



# Draft

## Minutes of October 18, 2021

### Meeting Called to order at 7:00 P.M.

#### 1. **ROLL CALL**

##### P&Z Board Members

MEMBERS	10/18/21	4/5/21	2/22/21	12/07/20	11/16/20	10/19/20	08/31/20	08/03/20	07/06/20	06/15/20
Jimmy Goulet	P	P	P	P	P	P	P	P	P	P
David Rouse	P	P	P	P	P	P	P	P	P	P
Jim Federici	P	P	P	P	P	P	P	P	P	P
Lisa Dodge	P	P	P	P	P	P	P	P	P	P
Kelly Vanbuskirk	P	P	P	P	P	P	P	P	P	P
Jeremy Katzman	P	P	P	P	P	P	P	P	P	P
Alex Weisberg	P	P	A	P	P	P	P	P	P	A
Candy Coyne	P	P	P	P	P	P	P	P	P	P
William Barkins	P	P	P	P						
***James Curran	P	A								

\*Reappointed \*\* Resigned \*\*\* New appointment

**STAFF PRESENT:** Jason Chockley, Assistant Director of Community Development  
Brandon Johnson, Planner

**APPLICANT:** SPG Cooper City II TR, Owner (Yitzhak Rivero, CEO)  
Diane Fernandez, Three Hearts ADT - Petitioner  
Jeff Katims, Agent

#### 2. **P&Z BOARD - MINUTES - WAIVE/APPROVE MINUTES OF 4/5/2021:**

Motion to waive the reading of the minutes made by Jeremy Katzman and seconded by Lisa Dodge. All ayes on voice vote. **MOTION WAS APPROVED.** Motion to approve the minutes made by Lisa Dodge and seconded by Alex Weisberg. All ayes on voice vote. **MOTION WAS APPROVED.**

#### 3. **PUBLIC COMMENTS:**

None

#### 4. **NEW BUSINESS:**

##### A) THREE HEARTS ADT

- 1) CONDITIONAL USE #CU 6-3-21
- 2) VARIANCE #v 6-5-21

Chairman Rouse turned the item #4A to Mr. Chockley.

Mr. Chockley introduced the item #4A containing two items before us for Three Hearts ADT which is an adult special needs school being proposed in the Cooper City Commerce Center. A code change which

occurred earlier this year to allow this type of use to be proposed as a conditional use in the Commerce Center. Item 4A1 is their request for conditional use allowed by that code change. There are two parts to the request. The first is for the conditional use and the second is for a variance. I will be presenting the staff reports for each and the petitioner is present this evening for any questions.

As stated, Item 4A1 is a Conditional Use request. They are located within the I-1 Light Industrial District. They are requesting conditional use to locate a vocational employment and life skills training center for adults with developmental disabilities. This application is being processed concurrently with 2 variances (parking and total % of assembly uses).

The subject site is the Cooper City Commerce Center located on the NE corner of Flamingo Rd and SW 53<sup>rd</sup> Street. This proposed use is located within the North phase of the Commerce Center and is made up of 4 individual buildings on a parcel approximately 8.5 acres in size.

NATURE OF USE: Three Hearts ADT is a vocational employment and life skills training center for adults with developmental disabilities. They train individuals with development disabilities to participate productively in society. The adult day training program provides participants with both functional academic and vocational training skill to prepare them for volunteer and employment opportunities.

The program, has a max capacity of 125 pupils and a staff of 29. The hours of training are from 9am to 3pm Monday-Friday. The program participants do not drive individually to the site. All of the pupils arrive by their parent/guardian, private transportation, Broward County TOPS vans, or by a passenger van owned by Three Hearts. The applicants have committed to a very specific pick up and drop off protocol in the rear of the building with schedules and 4 staff members located at the drop off site to ensure an orderly operation. A very detailed operation plan is provided in the backup materials.

PLAN COMPLIANCE: The subject site is designated “Industrial” on the Cooper City Future Land Use Map. The proposed request is consistent with Objective 1.13 and the supporting Policies of the Comprehensive Plan to encourage compact development that are considered community-serving uses to promote close-knit neighborhoods and a sense of community. As such, the conditional use request may be considered consistent with the City Comprehensive Plan.

CODE COMPLIANCE: The proposed use complies with all applicable regulations and specific standards in the Code with the exception of the variances requested in the accompanying variance petition. The variances requested include:

1. Parking spaces required for Community Assembly Uses – To reduce the parking requirement from 147 spaces to 32 spaces or one space per 100 square feet to one space per 452 square feet.
2. Increase the max allowance of Community Assemble for the complex from 25% to 36%.

A variance petition has been submitted concurrently with this petition and provides justification statements for these requests.

LAND USE COMPATIBILITY: The current I-1, Light Industrial District and the intended use may be considered compatible with the surrounding existing and planned land uses as this 8.5 acre site is an

existing complex and other than the creation of an ADA accessible ramp at the drop off and pickup location there are no other site alterations being proposed with this request.

**TRAFFIC IMPACTS:**

The applicant indicates that the traffic impact should be minimal given the pupils will be dropped off by bus within specific time windows and the start time of the drop-offs and pick-ups are scheduled not to overlap with Archbishop McCarthy High School on the west side of Flamingo Road. A vehicle stacking plan and schedules are provided in the backup materials. All employees of the facility are required to park in the east side parking lot around the drop-off and pick-up area to avoid conflicts with adjoining tenants.

**PARKING ADEQUACY:** The proposed use is unique in the fact that all pupils are transported to the site and dropped off. Based upon the facts stated in the operation plan, indicating 29 instructors and administrative staff, parking on the site should not adversely be impacted. The agent has stated that the previous user of this unit had far more parking impacts do to the high number of employees who occupied this 14,000+ sq/ft office. There are no operational hours on the weekends.

**HAZARD PROTECTION:** The proposed use will reasonably protect persons and property from flooding, erosion, fire, noise, glare or similar hazards. Protection against all potential hazards is provided through the site plan and building permit processes, including paving and grading, engineering, building construction and inspections.

**RECOMMENDATION:** Staff recommends APPROVAL of the Conditional Use request for the proposed Three Hearts ADT training center based off of the detailed operational plan commitments, subject to the following:

1. Approval of the variance petition being processed concurrently with this application.
2. Any increase in enrollment or changes to the operation plan are subject to administrative and/or City Commission review.
3. Satisfactory building permit & life safety plan review for the proposed occupant load within the proposed unit.

Mr. Chockley informed that there are no outstanding staff comments from DRC. All of those review requirements have been met. The action requested from this board is to make a recommendation, which will be forwarded to City Commission.

Mr. Chockley turned the item back over to Chairman Rouse.

Chairman Rouse turned the item over to the petitioner for any additional information regarding the item.

Diane Fernandez introduced herself as the petitioner residing at 5164 Kensington Circle, Coral Springs, Florida, 33076. She thanked Mr. Chockley for doing a phenomenal job of explaining everything we do and advised that she had prepared some information for everyone but was ready for any questions.

Chairman Rouse opened it up for questions from the Board either for staff or the petitioner.

A Board member asked a question which was inaudible.

Ms. Fernandez advised that they have 145 students. However, we have a 12% absentee rate, so we typically run around 125 students.

Mr. Weisburg asked, based on other locations or studies, what the percentage of the students are dropped off by vans and buses as opposed to individual drop offs.

Ms. Fernandez replied that number varies explaining that we will have some individuals who are transported by their family members. Those would be individual clients. Then we have group homes that we provide training to those clients. They will typically arrive two or three in a vehicle. Students arrive either by a regular car, an SUV, or a small passenger van. We do not have school buses.

Mr. Weisburg asked if there were TOPS vans and the like.

Ms. Fernandez confirmed that they do receive students from TOPS vans which are passenger vans.

Mr. Weisburg asked if most of the students arrive with those type of things as opposed to individual automobiles.

Ms. Fernandez said that she would not be able to give an exact percentage but that the students are primarily individual clients.

Mr. Weisburg noted that their plan only allows for two visitor spots.

Ms. Fernandez stated that they typically do not have visitors. She further explained that when we do have a visitor, it's planned in advance. Typically the parents are at work and they leave their loved ones with us. The support coordinators do come on a regular basis but it is planned ahead of time.

Mr. Weisburg asked if the reason why they only have two visitor spots is because they rarely have visitors.

Ms. Fernandez confirmed that to be the case.

Mr. Katzman thanked the petitioner for being here tonight and said that the work that your organization does is fantastic. He asked for the current location of the school.

Ms. Fernandez said that we are in a temporary location in Miramar at the moment.

Mr. Katzman asked if the petitioner had spoken with the other businesses in the vicinity. For example, I know there's gymnastics and swimming. There's a lot of organizations that do take up large amount of parking spots at certain times and I was just curious what their feedback was.

Ms. Fernandez stated that they had not. She said that we are going to be doing an open house. If we are fortunate enough to pass this Board, we will be having an open house before the Commission meeting.

The tenant that is directly below us is a realtor and it's basically his salespeople that come in throughout the day in our actual building. There's always space for them.

Mr. Katzman asked if it would be possible to put up signage so that people who come to the school know where they're supposed to park although that may be up to the center to decide. This could ensure that they're treating the neighbors fairly. We are considering reducing the number of spots significantly and I want to make sure we're handling it correctly for the future use of the shopping center.

Ms. Fernandez said that we are requesting less than the previous tenant and we can certainly advise anyone that is coming to visit with us where to park. The owner of the building has chosen not to do designated parking specifically because there is so much space and parking there.

Ms. Fernandez turned the question over to petitioner agent Jeff Katims.

Mr. Katims introduced himself as Jeff Katims of SEPI Engineering & Construction, 3350 Northwest 53rd Street, Fort Lauderdale, 33309. I'm the agent for this application and I just wanted to emphasize that while the extent of the variance that we are requesting is large, it's not speculative. We know exactly what our parking requirements are. The fact is that Three Hearts is the least parking intensive use that can go in that space. If it wasn't Three Hearts, it would be office which would have a lot more of an actual parking requirement. This request is based on our actual needs.

Mr. Katzman asked, if in regard to the diagram in the packet showing the stacking, if the pickups and drop-offs could interfere with the other businesses in the area.

Mr. Katims said no. In fact, he stated, that is the beauty of it. Clearly, the complex was not designed for a drop off area, but if it was, the location that we're proposing, it's almost as if it was intended. It's the rear of the building. There are only 18 parking spaces on that drive aisle and there are three driveway openings onto the main North/South street for the North complex. The cars come in and they go right out. The main circulation is completely unaffected.

Chairman Rouse asked if there were any further questions from the Board.

Dr. Barkins stated that the Three Hearts operation and the training they provide is a great thing. In my due diligence, he stated, the first thing I check is SunBiz for the corporation's status. He asked if the petitioner was aware that their corporation is inactive.

Ms. Fernandez said no that she was not aware of this and that she would take care of that first thing in the morning.

Dr. Barkins then stated that he had looked through each of the principles and that there were multiple corporations that were formed but, within a year or two, became inactive.

Ms. Fernandez answered that they had chosen not to open a group home. We decided to focus strictly on the school and training facility. We had a third partner in the beginning. The vision with that partner changed and we decided to let that partner go.

Dr. Barkins said OK but that especially with Mr. Yitzhak Rivero that there were multiple corporations opened and closed in a short period of time.

Ms. Fernandez that she absolutely understood the inquiry stating that I am a retired law enforcement investigator for healthcare products. I completely understand what you need to do.

Dr. Barkins asked if she could explain any relationships between Rolando Rodriquez and Mercedes Boarding Inc, and your principles.

Ms. Fernandez turned the question over to Yitzhak Rivero.

Mr. Rivero introduced himself as Yitzhak Rivero of Three Hearts ADT, LLC. He explained that he had tried to buy Mercedes Boarding Inc but that it was not approved. The facility had several problems so I did not end up buying it. To answer the questions regarding several companies, these companies that I had opened and sold were because I own group homes and medical businesses.

Dr. Barkins asked if Mr. Rivero's goal here was to sell quickly sell this business as well.

Mr. Rivero said no. He said that if you actually look at Three Hearts, it is a company that has been open for over five years. This company has been stable and the idea is to grow that company and help the community.

Dr. Barkins said that although Mr. Rivero had stated that he did not buy Mercedes Boarding, there was a Miami Herald article which indicated that Mr. Rodriguez was supposed to divest himself of the company due to multiple legal problems and that the company was supposed to go to Mr. Rivero.

Mr. Rivero said yes but that did not happen. Mercedes Boarding did not go to me and public record shows that Mr. Rodriguez is the only person being the owner and the president of that company.

Dr. Barkins asked if he knew anything about Mr. Rodriguez still being involved with Mercedes Boarding since the corporation had been renewed for that facility just five days prior.

Mr. Rivero said that he did not know that but that he did not end up buying that company.

Ms. Fernandez added that she did not even know the gentleman that you are referring to. She stated that the reason that we chose Cooper City was because we wanted to grow and expand our services to the community. We chose Cooper City because of your emphasis on community, on education and on family. We actually have, in attendance this evening, a couple of our clients and their parents.

Chairman Rouse said that those families would have an opportunity to have a public testimony when the public hearing was opened in just a few moments and after all questions by the Board were presented.

Ms. Coyne presented a question for staff asking what the impact is on the City if the number of parking places are decreased. She asked what the drawback is if the allotment is 147 spaces when they only need ten.

Mr. Chockley said that there is not necessarily a drawback, per se. The straight line approach for any community assembly requires one parking space for each 100 square feet. So that becomes the variance they need to ask for based off their total square footage divided by the one to 100. In this case, their day to day operations clearly do not require 147, but the way code is specifically written, the variance would be required. As far as impacts themselves, obviously their allocated number of spaces, as the applicant pointed out, is far less than other uses that could go in the center by right. One of the uses that they did indicate was administrative professional office uses. That would have a higher parking demand, in reality, than they would, but that use would not require a variance because it is within the permitted uses of I-1.

Ms. Coyne clarified that there is no real negative.

Mr. Chockley said no, there is not.

Ms. VanBuskirk said that, first of all, I second what Mr. Katzman said about your program and the value of it. We employ some clients from similar programs. I'm excited about the idea of having similar programming in our community. I think it's a good fit. That said, I have a question for the petitioner and a follow-up question for staff. I also second the concerns that Mr. Katzman expressed regarding the impact on the surrounding businesses and the ease of their clientele to access their business. We wouldn't want to impact them in a negative way. I was going to inquire about the same thing about dedicated parking and I know that you mentioned the owner has declined to do anything like that. Ms. VanBuskirk asked if they would be willing in a non-compulsory way to ask your employees to use the spaces on the south side so that you're minimizing impact on the center.

Ms. Fernandez replied that they were already planning to do that. We will be parking in the back.

Ms. VanBuskirk then asked staff if the variance would tie this to the parcel or to the petitioner.

Three Hearts traffic needs are very unique in nature. The stacking plan looks like it's got a very nice flow. You don't have clientele coming and going throughout the day and you have stationary staff. That is very unique to your business and I think it would be a minimal impact given that traffic flow. However, if it ties to the parcel and not the petitioner, and for any reason you all decide to move out and that variance stays with the property, then that could have a pretty negative impact considering there is a school zone across the street and also many surrounding businesses.

Mr. Chockley explained that the approval, as written in the staff report, would be tied to the conditional use in their commitments. So even if they chose to leave, unless somebody was coming in following exactly their operation plan, staff, personnel, accounts, hours of operation, they would need a new approval.

Mr. Federici stated that he had walked the property and had gotten a better idea on what they're talking about and that there was some color coding in the parking lot. A big problem on Flamingo is Archbishop McCarthy High School. He asked if Three Hearts did not anticipate a problem because the hours are different.

Ms. Fernandez said yes. She had actually spoken with someone at the school and asked about this. By 8:00 am, everyone is in and their traffic is done at McCarthy. We are just picking up at that time so there is no conflict.

Ms. Dodge stated that McCarthy gets out at 3:00 pm.

Ms. Fernandez confirmed that to be the case. The number of our clients that would ever be leaving at that time is minimal. We have a six hour educational program. If the clients come in at 8:00 am, they're leaving by 2:00 pm. If they come in at 8:15 am, they're leaving at 2:15 pm. So the number of clients that would be leaving at around that same time as Archbishop McCarthy are minimal.

Mr. Curran asked staff if the petitioner is required to seek the approval of their tenants before it even goes to commission.

Mr. Chockley said that they are not required to obtain the approval but that they are required to do advertisement for the tenants. In addition to the two large signs by the roadway entrances, which is what was the only signage previously required by code, the new code change requires that they put up A-frame sandwich signs at the entrances so tenants will see them coming in.

Mr. Curran asked if there was no more door-to-door seeking approval of tenants that have businesses there already.

Mr. Chockley said that legal opinions that had come out from when Two Rivers was coming in was that you can't necessarily restrict a landowner's right to choose what he wants to do there based off of the tenant opinions. So the code was changed to settle that tenants would have the availability to attend the meetings based off of local entrance signage and not just the mailers and the large signs at the roadway entrances.

Mr. Curran then asked about the number of students at Three Hearts being between 125 and 145 students and what would happen if their numbers went through the roof like at Renaissance with the traffic problems there and how important it is to go in with the right information to start.

Mr. Chockley said correct.

Mr. Curran then stated that they are asking for thirty-two parking spots but they've asked to remove one bumper in order to put a ramp. You are down to thirty-one now and it this change needs to be noted so the Commission knows exactly what their variance really is. It's not thirty-two, it's only thirty-one. I do have concerns with 175 people on a second floor because of fire and evacuation. I would hope that the fire study shows that they can get those people safely off the second floor with two exits and two stairwells.

Mr. Chockley said that the life safety plan would be completed when they actually come in for their interior build outs. That may involve changing stairwell corridors.

Mr. Curran asked if this is something that is going to be done before the approval.



Mr. Chockley said absolutely. This would just approve the use, theoretically. If they come in for their life safety plan at time of building permits, and 160 becomes the maximum achievable, then that would be their new ceiling of max occupancy, period.

Mr. Curran said that another issue that he has is tenants subletting over there. He stated that he did not know when the last time the City had actually gone over there to check for these multi-uses but knew of several businesses over there which are aquatic centers or dance studios during the week but rent their stores out on the weekends for churches. If we are looking at the center as having, for example, thirty businesses on paper, it may actually be close to forty because they are subletting over there. We also have a lot of vehicles that are parked in that center overnight. If you go in there at nine o'clock tonight, you can count fifty cars that are still there. Maybe they have 400 parking spots, but those spots may not really be readily available for the tenants in the morning. These are my concerns because once traffic becomes a problem it's too late to do anything about it. Then the Commission becomes the bad guy of having to move 150 pupils out of a learning facility because we didn't do our due diligence with the parking plan.

Mr. Chockley said that for cars being over there due to subleasing, action may need to be taken by code enforcement for any illegal uses that are going on. As far as what's going on there on a daily basis, the fire marshal does yearly inspections to every single commercial bay throughout the City and they look for work that has been done without permits, any illegal alterations, et cetera. That is the process where these items are looked at. Subleasing on weekends would be an issue for code enforcement. However, Three Hearts did perform a parking analysis based off their operational period and it was deemed that there was sufficient parking for when they would operate.

Chairman Rouse asked for any additional questions from the Board.

Dr. Barkins asked if there were going to be changes to the existing floor plan requiring building permits.

Ms. Fernandez stated that they were not anticipating any changes of the existing floor plan.

Dr. Barkins asked when fire might review this change if no building permits were going to be issued.

Mr. Chockley explained that a building permit would still need to be submitted if only to be re-issued a new Certificate of Occupancy reflecting the change in use. They are hoping not to have to change the current layout but the change from it being an office use to an assembly use requires a new CO to be issued. They are hoping to submit their new life safety plan not altering anything, but if fire looks at that and says no, with an assembly use of these floor plans, your ADA widths are not wide enough, your corridor space is not wide enough, or that your stairwells are not wide enough, that would not fly. They would have to then do those alterations or come down on their max capacity. But until the floor plans are drawn, fire won't do the review.

Dr. Barkins asked if there were any differentiation with fire and evacuation, when you're dealing with people who are ambulatory, et cetera, versus people who are disabled and need help to get out and take a lot longer time.

Mr. Chockley said yes, that would be addressed.

Ms. Fernandez said that the majority of our clients are not physically disabled. They are developmentally disabled.

Mr. Curran asked if the business was to be sold within a year or two, as Mr. Rivero said he had done many times, building businesses & then selling them, if we could require any new owner to have to come back into us for approval even if they were coming in to do the same thing and before they could even take ownership.

Mr. Chockley said absolutely. The Board can put that in their recommendation that it is contingent upon this being limited to this owner and this operator, and if they were to sell, that it would require the approval. This limitation could be made into the motion and be considered by Commission.

Ms. Fernandez stated that although Mr. Rivero is her partner, that he also has his own businesses aside from Three Hearts. For me, this is my passion and I have absolutely no intentions of selling. To be factual, I opened in 2016 and I have yet to take a paycheck. I do not do this for the money. I do it because I strongly believe the community needs it.

Mr. Curran said that he had an additional question regarding the traffic issue. Archbishop McCarthy High School gets out at 3:00 and Three Hearts closes at 2:00 but Ms. Fernandez did explain the students' departure would be staggered and could be as late as 3:00 or beyond. He asked how late this staggered departure could go.

Ms. Fernandez said that it rarely goes beyond 3:00pm. If TOPS is behind schedule, we might be at 3:10, 3:15.

Mr. Curran asked if they anticipate any issues with that staggered departure and the lineup of cars for the high school.

Ms. Fernandez said we do not.

Chairman Rouse opened the public hearing for petition #CU6-3-21 at 7:35 PM.

Ms. Hickson introduced herself as Debbie Hickson along with her son Corey Hickson. Ms. Hickson said that her son Corey has been a client at Three Hearts since October of 2017. This is an established program that has been very helpful to our family. Since a lot of the questions tonight have been about traffic, I wanted to share that I drive Corey to the Miramar site. I also used to drive him to the Hollywood site. For all the years that Corey's gone, there has never been an issue with traffic or having a line of cars. Often, it's been just me and TOPS that come. I usually drop him off between 8:30 and 9:00 am. I pick him up close to 3:00 pm and there are maybe two or three cars at that time. I know traffic seems to be a huge concern, but that's not something I've ever had an issue with. I think the most I have ever had wait may have been in a line of four cars when they were in Hollywood. I will just say that this is a phenomenal program. It sounded like most of you already realize that. It gives families a place to put their loved ones and know that they are safe. And Corey really enjoys being around the other people. They were virtual during Covid and we were so happy when they come back in person. We look forward to being part of the Cooper City community. So thank you.

Chairman Rouse asked for any other members of the public who would like to speak on this particular agenda item.

Mr. Daniel introduced himself as Daniel and presented his mom, Vivian.

Ms. Vivian agreed that just exactly like the lady before us, the traffic has never been a problem. Most parents bring their children, drop them off, and we leave, and then we come back and pick them up. I've never had to wait. It's like they know I'm there and my son comes out. He gets in the car and off we go. This is a beautiful program. Beautiful. I love the people. I love that he's happy. He loves it there. I drop off my son smiling and he says "I love you Mom!" They need this school. My son has been at Three Hearts maybe eight years. He loves it. He loves it! And he's come a long way too. He gets a lot of love and attention there and a lot of learning, homework. He loves his peers. He loves helping. Please help them open this. I don't think you're going to have a problem with the parking. There's a church at the corner of this building. Churches are open, I know the church, and churches are open on the weekends. They're not there. There's a lot of parking. There's a lot of parking. And whenever they've wanted the parents, for whatever reason, they schedule an appointment. So if we have a meeting, they schedule it. It's not like everybody comes at the same time. That's about it, unless you have questions for us.

Chairman Rouse closed the public hearing for petition #CU6-3-21 at 7:40 PM.

Chairman Rouse asked for any further questions from the Board.

Ms. Dodge said that their program was phenomenal. She stated that she had nothing bad to say about the program but wanted to know if the nature of the business was more of a daycare rather than for vocational training and job skills since the clients that had spoken had been there for four years and eight years.

Ms. Fernandez said that they have a variety of levels of learning and each individual has their own plan that is prepared for each year, and the goals that they need to meet. Someone might have a goal to learn the public transportation system. Another one might learn how to communicate effectively in a group setting. But ultimately, our goal is to be able to obtain gainful employment or volunteer for them.

Mr. Curran said we're not going to know how many students are in that building and asked how we would know whether they're outgrowing their building,

Mr. Chockley said that when the annual fire inspection is done, they will verify what the occupancies are. They can literally do a head count and they can ask for documentation.

Mr. Katzman asked if there is licensing involved.

Ms. Fernandez said that they are licensed by the Agency for Persons with Developmental Disabilities. We are inspected on a regular basis. We received 100% on our last inspection.

Mr. Katzman asked if there is a required ratio of students to teachers.

Ms. Fernandez said yes, that depending on what the learning ratio is, it would be one staff for 10 students, one staff for five students, or one staff for three students, for example. I can tell you that we want to do the best for our students, so we do not want to grow to a point where we are not able to provide that level of service to them.

Mr. Katzman explained that the reason he was asking about this was to alleviate concerns about growth. At some point, you're licensing would come in and require certain numbers.

Ms. Fernandez added that we have to have an annual fire inspection as a part of our inspection with the APDD.

**MOTION: TO APPROVE CONDITIONAL USE #CU 6-3-21 CONTINGENT UPON CONTINUOUS OPERATION BY THREE HEARTS ADT LLC AND THE ADOPTION OF THE ATTACHED VARIANCE MADE BY KELLY VANBUSKIRK AND SECONDED BY JEREMY KATZMAN. THERE WERE ALL AYES ON THE ROLL CALL VOTE. MOTION WAS APPROVED.**

Chairman Rouse turned over Item 4A2 to Mr. Chockley.

Mr. Chockley introduced the item and presented the staff report as follows:

Two variances are requested for approval of the accompanying Conditional Use.

- 1) Decrease the amount of parking required from 1space/100sqft to 1 space/450sqft or 147 spaces to 32 spaces.
- 2) Increase the amount of community assembly for the center from the code allowed maximum of 25% to 36% for the center overall.

The applicants justify the variance requests based on a number of considerations including the following:

1. The proposed use would only require 31 parking spaces as a result of a maximum of 29 staff members and 2 spaces dedicated to visitors. Per the justification/operation plan the pupils do not have the ability to drive themselves and any parents or individuals who transport the pupils are not permitted to park at the facility.
2. The applicant states “The literal interpretation of the parking requirement is completely out of scale with the petitioner’s actual parking needs, thereby denying the petitioner the ability to locate within the property despite the capacity of the parking lot being able to accommodate the petitioner’s actual parking needs”.
3. The proposed training center will have less impacts on the parking area with only 29 staff members compared to a similar office type use. The nature of this use is technically a community assembly use but the impacts commonly associated with community assembly use do not all apply to the way Three Hearts ADT will operate.

4. The applicant states “There are several small businesses located in the same and adjacent buildings that can potentially provide volunteer opportunities for clients... and a number of parks close by that can provide opportunities for community outings and outdoor training opportunities”.

**STAFF FINDING:** Staff has determined that the application meets all the submittal requirements for review and processing of a variance petition and may be recommended for approval based on the following findings:

1. The variance requested would be the minimum variance necessary for the petitioner to make reasonable use of the property.
2. The granting of this variance will not be detrimental to the public welfare or injurious to property or improvements in the zoning district or surrounding neighborhood due to some of the above statements and committing to a very specific operational plan.

Mr. Chockley advised that all outstanding DRC comments have been addressed and the action requested is to make a recommendation, which will be forwarded to the City Commission for final action.

Mr. Chockley turned the item back over to Chairman Rouse.

Chairman Rouse asked if the Petitioner had anything to add.

Ms. Fernandez stated that she did not.

Chairman Rouse opened the public hearing for petition #V6-5-21 at 7:51 PM.

Chairman Rouse closed the public hearing for petition #V6-5-21 at 7:52 PM.

**MOTION: TO APPROVE VARIANCE #V6-5-21 CONTINGENT UPON CONTINUOUS OPERATION BY THREE HEARTS ADT LLC MADE BY JEREMY KATZMAN AND SECONDED BY CANDACE COYNE. THERE WERE NINE AYES ON THE ROLL CALL VOTE WITH JAMES CURRAN DISSENTING. MOTION WAS APPROVED.**

**5. COMMUNITY DEVELOPMENT REPORT:**

Chairman Rouse turned it over to Mr. Chockley to inform what petitions they have upcoming.

Mr. Chockley advised that we currently do have multiple petitions. Looking at dates in the next month or so, we have Lockup Self Storage which will probably be your next petition to be heard. They haven't completely finalized the submittal they dropped off. Right now, they're still ironing out a couple of issues but they will either go to the 11/15 or the 12/6 meeting. We should know by the end of this week

which of those two they will go to. We have the First Baptist Church adjacent to Renaissance that will probably come in either the 12/6 or the 12/20 P&Z. They are doing a school expansion with a gymnasium paired with it and then probably early January we will be bringing some comp plan amendments. The recent legislation edit of property rights element to beef up neighborhood notifications that we're working on language. In January it will probably come before this Board. As promised, it will be a busy end of the year and beginning of the New Year.

Mr. Chockley turned it back over to Chairman Rouse.

**6. BOARD MEMBER CONCERNS:**

Chairman Rouse asked for any board member's concerns.

Ms. Coyne asked about issues we had talked about previously and what action had been taken.

Mr. Chockley said that they had worked on this a little bit but had been buried with petitions that have come in and as such had not had a lot of time to really do research on other cities.

Mr. Katzman said that he was excited to share that Cooper City, through the City Manager, is applying to be an autism friendly city. This is something that I've been working on connecting a few organizations with Cooper City. One is called HAPPY which is helping adults with autism perform and excel. Another is UM NSU CARD Center for Autism and Related Disorders. The City already has the event at the fire station every year which is wonderful. This is taking it to the next level and training municipal leaders, elected officials, city officials, including yourselves hopefully would be included, law enforcement, fire, and then even small business owners to help the City work with people who have special needs. I think it'd be a really great partnership with the organization that was just here. And from my understanding, City Manager Napoli is applying for the City to be a part of that. It's free, by the way. It's 100% free through Preparations. I just wanted to share that because it was so relevant to our petitioners tonight and hopefully it will move forward.

Chairman Rouse asked for any other member concerns.

Mr. Federici said that he thinks this Three Hearts is going to be a great little school. I was asking Ms. Dodge if she was familiar with the Marian Center in north Dade. It's run by a bunch of nuns and we need more schools like this. And the good thing about this, and I know that Jamie had concern about parking, is that I don't think you're going to get too many of those students that will be driving. That is a unique situation. I think we made the right move and I applaud everybody. Thank you.

Chairman Rouse asked for any other concerns and turned it over to Commissioner Shrouder to address the Board.

Commissioner Shrouder said that he wanted to speak with the Planning and Zoning Board. In the City, he stated, we have really done a big push on code enforcement. A lot of the codes need to be updated. I would love to see Planning and Zoning take that on as much as you can. The goal is to update things that

are not efficient or out of date and to really have reasonable, sensible code enforcement. We're already getting a lot of pushback because when you go from zero to something, people really feel it. Although I think there have only been like eight actual citations. Most of them are warnings. But I would love to see Planning and Zoning take that on. It makes it easier for us to say, "Hey, this has been considered by Planning and Zoning Board which is made up of residents." I think that really helps us take the hit because a lot of people just ask "Why do we have to do this? Why do we have to do that?" rather than providing a solution. With code, you have to draw the line somewhere and I think it's best if we're doing that with you guys.

Inaudible discussion followed.

Mr. Chockley said that they had done approximately forty code changes within about a year.

Chairman Rouse asked if the code issues were things that are not being addressed or things for which there is no written code. He asked if it was that the code doesn't go deep enough or if it was just strictly the enforcement of existing codes.

Commissioner Shrouder said that it is a combination. One example of something that was not on the books, which we did put on the books, was parking in the front yard. Previously, it had not been addressed. I think everyone agrees that you shouldn't park in your yard. Other codes just need to be updated like, for example, the noise ordinance. So we have these Airbnbs, or short term rentals, and they can cause a lot of trouble. We had a lot of trouble in the townhomes with it, and the police didn't have any tools to actually address the situation. They were sending out certified letters, which by the time that process got going, spring break was going to be over. In this particular situation, they had advertised the property as close to the beach, and they were getting a spring break crowd, literally, in Flamingo Townhomes. We were able to change the code to put in there that, in addition to determining the decibel level with a decibel reader, that police officers could judge the noise within so many feet. I think it's 200 feet from the property line. Only Code Enforcement carried the decibel readers. The night shift police officers don't have these readers. The code change provide a mechanism for the night shift police officers to deal with this problem. We also added that with reasonable notice, which we articulated to be ten minutes, the officer could take action if they did not comply. So now, the police can show up and say, "Turn down the music." They are allowed 10 minutes, and if not, they can take the person to jail. So these are the different things. The noise ordinance was an example of something that needed to be fixed and the front yard parking was an example of something that just wasn't previously addressed. The best way to do it is probably to have the Planning & Zoning Board to have a meeting with Code Enforcement because they actually see the on-the-ground stuff. There are a lot of things we could look at and we could have a very robust Planning and Zoning. Consider Coral Gables which regulates paint colors. We don't have to get that extreme but I do think we have to update a lot of the codes.

Chairman Rouse stated that we have a charter review that reviews the charter every five years or so and asked if there ever been a panel that the Commission has put together to review where the panel comes to P&Z and we look at the entire code instead of going through staff, per se.

Commissioner Shrouder said not that I'm aware of.

Mr. Chockley said that it had been sixteen or eighteen years ago that we had a Blue Ribbon Committee. They went through as a committee where all they did was go through code sections.

Chairman Rouse said that might be an opportunity to overhaul the whole code at once. He also mentioned that there has been some consideration of moving away from BSO and asked how an independent police agency might affect code enforcement in the future.

Commissioner Shrouder said he didn't know that it would be affected. Two of the four code officers we have now worked for the Cooper City Police Department previously. One of them, Mark Reale, actually worked for the Cooper City Building Department when code enforcement was under the building department. When code enforcement merged with the police department, he went with the police department. When it went to BSO, he went there. So I don't know that the color of the uniform is going to change or matter. It's just that code enforcement is aware of things that we are not when we start figuring out what's going on with code. There are things that they see which we do not.

Inaudible discussion.

Commissioner Shrouder said that another example is the definition of commercial vehicles. As a Commission, we've given a directive to code enforcement that a ladder apparatus on a vehicle won't make it commercial. But that's not necessarily defined in it. If you had somebody who had an unmarked white van, but they have a ladder thing, they can put magnets, obviously, on their van, but you're not going to be able to take down a ladder rack, so we need to determine if that is a violation or not. So these are the intricacies that I think have to be hammered out, and really, when you talk about code, you need the Planning and Zoning Board to be part of the process, so it's not just five people unilaterally or, I guess, majority making some arbitrary decision.

Chairman Rouse stated that he is not opposed. This Board has always been enthusiastic to take up new charges. So if you put together some sort of mechanism where we can evaluate the whole code, I think we're able to do so. And if we can work in the next year or so, we can just maybe do a handful at a time.

Ms. VanBuskirk said that she was going to make a similar suggestion stating I agree that the code needs a fresh look. To look at the whole code, however, is kind of wide in scope to even be able to gain any traction. But if there are particular areas of the code that Commission is finding problematic, they can make those suggestions to staff and they can bring those to us. Then, outside of that, once we're through those initial areas that are problematic, they can put together a deliberate and methodic methodology by which we can look at a section at every meeting, or something along those lines.

Commissioner Shrouder stated that might be the best way to send things through to P&Z that need more in depth consideration.

Chairman Rouse asked if citizens are coming forward during Commission meetings with these concerns or if these were just items that have been pushed around for a while.

Commissioner Shrouder said they are coming to Commission. You could arrest them and they wouldn't be as angry as if you give them a warning. You give them a warning and they go through the roof. We were extending the boats from 12 to 13 and they showed up at Commission to tell us they moved here to



have their boat and why are we not allowing it. We had to say we were actually extending it, not decreasing it. So, these things really hit a nerve with people. It has to be a united front. One of the big things that changed was that the City was responsible for replacing a sidewalk that bordered your property. Traditionally, most cities will say that not only is the abutting landowner responsible for maintaining the sidewalk but also repairing it. And although the City may enjoy the ability to fix it sometimes, I don't know that you would want that all of the time because now it's kind of created, in my opinion, a cluster. If you're getting a permit now, the City wants to make sure that you didn't damage it, so they're sending out another department to check to make sure that it wasn't damaged, and then they're holding up your permit, and then they come back out again to clear your permit. That wouldn't even be necessary, if the homeowner was responsible for it. You don't have to have a whole tracking system or inspection system. So, that's something that I think needs to be revisited. In theory, it sounded good. That's kind of something I think that when they changed it they thought it made sense. I don't think it does make sense. So you're required to maintain it, but not replace it. So if it's dirty, it's on you, but if you took a hammer to it and destroy it, it's on the City.

Mr. Federici said that he has a problem with the trees in the City lifting up the sidewalks. Now, if we had an arborist to begin with, they would know that live oak trees or mahogany nut trees, or whatever else trees they are, twenty or thirty years later, those trees are not the same size they were when you planted them. I know you people have been having that discussion before. With the small swales, the roots have to go someplace. At my house right now, it's lifting up my driveway. I've got to address that now but I'm in an HOA. It's because of the tree which is on maybe a four or five foot swale. He asked how the City would address that.

Ms. VanBuskirk said have the City plant it with the City sidewalks. As a homeowner, we didn't ask for the sidewalks.

Commissioner Shrouder said I will remind you, the City is the people. So the people planted it.

Ms. VanBuskirk said the City is the people, but if I fall down on the City sidewalk, which I've done many times walking, then 411Pain and I are going to have a talk. It's hard to be fair to both sides. I was going to talk to you about that because there was a comment made. What you wrote back to the comment was beautiful. In talking to the person whom I live with, there could be a liability issue. You have to be careful on the City's part and on the person's part.

Commissioner Shrouder said that you don't want to live in a bubble.

Ms. VanBuskirk agreed.

Commissioner Shrouder said he knows lawyers have to make a living but we have to get practical. The trees are one of the issues. And regarding tree trimming, it's the same thing. Our code technically requires the abutting property owner to maintain it. The City budget does some of it but really not enough. I try to explain to people that we collect \$19 million in property taxes and our BSO costs us \$26 million. So there's not a lot of money to trim trees. We could charge everybody, because we get our money from the residents, to trim the trees, but once it goes through the bureaucracy of the city, you're probably getting twenty-five percent of that returned and you're lucky if they hit your house. So, the abutting property owner waters the swale even though it is the City's swale. Those are things that

invoke a reaction that it's the City's tree, or swale, and, now I'm having to deal with it. That's something I think that Planning and Zoning would have to consider and say, "Hey, listen. There is no City; it's the residents. The money comes from the residents."

Mr. Goulet asked if the majority of complaints with code enforcement were from gated communities or outside of gated communities.

Commissioner Shrouder said that code enforcement doesn't really go into gated communities, unless they're called, so the majority is outside of gated communities.

Mr. Goulet said that he lives in old Cooper City and has been there for twenty-seven years. What's going on with these homes, the way they take care of them, the way they paint them, it's kind of disgusting and I think we should revisit some of these codes and get these homes cleaned up because it does affect their resale value, obviously. Not right now, but maybe in a few years, it will.

Commissioner Shrouder said I agree. I would like to see our Planning and Zoning Board be aggressive and a lot more involved like other cities such as Miami Springs, Miami Lakes and Coral Gables. That is a possibility. Planning and Zoning has all of the authority to be able to do those things. Historically, I know we've just kind of responded to petitions, but I'd like to see the Planning and Zoning Board become a lot more intimately involved in the beautification of the City and the changing of the code. If you can't sleep at night, read the code and dream up some stuff to bring forward.

Chairman Rouse said we appreciate your opinion and asked if there were any other member concerns.

Commissioner Meltzer thanked everyone and said I know you're going to do some great things moving forward. Tonight was just the start. In the '22 budget that we just approved, I believe there's going to be about \$700,000 committed in that budget to the beautification of Cooper City in terms of pressure cleaning, new sod and new landscaping on our main thoroughfares. You're going to see a huge impact. We, as a Commission, and I'm sure the residents would agree, we want this place looking like Weston again and more like the way it looked years ago. We've been decaying at the fringes, let's say, for a period of time, and I believe, to that end, this Board is going to be integral in helping us to get to that point. In regard to the trees, we had a workshop back in the spring talking about broken sidewalks. We're talking about asphalt in the streets getting cracked. In some cases, the residents have waterlines leading from their homes that are being damaged by the roots of the live oaks, the mahoganies and the black olive trees. Forty years ago, when these trees were planted, they were plentiful. They were very inexpensive. We knew they were going to be beautiful eventually but they were planted in the wrong spots. If they had been planted all along Morris Cooper Boulevard right here, terrific, because you have swales that are twenty-five feet wide. But you have, like Jimmy Federici says, his swale in front of his house is six feet wide, he's got a forty foot black olive tree on there that's just tearing his driveway up & tearing the sidewalk up.

Mr. Federici said it is a live oak.

Commissioner Meltzer said it's a live oak. I'm sorry. Somebody here had a black olive tree. The point is that pouring more money into fixing the sidewalks isn't the answer. Pouring more money into fixing the streets isn't the answer. The answer is getting rid of the offending trees without offending the

residents. The residents love their trees. They love their canopy. One idea we floated at this workshop was to perhaps start with a voluntary removal program. That is going to cost money. There's no question that will cost money. We already have the costs for removing one of these monster trees. There has been some confusion but I think we know now what it's going to cost to purchase a new approved tree and plant it in the swale. Every swale that we do this to will remove the need to be fixing sidewalks forever. We're not going to have to fix the asphalt in the streets anymore. We're not going to have to listen to the residents say, "Well, my driveway is getting lifted up by the roots of this tree that the City planted." The City owns the swale but the residents are responsible for it which makes no sense. These are the things that we want to try to do to fix Cooper City's curb appeal. Because you know curb appeal is a big part of keeping our property values up. Hopefully we can utilize this Board once we get this initiative off the ground in the foreseeable future. And you can be of great guidance and assistance to making Cooper City look the way it's supposed to look, like we all remember.

Inaudible discussion.

Commissioner Meltzer said in the City, on your personal property, if you take a tree out, you have to put a new tree in; otherwise you're paying into the Tree Canopy Fund which I think it's \$150 per tree removed.

Inaudible discussion.

Commissioner Meltzer said that the idea is to keep trees on the swales. Let the residents have some beautiful trees that aren't going to tear up their properties in the future. Thank you, Chair, and thank you, Board.

Chairman Rouse asked if the Mayor would like to give us some good advice.

Mayor Ross said the good advice is always talk to people. The people you might want to talk to would be your magistrate who listens to and interprets the ordinances. And then you may want to talk to your prosecutor as well through the City Attorney's Office. They utilize the ordinances every time they try to prosecute. If there's trouble with them, they'll tell you which one. But I really came up here to say thank you. It is wonderful to see everyone in person. I'm sure you're thrilled to be back to the new normal, as it is, because you can still go virtual. I've got to tell you, what you do here and what you've done, with the questions you're asking, you are taking this as it should be, seriously, and I do thank you for that. So keep up the good work.

7. **ADJOURNMENT:**

Meeting adjourned at 8:17 PM.