located in "a different character neighborhood" than the proposed location, which he characterized as "rural." He requested clarification of the patient profile shown in the PowerPoint presentation, which says most patients have dependencies on alcohol and prescription drugs. He asked if the Applicant would be willing to stipulate that these are the only forms of addiction that would be treated at the facility. Mr. Tilbrook said he did not feel the facility could limit itself to this profile, as a medical detoxification facility treats patients who need medical monitoring from "illegal and legal drugs."

Ms. Burns stated that the facility is licensed to treat individuals no younger than 18 years of age; the average patient is between the ages of 25-65. The facility detoxes patients from "all types of addictive substances," although she noted that in the state of Florida, they see mostly alcohol and prescription medication addiction.

Mr. Witschen asked how the facility might be willing to stipulate the age range of the patients and the substances to which they might be addicted. Ms. Burns said the medical director collects data on each patient and approves them for admittance; the patients must meet medical criteria before the facility accepts

them. Mr. Witschen said the approval the Applicant is seeking "could allow this facility to be used for a different age profile and a different type of addiction," and asked what voluntary restrictions the Applicant might be willing to stipulate in order to "have a tighter control on the patient profile."

Chair McTigue asked if Mr. Witschen meant the Applicant should make the "patients not accepted" portion of the presentation a voluntary condition. Mr. Witschen said he also meant this section of the PowerPoint presentation "would be a bare minimum of the specification."

Mr. Tilbrook entered a letter regarding the ADA applicability of the facility into the record at this time, and explained that patients identified as detoxification clients are protected by the ADA: the facility cannot discriminate against "certain types versus other types." Aside from this, he said the Applicant is willing to stipulate to the conditions set forth earlier in the presentation under "patients not accepted."

Ms. Freeman asked what happens to patients after they have detoxified. Mr. Tilbrook said they are either referred to continued monitoring at home or at a residential drug/alcohol treatment facility once they have been medically cleared.

There being no further questions from the Board at this time, Chair McTigue opened the public hearing.

Tom Matava, private citizen, stated that he objected to the conditional use approval and is opposed to the location of the facility. With regard to community outreach, he said his first contact with the Applicant was when an architect approached him regarding measurement of his property line.

Mr. Matava said one requirement of conditional use is that there will be "no adverse impacts affecting the health, safety, or welfare of adjacent properties." He said the facility will house 36 residents, with the only security provided by a door facing his home.

He continued that he had contacted the Palm Beach County Sheriff's Office, which informed him that deputies have responded 11 times in the past three months to the Sunrise Detox Center. Reasons include assault, suspicious people on the grounds, and "suspicious incidents" occurring at the facility.

He advised that his property value would also decrease due to the proximity of the facility. Mr. Matava said Code also requires neighborhood compatibility for conditional use, which includes "[preserving] the character and integrity" of adjacent neighborhoods. He said the adjacent neighborhood to the facility consists of single-family residential properties.

Ms. Maus asked if Mr. Matava had spoken to Mr. Tilbrook prior to tonight's meeting. Mr. Tilbrook said he had not. Ms. Maus asked if Mr. Matava felt a conversation with Mr. Tilbrook might allow the Applicant to address some of his concerns and reach some kind of agreement. Mr. Matava said he would not dismiss this idea out of hand although "it would not be [his] first choice."

Vice Chair Golub asked Mr. Matava to identify his property on the site plan. Mr. Matava did so.

Mr. Witschen asked the Applicant to describe the specific outreach made to Mr. Matava's household. Mr. Tilbrook said the outreach staff met with Mr. Matava at his property, spoke to him via telephone, sent two letters, provided site plan documents, and discussed increasing the height of the wall. He asserted that the Applicant would be happy to have further conversations with Mr. Matava.

Mr. Witschen asked if Mr. Tilbrook was requesting a deferral. Mr. Tilbrook suggested that the meeting complete its public hearing segment for this Item and allow the Applicant to offer a rebuttal.

Engela Lindwall, private citizen, said the former nursing home had been uninhabited for many years and characterized it as "a dark, scary place to walk around." She felt having the facility in the neighborhood would be an advantage over an empty building. She concluded that she believed the facility would be "very peaceful" and an asset to the neighborhood.

Ms. Tuggle asked if Ms. Lindwall had spoken to a representative of the Applicant. Ms. Lindwall said she had received letters and had been called by a representative as well.

Ed Huminik stated he is a representative of Sunrise Detox Center and conducted its neighborhood outreach. In addition to sending letters, he had gone door-to-door and has met with all the abutting property owners. He reiterated that the 8 ft. wall and the flat tile roof were both direct results of requests by property owners that the Applicant had agreed to meet. He concluded that the Applicant has reached out in good faith and continues to do so.

Ben Brathman, private citizen, said he knows the Applicant and would like to speak on their behalf. He stated that Sunrise Detox Center came into a "run-down" neighborhood in Lake Worth; as a result, there has been "a surge in that area." He said the crime rate in the Center's part of Lake Worth has actually decreased, as the facility is now in a previously abandoned location. He advised that the facility's closed environment works well and added that the Center would be good for the local economy.

Joe Bryant stated he is the director/owner of The Beachcomber, which is one of the oldest treatment centers in the state. He said they have used the Sunrise Detox Center in Lake Worth as a detox facility and "found that they do a great job." He said they have had very few problems with patients coming from the Sunrise facility.

Mr. Tilbrook said the property is located in a B-1 zoning district, which has several different commercial uses that may be less compatible with an adjacent residential property than a detox center. He stated the facility would provide a "quiet, low-impact use" that will turn an existing vacant building into "a useful condition."

He noted that SSRFs are permitted in other zoning categories, most of which are residential or office districts; this means the facility could be placed "inside a neighborhood" as opposed to on a commercial corridor. The Applicant has done and is willing to do more community outreach to address the concerns of the neighborhood.

He concluded that he would leave the decision in the Board's hands regarding whether or not to grant a continuance to this Item. He pointed out, however, that the Applicant would need "a good faith partner to talk with" in order for conversations to be productive.

Chair McTigue requested clarification that patients must meet with a doctor before they are allowed to leave the facility. Mr. Tilbrook confirmed this. Chair McTigue asked how patients would be prevented from leaving. Ms. Burns explained that the facility is voluntary in nature: people may sign out against medical advice, and Sunrise staff would transport them to their destination. They would not be "let out on the street" although they are free to leave.

Ms. Maus said she would be in favor of a 30-day deferral in order to give the Applicant additional time to meet with Mr. Matava. Mr. Tilbrook said the Applicant would accept a 30-day deferral, although he noted that the facility is covered under the Americans with Disabilities Act, and the Applicant must comply with ADA requirements "in terms of treating these facilities with the appropriate due process."

Mr. Witschen reiterated that there should be a conditional "management plan" that would place the property under specific restrictions for its conditional use.

Vice Chair Golub said she wished to avoid having to re-hear this issue if it is deferred. She noted that only one neighbor has expressed discontent with the outreach process, and he is willing to enter into a dialogue with the Applicant. She felt the Board should discuss specific conditions, and said they have affirmed they would like the conditional use to be qualified by "those kinds of

patients who will not be admitted to this facility." She added it would be neither lawful nor correct to place conditions on "who can be admitted," but they could state who cannot be admitted. The second qualification would be that the facility operates as a locked-door unit and does not permit the free ingress and egress of patients under treatment.

She concluded that these conditions added to the list provided by the Applicant, as well as a follow-up report on discussions with neighbors, should be sufficient to supplement the record that has been made thus far. She said if the Item is deferred, she would like to limit its reading, as "we have closed the public hearing."

Mr. Hansen agreed with Vice Chair Golub's assessment, but noted that there is no guarantee the Applicant and the neighbor will have met in time for the next meeting. He added that while he has sympathy for the individual's position, he felt the Applicant will do "everything within [their] capabilities" to address his concerns.

He suggested that while the security issues can be worked out for the neighborhood, potential traffic is another concern, such as police or emergency vehicles coming to the site. Mr. Hansen suggested the Applicant should take steps to prevent people "that don't belong in that neighborhood" from entering, such as designating parking lots for visitors and staff and allowing emergency vehicles into the parking lot "so they don't turn around in the neighborhood." He felt this would limit intrusion into the neighborhood.

Ms. Tuggle asked if Mr. Matava would be available to the Applicant within the next 30 days and would be agreeable to "try and work this out." She also asked how he would communicate to the Board when he is satisfied with the Applicant's efforts. Mr. Matava said he would be willing to communicate with the Applicant and hopefully reach accord, and he would find out how to contact the Board at the end of this process.

As there were no other members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Mr. Witschen said he agreed with Vice Chair Golub that the Board should not hold another public hearing on this Item, as the public has had an opportunity to speak at tonight's meeting.

Mr. Tilbrook requested a 30-day continuance.

Motion made by Ms. Maus, seconded by Mr. Witschen, to approve the Applicant's request for a 30-day deferral to the next scheduled meeting. In a voice vote, the **motion** passed unanimously.

4.	**Archdiocese of Miami and Cardinal Gibbons High School**	**Anthony Greg Fajardo**	**63R10**
	Request: **	**Increase in height of accessory structure in CF-HS zoning district**	
	Legal Description:	The east 40 feet of W ½ of the NE ¼ of the SE ¼ of the SE ¼ of Section 3, Township 49 South, Range 42 East	
	Address:	2900 NE 47 Street	
	General Location:	SW corner of NE 47 Street and Bayview Drive	
	District:	1	

Chair McTigue stated that the Applicant had requested a total of 45 minutes to speak to the Board; this would be an additional 30 minutes added to the regularly allotted time. The Board determined by consensus that this would be appropriate if it included witness and rebuttal time.

Disclosures were made, and any members of the public wishing to speak on this Item were sworn in.

Amy Huber, representing the Applicant, stated that the Cardinal Gibbons High School campus includes recreational facilities as a permitted accessory use; the athletic program includes several sports and has been conducted at the existing facility for more than 50 years. She noted that Bayview Park, which is adjacent to the campus, has several athletic fields, lit by twelve 50 ft. light poles. These lights are in operation every day of the year and are lit until "10 to 11 p.m. every night."

She stated that the Applicant is requesting four light poles, two of which are 65 ft. in height and two of which are 95 ft., to light the athletic field. Ms. Huber advised that lighting the field would provide greater safety, allow the school to remain competitive within its conference, provide gender equality, and allow completion of games.

She advised that it has been more than three years since the lights were installed with a permit, and stated the Applicant is here for Site Plan Level III because under a provision of Code, this level of approval will allow the Applicant to exceed the height limit within its zoning district.

Ms. Huber said the case is "nothing new," noting that there are several different types of community facilities, including hospitals, houses of worship, houses of worship with schools, parks, utilities, and transportation. When the current Code was adopted in 1997, it provided for Site Plan Level III approval to exceed the height for all community facilities except for churches and churches with schools. In 2000, the Religious Land Use Institutional Persons Act stated that religious facilities cannot be treated differently from other community facilities.

Ms. Huber said the Application was reviewed by both Staff and the Development Review Committee (DRC), which determined that the proposed lights meet the standards and requirements of the ULDR criteria for Site Plan Level III. This was a lengthy process, she advised, because the Applicant addressed "every concern" raised by Staff or by a neighbor. She said the Applicant is not seeking a change of use, but is requesting the same use that is already in effect: hosting athletic events. Staff has determined that there are no revisions to the site that have an impact on adequacy requirements. There are no traffic, utility, or public service impacts created by the proposed use.

Ms. Huber said the lights comply with every provision of neighborhood compatibility, which include the following:

- Smoke, odor, emissions, particulate matter, noise: the Applicant provided Broward County Pollution Prevention / Remediation and Air Quality with a copy of the plans. Their review determined that no permit was required.
- Design and performance standards: the lights were engineered, reviewed, and installed by City Staff. They do not illuminate the abutting residential property, and the source of illumination is not directly visible from any residential property. Code Enforcement determined that the illumination to any abutting residential property is not in excess of one foot candle.
- Setback regulations: the lights exceed the 20 ft. setback regulations required for a free-standing light fixture. The setback of the lights is 30 ft.
- Buffer yard and landscape strip requirements: the Applicant worked with Staff to ensure that the landscape buffer exceeded the requirement, providing dense vegetation on the site. This landscaping is shown in Tab 17 of Exhibit 1.
- Parking restrictions: the High School complies with all on-site parking restrictions, and provides a fence on the property as required by the ULDR. Code requires a wall to separate residential and non-residential uses; however, Code recognizes that it may be difficult for existing facilities to provide this wall. The Applicant has a public purpose easement on the west side of the property, and utilities on the site prohibit the installation of a wall. Instead, the Applicant has a "board-on-board opaque fence" around the site, which is removable for utility access.

Ms. Huber said the Coral Ridge Country Club Estates Homeowners' Association has been in support of the lights for more than three years. The Applicant has

entered into a voluntary agreement with the Homeowners' Association to reduce and restrict the use of the lights. As part of this agreement, the school Principal worked as liaison with the Homeowners' Association and the City to address "any unforeseen areas of concern." The school provides a schedule of athletic events to both the City and the Homeowners' Association. Tab 8 shows the signatures of "over 150 residents" who are in support of the lights. Ms. Huber noted that the neighborhood is very large, and the signatures are from residents who are "immediately abutting and adjoining the school."

She continued that there has been litigation regarding the lights and the permits issued; rather than litigating, the Applicant filed a Land Use Dispute Resolution application. The Applicant, neighbors and homeowners, and City representatives were present at the resulting mediation. The Applicant entered into a mediated settlement agreement, which was approved by the City Commission. As part of the agreement, they entered into concessions with respect to the use of the lights.

The Applicant agreed to restrict the use of lights to 30 events, which include five varsity football games, five junior varsity football games, women's and men's soccer, lacrosse, and track and field events . Football games typically last 2.5 hours, and lights will be turned off 30 minutes after the conclusion of the games. The Applicant will also provide "a strong police presence" on the site, including two officers who will prevent cars from entering the neighborhood or parking on the swale. Off-site parking will be provided as necessary; Ms. Huber said this was primarily intended for the annual homecoming game, which has higher attendance than the other games. Trash must be picked up by 9 a.m. the following day, and the Applicant has agreed to further buffer the light poles with landscaping.

She noted that the 12 lights at Bayview Park are no longer in compliance with the engineering plan. The Applicant's contractor will work with City Staff to redirect those lights. The school will allow overflow parking from Bayview Park on its site. Further limitations include a limit of 2000 seats on-site and no advertising allowed. Ms. Huber clarified that these are not conditions, as the site meets all conditions required by Code, but are voluntary concessions that the school entered into with the Homeowners' Association. The City has enforcement power over these concessions.

Ms. Huber said many of the City's other schools have lights of comparable numbers and heights. She noted that some City parks have comparable structures as well. Cardinal Gibbons High School is the only school in its conference with a stadium in place but no lighting. Pictures of other Broward County public schools located in residential communities are included in the information packets.

Cecelia Ward, planning consultant, stated that based upon her professional experience and a review of all documents submitted in the case, she concurred with the Staff's findings that the Application is in compliance with all ULDR provisions related to Site Plan Level III. She said the Application was also consistent with the City's Comprehensive Plan, as it further implements the goals and policies stated by the Plan.

She continued that there are three key issues under neighborhood compatibility, including 47-3, which states "development will be compatible with and preserve the character and integrity of adjacent neighborhoods." Ms. Ward noted that the statement does not refer to the specific zoning district in which the neighborhood is located. She said the school, which has existed for 50 years, is part of this neighborhood, and must be taken into account as a characteristic of the neighborhood, along with its athletic fields, the park, and the country club. The neighborhood is not limited to only one use.

Ms. Ward said she concurred with Staff's findings regarding adequacy review and neighborhood compatibility, and added that the stepback provision included in Section 47 applies to buildings, not light poles.

Jorge Cervantes, electrical engineer, stated he has made two site visits to examine the lights in question and determine if he could see the source of the fixtures. He has reviewed documentation including pictures of the fixture, quality and manufacture of the fixture, and locations of the lamps. He said he has reviewed Code and found the lights to be in compliance with all requirements of the Code. He stated that the light source is not visible "from any residence" and the height of the poles allows for better control over light spillage.

Anthony Fajardo, Planner, said the Applicant has requested two poles at a height of 65 ft. and 95 ft. The poles are located to the south of the overall subject site, which is surrounded by residential zoning to the west and south and residential and park zoning to the east. He cited the sections of the ULDR applicable to the request. Staff has an additional condition to the previously described mediated settlement agreement, which requires that the addition of a public address system shall be subject to Section 47-24.2.A.5 amendments to site plan.

Mr. Fajardo stated that members of the public had been present at the August 10, 2010 DRC meeting and wanted their concerns forwarded to the Board members. These are included as Exhibit 5. He made a correction to the Staff report, noting that Section 47-25.3.A.C., additional stepback requirements, does not apply to the Application and is superseded by Section 47-19.2.R, which deals with light fixtures.

Tucker Gibbs, attorney for two neighbors who oppose the Application, requested 20 minutes to present his position. The Board determined by consensus that Mr. Gibbs would be given 20 minutes total, which included the time for a rebuttal.

Mr. Gibbs stated he represents Dr. Robert Prager, whose property is adjacent to the site; Edward Deeb, who lives in the adjacent neighborhood; and the Coral Ridge Preservation Association, a neighborhood association within the area. His clients objected to allowing structures greater than the permitted height in their neighborhood, and take the position that the Application neither agrees with the City's Comprehensive Plan nor meets the requirements of neighborhood compatibility.

Mr. Gibbs said the Comprehensive Plan is intended to serve as a blueprint for the City's future growth and development. The ULDR and all approvals are intended to be consistent with this plan. He advised that the Comprehensive Plan includes a definition of compatibility, which is as follows: "a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time, such that no use or condition is unduly negatively impacted, directly or indirectly, by another use or condition."

He explained that this means compatibility takes both direct and indirect impacts into account. Mr. Gibbs also advised that the light fixtures are defined as "light structures" by the Planning Department. He continued that the structures have a negative impact on the abutting/adjacent neighborhood because they enable the school to use its athletic fields at night, which disrupts the reasonable expectations of homeowners "to quietly enjoy their property during evening hours."

He recalled that when the school went through Site Plan Level III for the expansion of their gym, the Planning Department had not allowed detached lighting in order to "protect the neighborhood."

Mr. Gibbs reiterated that Site Plan Level III requires the application of neighborhood compatibility provisions, and stated that it fails to meet the following compatibility standards:

- Noise: he noted that the Applicant does not address this issue and has not met this requirement, as they have provided no documentation stating a nighttime use will not exceed allowable levels of noise;
- Lighting: no source of illumination may be directly visible from an abutting property. Mr. Gibbs asserted that the Applicant defines the source of illumination as "the light bulb[s]" rather than the bulb, reflector, and lens that allow illumination of the area. He stated that the lenses are visible from abutting properties.
- Setback requirements: Mr. Gibbs said neighborhood compatibility requires setbacks in addition to those required by the underlying district. He

advised that the language in this section seems to allow no setbacks for structures other than buildings, which require a 25 ft. setback. He asserted that the other schools with lights are public schools and are not regulated by the City in the same manner as private or parochial schools. He noted that public schools do not abut single-family houses, as Cardinal Gibbons High School does, but are "buffered by distance" and meet setback requirements.

- Wall: Mr. Gibbs said the public purpose easement cited by the Applicant expired when the roadways came into the neighborhood.

He concluded that the school was an integral part of the community until it expanded its use into the evenings, as the property owners in the neighborhood purchased their homes with no expectation of nighttime activities by the school. He added that the 60 ft. lights in Bayview Park are a permitted use within a park district, and do not mean a property outside a park district should be allowed use of similar lights.

Henry Iler, planning consultant, said four main policies in the Comprehensive Plan would be violated by the proposed development. The scale and mass of the development, and the 95 ft. structures in particular, are 170% higher than the tallest house permitted in the adjacent residential neighborhood. The maximum height allowed for homes is 35 ft. Another objective of the Comprehensive Plan is to "protect residential neighborhoods" from impacts created by adjacent non-residential uses, which Mr. Iler stated would be violated by the proposed lights, as they would create "intense visual pollution over most of the neighborhood."

The Future Land Use Policy also states that non-residential areas adjacent to residential areas must be planned with setbacks, buffer landscaping, and traffic patterns leading away from the residential areas. Mr. Iler said three of the light structures abutting residential lots violate ULDR standards for buffer yards in the CFHS zoning district; the structure closest to Dr. Prager's lot is set back 30 ft. rather than the required 68 ft. He concluded that Section 47-25.3.A.3.C., setback regulations, require a setback of 1 ft. for each foot of building structure over 40 ft. in height. If this requirement were applied to the 95 ft. light structures, the setback would be 68 ft. Mr. Iler noted that there is some disagreement regarding whether or not this part of the ULDR should apply.

Finally, the Comprehensive Plan states the ULDR must protect existing and planned residential areas from "disruptive land uses and nuisances" wherever possible. Mr. Iler noted that the lights, as previously stated, are out of scale with the abutting neighborhood and are disruptive to the residents' visual tranquility during both day and night.

Mr. Iler stated that he supports the landowners' proposition that a wall should be required, and said he was not aware of an easement on school property. He felt

provisions could be made for utilities and a wall could still be provided. He said he had seen no evidence to show the noise levels on adjacent properties would be maintained.

Mr. Witschen asked if the Broward County School Board is exempt from the City's zoning regulations. Attorney Miller clarified that they are not exempt.

There being no further questions from the Board at this time, Chair McTigue opened the public hearing.

Dr. Robert Prager stated his property abuts the Cardinal Gibbons High School football field. He stated while the school's athletic program is a valuable amenity, he felt allowing the proposed lighting would set a precedent that would affect what a school could build next to abutting homes anywhere in the City. He said the other schools cited by the Applicant are distanced from nearby residential properties by streets, water, or railroad tracks, and do not have homes abutting their athletic fields.

He said the school's Application states that it objects to the application of neighborhood compatibility criteria by the City, as the addition of "major nighttime events" are new impacts that cannot meet these requirements. Dr. Prager also noted that neighborhood residents had purchased their homes with the knowledge that these activities did not occur in the area. He stated that nighttime sports activity without excessive noise "defies common sense."

He showed the Board a photograph of the lights, noting that the light bulb is visible behind the lens. He added that locating structures of this size "within striking distance" of a house, regardless of hurricane certification, was "unconscionable." He concluded that these structures, nighttime events, traffic congestion, and sky glare were not compatible with abutting homes in a residential neighborhood. Attorney Miller noted that the photograph provided was marked Exhibit 2.

Edward Deeb asked the Board to deny the Application, stating it does not meet neighborhood compatibility requirements. He said it would be impossible for homeowners to enjoy their properties as they wanted to use them, with peace and quiet. He clarified that he was comfortable with the school's events during the day, but took exception to nighttime use.

Vice Chair Golub asked where Mr. Deeb's property is located. He replied it is directly across from Dr. Prager's property and "across the street from the field" but not abutting the field.

Margo Possenti said her property abuts the athletic field and she is opposed to allowing additional height for the light structures.

Jacquelyn Scott said she is a real estate broker in Fort Lauderdale, and said allowing the structures to go up in the neighborhood would be "an incurable defect" to the value of adjacent properties.

Jim Kernel stated his property is located across the street from Bayview Park and Cardinal Gibbons High School. He said allowing the installation of the lights would be a mistake, as they were "simply not compatible" with the surrounding neighborhood. He added that the surrounding community did not want the "blight" that would be brought to the neighborhood by allowing nighttime athletic activities, and noted that there is not sufficient parking at the school for these games.

Elva Bielejeski said she is a longtime resident of the neighborhood and is opposed to the addition of the lights. She said they are not compatible with the neighborhood in any way.

Stephanie Cristadoro said she lives to the north of the school's entrance and expects school activities when a school is located in the neighborhood. She said the school took its neighbors into consideration when planning to add the lights, and noted that they are not appreciably different from the lights at Bayview Park, which are lit "until after 10:30 at night all year." She pointed out that the Park also has night games on its athletic fields.

Ms. Cristadoro noted that many parents work and cannot attend games during the day. Adding the lights would also allow the students to participate in athletics in a cooler environment at night. She concluded that the lights are typical of all high schools in the City and County.

Ken Scott said the only change is the increase in height to an accessory structure, and advised that residents in a neighborhood with a high school can expect school activities such as athletic events.

Damian Huttenhoff, Director of Activities and Athletics for Broward County Public Schools and Commissioner of the Broward County Athletic Association, said lights are an expected and integral part of athletic stadiums. He stated that allowing Cardinal Gibbons High School to equip its stadium with lights would benefit other schools by reducing time lost from classes. He noted that there are no similar restrictions on the use of lights, timing, or the number of games at other schools.

Paul Ott, Principal of Cardinal Gibbons High School, said the residents of the neighborhood have adjusted to other changes related to the school, such as the change in the school's entrance from Bayview Drive to 47 Street, or the addition of Bayview Park to the neighborhood. He stated that the school is a stabilizing

influence on the neighborhood and provides services to the community, such as blood drives, feeding the homeless, and other local outreach. He concluded that while some people would not purchase a home next to a high school, there are other potential residents who may want to do so.

Dave Benson said he works at Cardinal Gibbons High School and lives on a property abutting the school. He stated he was in favor of the Application, and added that he had never experienced a noise issue related to the school.

Tom Noonan said he had seen Little League participation increase significantly when night games became possible at Bayview Park. He said playing during the afternoon in the heat was a safety concern for students who participate in athletics.

Chase Bender stated he plays football at Cardinal Gibbons High School and emphasized that the heat is "miserable" when games are played in the afternoon.

Dan Perry said he is a member of the Coral Ridge Homeowners' Association and felt the compromise that the Association reached with the school is a fair one. He emphasized the need for cooperation between the two entities, and advised that the lights at Bayview Park are on "every night of the year" and are not an issue. He also noted that the lights on the athletic field "were put in three years ago" and the poles are camouflaged by landscaping.

John Gashado is a student at Cardinal Gibbons High School and said he would like the opportunity to play sports at night "like all the other schools."

Michael Piper, representing Coral Ridge Little League, advised that the Little League would not be able to operate at Bayview Park if the school did not provide additional parking. He said it is "intellectually dishonest" to say the lights are not compatible with the neighborhood, as Bayview Park's lights are adjacent to the football field.

Matt DuBuc said he chose to live in the Coral Ridge neighborhood in part because of Cardinal Gibbons High School. He said the students deserve to play football under the lights, and recalled that an individual had recently experienced heat exhaustion while attending an afternoon game.

Vice Chair Golub asked if Mr. DuBuc could see the lights from his house. Mr. DuBuc said he could not.

John Kelly said he lives one block from the high school and 1.5 blocks from Bayview Park, and can see both a light fixture and light spillage from the park. He felt the proposed lights would be more compatible with the neighborhood than

those at Bayview Park, as they are state-of-the-art, energy-efficient lights. He provided a letter to the Board.

Judy Avee is a longtime resident of the Coral Ridge neighborhood and described the light structures as "hideous" and "unsightly." She said residents would have to hear the PA system and see the lights, as well as experience overflow parking in the neighborhood. She pointed out that "the City admits... the permit for [the lights] was issued erroneously."

Debbie Rosenbaum said her home shares a common property line with the athletic field and the lights in question; however, she was in favor of using the lights for evening events, as this could prevent student athletes and spectators from suffering from heat-related ailments. She said the tallest lights face her property and she can see them from her back yard, but she was "not offended by them." She added that she can often hear sporting events held at Bayview Park.

Jim Ambrose stated that most of the homeowners in favor of the lights "do not live next to the school," and noted that many of them have a relationship with the school and/or church. He provided a photograph of the athletic field and lights, and added that the neighborhood does not know what it will experience at night because "the lights have never been turned on."

Thomas Nichols Williams said he is in favor of the lights because the heat at afternoon games could lead to "fatal accidents."

Mark Hill said he is a member of the Riverside Park Residents' Association, and advised that residents of his neighborhood were asked to attend tonight's meeting because they live next door to another high school that "wants the same lights." He asserted, however, that he hoped Cardinal Gibbons High School is allowed to use its lights.

Alexander Lambert is a resident of the area and a student athlete at Cardinal Gibbons. He said it is very hot playing during the afternoon and felt that teams could perform at a higher level if they were allowed to play night games.

Niham Goren said she is a real estate broker and lives across the street from the lights at Bayview Park. She said the presence of lights at the Park made her feel safer and did not believe there was a compatibility issue. She said people want to move into the neighborhood due to the proximity of the school, church, and park.

Joseph Castellino said the community includes other schools that do not have athletic fields and are allowed to use the field at Cardinal Gibbons High School. He suggested that the light poles be painted to camouflage part of the structure.

Peter Sciapetta is a student at Cardinal Gibbons High School and said it is too hot to safely play sports during the day. He asserted there is sufficient parking provided by the school to accommodate athletic events at night.

Charles Jordan is Director of the Sailboat Bend Civic Association and president of the Trust for Historic Sailboat Bend. He read a letter prepared by the President of the Civic Association, Alysa Plummer, which professed "profound concerns" with the Application and stated it would permanently affect the neighborhood in a negative manner. Mr. Jordan said the purpose of the Trust is to protect neighborhoods from development that "has an adverse effect" on the area, and stated that the project is neither compatible with the City's Comprehensive Plan nor the standards of the ULDR. He submitted the letter from Ms. Plummer as Exhibit 4.

Andrew Franco is a member of the Florida Building Commission, which writes and updates Florida Code. He is also the architect of record for the Application. He said the lights at Bayview Park changed the community for the better and felt the lights at the high school could do the same.

Michael Morrill, athletic director at Cardinal Gibbons High School, said the lights were tested at the request of a mediator and there was "absolutely no spill" of lights. He said the light is directed "straight down" and is mitigated by landscaping and an opaque fence. He added that concessions were made to the neighborhood in good faith and the school will live up to this agreement.

John Lindsay said he lives on the north side of the high school and moved to the neighborhood to be close to the school. He said the light poles are no longer noticeable; in addition, he saw the lights when they were tested and described them as "high-tech... [and] only on the field." He suggested that the lights at Bayview Park could be converted to use the same technology.

Judy Ambrose said when homeowners make certain changes to their homes, they are required to apply for the appropriate permits. She stated it is important to ensure that these procedures are applied to "churches, schools, and people" in residential areas, and that laws established by the City are followed.

John Tite said according to the law, 35 ft. poles could be erected on the field and it could be used until 10 p.m. every night, although he said the field would not be properly lit for games. He said many of the neighbors in the community are not aware that the school would be legally able to light the field every night.

There being no other members of the public wishing to speak on this Item, Chair McTigue closed the public hearing and brought the discussion back to the Board.

Chair McTigue noted that the Applicant and Mr. Gibbs had 10 minutes and 5 minutes respectively available for rebuttal.

Ms. Ward referred to some of the comments made by Mr. Iler, including a citation of objectives and policies of the Comprehensive Plan. She said Goal 1 of this plan provides a framework for how these objectives and policies are interpreted. This goal states that the City is to promote the distribution of land uses that will preserve and enhance the character of the City. She said the Comprehensive Plan has designated the land use pattern for this area as Community Facility, Park, and Residential.

One way the City achieves this goal is through establishing land development guides. Ms. Ward noted that the development is present with the current neighborhood density; there are no specific plans for redevelopment or revitalization in the area; the compatibility of the scale and mass of a new development does not apply, as "the school and the fields have been there for 40-plus years;" the Applicant has made voluntary concessions to address potential impacts on the neighborhood; and the Applicant has complied with setbacks, landscaping, and buffering provisions to protect residential areas.

With regard to the setback requirements cited by Mr. Gibbs, Ms. Ward pointed out that the City filed a Site Plan Level III request to increase the height of lighting at Holiday Park from 60 ft. to 85 ft. There is no interpretation by the City that the stepback provisions for buildings apply in cases such as these.

She said the provision stating the ULDR shall protect existing neighborhoods from "disruptive" land uses and nuisances does not apply, as the land use by the school has been in existence for more than 50 years, and voluntary concessions were offered to address any potential impacts.

Ms. Ward said she took exception to Mr. Gibbs' statement that the Board "should not consider the park... when comparing this use to the school," noting that both objective 4.1 and policy 4.1.2 of the Comprehensive Plan state for the purpose of outdoor recreation, school facilities may be considered equivalent to a neighborhood park. She concluded that comparing the lights of a home in the neighborhood to the lights of the school's athletic field is inappropriate for a compatibility analysis.

Mr. Gibbs said the Future Land Use policies, which address neighborhood compatibility, discuss the scale and mass of new development; he asserted that the light fixtures are to be considered new development. He pointed out that the Board of Adjustment uses neighborhood compatibility as its standard, and had determined that the structures are not compatible with the district.

He added that Bayview Park is in a Parks zoning district, which has different requirements for height than Community Facilities. Mr. Gibbs asserted that the Park meets Code and did not require Site Plan Level III. He reiterated that the lights are inconsistent with both the Comprehensive Plan and the setback requirements, and pointed out that Code states in cases of conflicting regulations, the more restrictive regulations apply.

Ms. Huber requested that both the entire Planning and Zoning file and the entire Building and Engineering file for the Application be included in the record of the meeting's proceedings.

She continued that the Application has undergone extensive review and has taken more than three years to come before the Board. City Staff, DRC, and several experts have found that the Application meets all requirements and criteria listed in the ULDR. Ms. Huber reiterated that the Homeowners' Association supports the Application and voluntarily entered into a compromise with the school in order to do so. She advised that this compromise ultimately made the Application a better one.

Mr. Witschen commented that he had some history with this property: he had worked with the City in 1986 and had "intimate knowledge of the partnerships," and had served on the Little League Board as well. He added that he has three children who are graduates of Cardinal Gibbons High School. He observed that the relationship between the neighborhood and the school is a unique one, and cited examples of partnership between the City, the park, and the school and church with respect to parking.

Mr. Witschen continued that comments asserting that the school had attempted to circumvent the law were not valid, as the Applicant's appearance before the Board is a legitimizing factor and an attempt to "make the process right." He agreed with statements that the lights from Bayview Park have an impact on the neighborhood, which made it difficult to state that the lights from the Cardinal Gibbons High School athletic field would have a dramatic impact on the neighborhood. He said the photometric plans he had reviewed appear to "meet the issue on spillage."

Ms. Maus requested a review of the procedural history of the Application. Ms. Huber said a permit was issued in October 2007, and the lights were installed in January 2008. Before they were switched on, the City noted that the lights exceeded 35 ft. in height, which is the restriction on structures in Community Facilities districts. The City and the Applicant met several times to resolve the issue, and the City asked the Applicant to seek a variance before the Board of Adjustment. The Applicant sought a variance to the height limitation from the Board of Adjustment in September 2008. This request was denied. Upon appeal, there was a settlement agreement.

Ms. Huber continued that in February/March 2009, during the settlement process, the Applicant asked the Board of Adjustment for a temporary use agreement. This request was denied.

Ms. Maus asked if the Applicant had ever applied to "any City advisory board" prior to 2007. Ms. Huber said the Applicant sought a variance to install lights in 1982 and was denied by the Board of Adjustment. She noted that the Code and zoning districts were very different at that time. Mr. Witschen added that the community has changed greatly since that time as well.

Vice Chair Golub asked who would pay for the engagement of off-duty police officers at nighttime football games. Ms. Huber said Cardinal Gibbons High School will pay the officers, and clarified that the additional police presence is only for evening football games.

Mr. Hansen said when he first reviewed the Application, he had begun with a "fairly negative" view of the issue, as the 35 ft. height limit seemed straightforward. After he visited the site and saw photos of the Bayview Park lights, however, he determined that the case was "about the issue of the lights themselves." He felt the existing structures are "a much better situation for the neighborhood" than 35 ft. lights would have been.

Vice Chair Golub said she had also originally viewed the Application with the opinion that the school should be punished for installing the lights the way they had been installed. She noted that Code allows accessory structures up to 35 ft. in height to be installed, while taller structures must go through Site Plan Level III. She said the Application should be reviewed in terms of neighborhood compatibility and other factors as if the lights had not already been installed.

She noted that she was "very persuaded" by the Applicant's statement that for most of the 30 events at which lights would be used, the lights would only be turned on to complete a game that began during daylight hours. She added, however, that if the assumption is correct that a night game will attract more people and create more noise and other negative impacts than a daytime game, there may be an issue of noise. She asked the Applicant to address this concern.

Ms. Huber said the noise issue was addressed in the letter by Broward County Pollution Prevention / Remediation and Air Quality, as required by Code. While a noise report is not required by Code, she noted that in 40 years, the school has never been charged with a violation of the Noise Ordinance. If this changes, Code Enforcement will be contacted and the issue will be addressed by City Staff.

Ms. Tuggle stated that she lives one half mile from a nearby high school and can hear the band and see the lights from her home. She asked how an increase in games, such as hosting regional games, might be handled. Ms. Huber said any additional games are approved by the settlement agreement, and the neighborhood would be afforded the same considerations already in effect for events.

Ms. Freeman asked if the Applicant would consider camouflaging the lights. Ms. Huber said they would, and said they would continue to work with Staff and the neighborhood regarding landscaping and other camouflage, including painting, for the poles.

Motion made by Ms. Freeman, seconded by Mr. Hansen, to approve the request as noted. In a roll call vote, the **motion** passed 6-2 (Ms. Maus and Mr. Welch dissenting).

5. Communications to the City Commission

None.

6. For the Good of the City

Vice Chair Golub requested an update on the Neighborhood Development Criteria Review (NDCR) rewrite process. Director Brewton said the information received from the Board and others has been given to the consultant, and estimated that a draft document might be complete by March 2011. He advised that they are struggling to ensure that the draft will capture the majority of the comments the Department has received, and said there are some differences of opinion regarding what the document might include.

Ms. Maus asked if the document will be voted upon by the Board to recommend or not recommend to the City Commission. Director Brewton said it would be voted upon.

There being no further business to come before the Board at this time, the meeting was adjourned at 11:27 p.m.

Patricia E. McTague

Chair

Brigitte Chiappetta

Prototype

[Minutes prepared by K. McGuire, Prototype, Inc.]