

April 21,2022

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
April 21, 2022

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Edwin Fryer, Chairman  
Karen Homiak, Vice Chair  
Karl Fry  
Joe Schmitt  
Paul Shea

ABSENT:

Robert L. Klucik, Jr.  
Christopher T. Vernon  
Tom Eastman, Collier County School Board Representative

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager  
Mike Bosi, Planning and Zoning Director  
Jeffrey Klatzkow, County Attorney  
Heidi Ashton-Cicko, Managing Assistant County Attorney

P R O C E E D I N G

MR. BOSI: Chair, you have a live mic.

CHAIRMAN FRYER: Please come to order. This is the April 21, 2022, meeting of the Collier County Planning Commission.

Everyone please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: I ask the secretary to please call the roll.

COMMISSIONER FRY: Thank you, Mr. Chairman.

Mr. Eastman?

(No response.)

COMMISSIONER FRY: Mr. Shea?

COMMISSIONER SHEA: Present.

COMMISSIONER FRY: I'm here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER FRY: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRY: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRY: Mr. Vernon?

(No response.)

COMMISSIONER FRY: Mr. Klucik?

(No response.)

COMMISSIONER FRY: Mr. Chairman, we have a quorum of five.

CHAIRMAN FRYER: Thank you, Secretary.

Addenda to the agenda. Mr. Bellows.

MR. BELLOWS: Good morning. For the record, Ray Bellows.

We don't have any changes to the agenda today.

CHAIRMAN FRYER: Thank you.

Planning Commission absences. I want to bring up a subject for discussion and see if we agree on a matter, and it has to do with the single item that is scheduled for our May 5, 2022, Planning Commission meeting. This is -- it's not applicant originated. It's staff originated, and it has to do with the very important subject of affordable housing, so we don't -- certainly don't want to give it short shrift; however, it's only one item. And I want to be a careful steward of your time and the time of staff. And staff has indicated to me that they would be comfortable and it would be doable for us to move that single item and combine it with the five items that already are on the May 9 [sic] agenda. So without objection.

COMMISSIONER FRY: May 9 or May 19?

CHAIRMAN FRYER: May 19, yeah.

Without objection, and seeing none, then we will continue the item that is scheduled for May 5, the affordable housing GMPA, to May 19.

COMMISSIONER SCHMITT: GMPA?

CHAIRMAN FRYER: It's a GMPA, yeah, staff initiated. And we will not be meeting then. We would not have a first meeting in May. So my question then becomes, does anyone know about their presence or absence for May 19?

(No response.)

CHAIRMAN FRYER: It looks like everyone who is present today at least at the present time thinks that they will be present then, so that's good. And if that holds, we will have a quorum. That's May 19. So mark your calendars that we will not be in session on May 5.

Now, we have two sets of minutes that are before us for action this morning, those of February 17, 2022, and those of March 17, 2022. If there are no corrections to either of them --

COMMISSIONER HOMIAK: I do have --

CHAIRMAN FRYER: Oh, then we will vote upon them separately.

COMMISSIONER HOMIAK: February 17th.

CHAIRMAN FRYER: Please go ahead.

COMMISSIONER HOMIAK: On Page 19 of 27 where it says "Commissioner Homiak don't use," it should say "we don't use them," and on 25, Commissioner Solis should be Commissioner Shea, I think. Another S word.

CHAIRMAN FRYER: Another S word. All right. So does the court reporter -- did you get those changes? All right.

COMMISSIONER HOMIAK: And with that, I will make a motion to approve.

CHAIRMAN FRYER: Okay. It's been moved.

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Moved and seconded that we approve the minutes of February 17 as amended. Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: They pass unanimously.

COMMISSIONER SCHMITT: Mr. Chairman, I did have a question.

CHAIRMAN FRYER: Of course.

COMMISSIONER SCHMITT: I will not be here on May -- or correction -- June 2nd. Was that meeting canceled?

CHAIRMAN FRYER: Yes.

COMMISSIONER SCHMITT: Was that the meeting that was canceled?

CHAIRMAN FRYER: Yes. In fact, I think our first meeting's in --

MR. BOSI: No. Mike Bosi, the Zoning director.

The second meeting in June is scheduled. The 16th is the day that the Board of County Commissioners has the budget hearing within the chambers; therefore, the 16th is the June meeting that's being canceled. The first meeting in July is going to be conducted. The second -- which is, I believe, the 7th of July, and the 21st of July is the meeting that's being canceled, the second meeting in July.

CHAIRMAN FRYER: Okay. Well, I didn't write down any of that, and so I'm going to ask you to email us, please, with the exact schedule so that we can all change our calendars.

COMMISSIONER SCHMITT: So the June 2nd meeting is taking place?

MR. BOSI: Yes.

COMMISSIONER SCHMITT: Okay. I will not be here for that meeting.

CHAIRMAN FRYER: All right.

COMMISSIONER SCHMITT: June 16th is not taking place?

MR. BOSI: Not taking place.

COMMISSIONER SCHMITT: So we've got to at least update our calendars.

CHAIRMAN FRYER: All right. So we will look forward to receiving an email from staff giving that to us, again, so that we can change our calendars.

That brings us to the March 17, 2022, meeting minutes. Are there any corrections to those? If not, I'd entertain a motion.

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: They pass unanimously.

Thank you very much.

BCC report and recaps. Mr. Bellows.

MR. BELLOWS: On April 12th the Board of County Commissioners heard the Bayshore/Gateway Triangle LDC amendment. This was the second of two required meetings at the Board level, and it was approved on their summary agenda.

CHAIRMAN FRYER: Thank you.

Chairman's report. Nothing today other than, perhaps, a quick word to remind all of us not to speak over one another. It makes it difficult not only for the electronic audio but the court reporter. And I know this particularly happens when we are moving quickly and crafting amended language and the like. We all are trying to speak as fast as we're thinking, but we need to pay special attention to the need not to interrupt one another when those times come, or at any other time.

All right. Consent agenda. None today.

\*\*\*Public hearings. We have two companion matters before us. They are PL20210002454, and that is the Hacienda Lakes North Area DRI Development Order Amendment, and PL20210001791, which is the Hacienda Lakes North Area MPUD Amendment.

All those wishing to testify in this matter, please rise to be sworn in by the court reporter.

(The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN FRYER: Thank you. Ex parte disclosures from the Planning Commission starting with Commissioner Shea, please.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER FRY: Ditto.

CHAIRMAN FRYER: Staff materials, meeting with staff, and matters of public record.

COMMISSIONER HOMIAK: I spoke briefly to Mr. Yovanovich, Ms. Crespo, and Mr. Frantz.

UNIDENTIFIED SPEAKER: We can't hear.

COMMISSIONER HOMIAK: I spoke briefly to Mr. Yovanovich, Ms. Crespo, and Mr. Frantz.

COMMISSIONER SCHMITT: I spoke to Mr. Yovanovich, and that is all regarding this matter.

CHAIRMAN FRYER: Thank you very much.

And with that, we'll begin with the applicant's presentation. Mr. Frantz.

MR. FRANTZ: Good morning. Jeremy Frantz, for the record, with RVI Planning and Landscape Architecture.

If you don't mind, I'm going to make one presentation but cover both of the requests today.

So our team consists of Toll Brothers. We have Rich Yovanovich with Coleman, Yovanovich & Koester; myself, Jeremy Frantz with RVI Planning and Landscape Architecture; and Jackie Larocque with Atwell.

Toll Brothers is familiar hear in Southwest Florida and, in particular, in Hacienda Lakes, the

subject today. They are the developer of Azure at Hacienda Lakes. So this is kind of a continuation of more Toll Brothers development in the area.

And just to highlight where we are, you can see -- I'm going to try and use this if I can remember how to do these things.

Our project is up here in the very northern section of Hacienda Lakes. To our south is the Swamp Buggy tract, and to the north is the Vido (phonetic) Isles, Willow Run, San Marino area. So we're really focused on this northern area of the PUD and not really addressing the larger PUD, although we're making some map changes and things like that. So advertisements and signs might have made it look like we're making changes throughout the entirety of the PUD.

And as a reminder, the Hacienda Lakes PUD/DRI is currently approved. It's approximately 2,200 acres. It allows for residential -- a mix of residential dwelling types, retail, commercial, professional office, medical office, hotel rooms. There is a business park tract that also could allow for an education facility and, as I mentioned, Swamp Buggy attraction, and Junior Deputy -- Junior Deputy tract.

The site that we're talking about today is a 144-acre portion of the overall PUD and has access on the west to Collier Boulevard and on the eastern portion of our project to the future Benfield -- future Benfield Road.

We are not asking for any changes to those approved uses or any increase in density or intensity. Our changes are limited to reorienting the business park and residential tracts up in that northern area, and I'll show that on the screen in just a moment.

We're adding some deviations related to signs, wall height, to allow a dead-end street, and to address buffer requirements. The remainder of these changes are mostly kind of cleanup changes. So we're adding some -- and updating some access locations, removing RV uses and references throughout the PUD, updating the development standards and incorporating some previous HEX/Hearing Examiner changes, and updating the PUD and DRI maps to reflect all of those things.

So here you can see the current PUD up in the northern area and proposed. You can see -- I'll use this again. This portion of the northern tract allows for the RV uses. There is currently access on Collier Boulevard here. There is an access point to the northern properties there. And then, as I mentioned, Benfield Road to the east.

Our changes are -- you can see the BP tract, the business park tract, has been reoriented. It does maintain the acreage that was previously approved, 35.38 acres, but just reorients the boundaries. You can see the two access points on the northern property line are circled red. Those are kind of adjusted and added to the request today. And the access points on Benfield Road and Collier Boulevard are adjusted slightly to reflect anticipated build conditions.

Similar changes are reflected in the DRI. So we've modified the BP and the residential tract, we've updated those access locations to the same places as the PUD, we're removing the reference to the potential for RV uses, and updating the Lords Way/Hacienda Lakes Parkway change.

We're in agreement with all of staff's Conditions 1 through 4; however, Condition 5, we don't agree. Deviation 18 is that deviation related to the buffer on the northern property line. I'm actually going to go back a slide, or two.

So on the northern property line, the deviation allows for two separate scenarios. In this area west of the FPL easement, the deviation allows for no buffer to accommodate an anticipated development. That will all come in as one Site Development Plan with the properties to the north. So we're requesting no buffer there, as it will be a single development. And to the east of the FPL easement, we're requesting no buffer in the case that the properties to the north are rezoned to also allow for no buffer.

And what we're trying to do there is take advantage of a really significant amenity in the lake that is to the north. In some places that lake will be expanded to the property line of Hacienda Lakes, and so there will be anywhere between 900 and 2,000 feet -- 2,200 feet of lake separation between residential tracts within Hacienda Lakes and to the north in what will become San Marino

PUD.

CHAIRMAN FRYER: Mr. Frantz, I'm going to ask a question of you. And pardon me for interrupting, but I think this would be a good time.

MR. FRANTZ: Sure.

CHAIRMAN FRYER: Is it fair to say that in each and every case where you are requesting a buffer deviation, relaxation of the buffer requirements, that that is to create a view of a lake or that there will be a lake there in each and every case?

MR. FRANTZ: There will be a lake there. That is the intention. They're, you know, trying to take advantage of the ability to, yeah, view the lake, but also there may be some lake use rights as well. So we're trying to take advantage as much as possible to that.

CHAIRMAN FRYER: But the answer to my question, each and every -- and here's Mr. Yovanovich. What's the answer?

MR. YOVANOVICH: The answer is, yes, there might be a lake bank, but the water may not be physically right on the boundary.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: And there will be no use rights. And Jeremy didn't know that, so I just wanted to clarify that on the record.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: But, yes, it's to take advantage of that view. There's -- Toll Brothers is working with the owner of the property to the north, and they both have agreed to no buffer.

CHAIRMAN FRYER: Okay. So let me rephrase it. In each and every case where there's not to be a buffer, there's going to be a lake -- not necessarily a lake view, but a lake?

MR. YOVANOVICH: There will be a lake view, not necessarily -- the lake water may not be physically to the boundary.

CHAIRMAN FRYER: Oh, okay.

MR. YOVANOVICH: There will be a lake -- there will be a view of that nice, big, beautiful lake.

CHAIRMAN FRYER: I'm clear. Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yes. The picture you're showing here, is that now an official rendering of what San Marino intends to construct?

MR. FRANTZ: That's currently in CityView. I took this out of CityView. It's not the -- it's not been approved or --

COMMISSIONER SCHMITT: Correct.

MR. FRANTZ: -- you know, heard by anyone, but that's what's currently approved.

COMMISSIONER SCHMITT: But this is the -- oh, the mining site. What is it?

MR. YOVANOVICH: Willow Run.

COMMISSIONER SCHMITT: Willow Run. Thank you. It's the Willow Run mining site. And there is a significant lake back there already --

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: -- from the mining and excavations, yes.

MR. YOVANOVICH: And, Mr. Chairman, I think we were on the same page, but we're talking about the deviation is for the property east of the FP&L line. West is going to be -- it will be a joint Site Development Plan. That's why there's going to be no buffer west of the FP&L line.

CHAIRMAN FRYER: There's no buffer at all, not -- and not a lake either?

MR. YOVANOVICH: No, it's just going -- what's going to come in is you're going to have a unified Site Development Plan that's going to incorporate both property in the -- thank you, Jeremy.

You'll see where it says San Marino parcel. That's property in the San Marino PUD, and then there's property in the Hacienda Lakes PUD. Those two parcels are going to come in as one

project, so that's why there's no buffer. We did the same thing up in the Tree Farm PUD up on the north part on town on Immokalee Road when you had two commercial tracts joined together to form one unified commercial development.

CHAIRMAN FRYER: Is this common ownership?

MR. YOVANOVICH: It will be, yes, yes. It is common ownership today, and it will be in the future, yes.

CHAIRMAN FRYER: Okay. But -- so that's on the west side but --

MR. YOVANOVICH: West side of the FP&L --

CHAIRMAN FRYER: -- but on the east sides --

MR. YOVANOVICH: East side is to take advantage of the lake view.

CHAIRMAN FRYER: And same with the north and south, to the extent that there's been any relaxation of buffer?

MR. YOVANOVICH: North and south. I'm sorry. I shouldn't have said east and west. You know -- you got me all screwed up on my directions. North and south, yes.

COMMISSIONER SCHMITT: Directionally challenged again.

MR. YOVANOVICH: I know.

CHAIRMAN FRYER: Okay. So -- well, I hate to belabor this, but I just want to be sure that we have a clear statement. On the west it's going to be common ownership and a single development plan.

MR. YOVANOVICH: Correct.

CHAIRMAN FRYER: And on the north and south, there are going to be either buffers or lakes?

MR. YOVANOVICH: Correct.

CHAIRMAN FRYER: And then what about on the east?

MR. YOVANOVICH: The east? The reference to east is east of the FP&L line. Where I just put the big, bold yellow, that's where the deviation applies.

CHAIRMAN FRYER: So will there be either a lake or --

MR. YOVANOVICH: Well, there will either be a lake -- it will be a lake tract north in the San Marino PUD or -- and if we reach an agreement with the property owner to the north, there will be no buffer.

CHAIRMAN FRYER: And what if you don't?

MR. YOVANOVICH: Then there will be a buffer.

CHAIRMAN FRYER: Okay. All right.

Commissioner Fry.

COMMISSIONER FRY: That actually was my question, just clarifying that these are conditional on the acceptance of the unified site plan to the west --

MR. YOVANOVICH: Uh-huh.

COMMISSIONER FRY: -- and of the agreement with the neighborhood to the north --

MR. YOVANOVICH: Correct.

COMMISSIONER FRY: -- for the properties to the west. Thank you.

MR. YOVANOVICH: Yes.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yes. Well, I guess, Rich or Mr. Frantz. The way the deviation is written, it sort of says first come, first served, meaning if you decide to build a multifamily or a triplex or a duplex or whatever on your side, does that now force -- the way it is written, does that now force San Marino to build the same product?

MR. YOVANOVICH: Only if you accept staff's recommended change to our deviation.

COMMISSIONER SCHMITT: Correct, the way --

MR. YOVANOVICH: We do not agree with staff's deviation change -- the change to that deviation. We believe that the distance -- the distance between either 900 foot to 2,200 foot is a

sufficient distance to separate it.

For instance, we go in with -- we're not going to -- if we go in with single-family and San Marino wants to put some type of townhome product -- and I don't know what they're going to do, but if they wanted to put a townhome product in, we think the separation of 900 feet is sufficient to not require us to put a buffer along the lake bank or for them to put a buffer along the lake bank. The developers can take care of themselves to make sure, in their own agreement, whether they're comfortable with what each is going to do in their own project. That's why we don't agree with staff's recommendation.

COMMISSIONER SCHMITT: My question then -- I'll defer to staff when it's their time to present. But my question is, the way staff is recommending, if you build a certain product, that forces San Marino to build the same product.

MR. YOVANOVICH: That is correct. That's what --

COMMISSIONER SCHMITT: They have no option. They may choose to build --

MR. YOVANOVICH: Or I have to -- or they could say, you know what, we're going to do something else, and then I'm going to go back and I'm going to have to plant -- I'm going to have to retroactively plant a buffer.

COMMISSIONER SCHMITT: Okay. So that's my problem with this. The way it's written, it sort of forces one to comply and follow the other. And I guess from my assessment, I believe that the separation is significant enough that that -- there should be no stipulation to require that the products match.

For example, I live in a community. I have a single-family home, and I have a small lake behind me, and there are fourplexes and eightplexes. I bought the house. I knew they were there. So I -- and it's far less than 1,000 feet.

So I guess when staff -- can they explain their justification when you present so we can discuss your recommended change.

CHAIRMAN FRYER: Thank you. No one else is signaling.

Mr. Frantz, do you want to continue?

MR. FRANTZ: Okay. Yes. So I think I covered everything on this slide and, really, that wraps up my presentation.

Staff recommendation is approval with conditions. We agree with Conditions 1 through 4. We're consistent with the Comprehensive Plan and Land Development Code, and with these changes the project remains compatible with the surrounding community and facilitates the continuation of the buildout of Hacienda Lakes. So any other questions, I'm happy to answer.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yes. On Page 3 of 21, it's our Packet 243, and I just want to make sure -- because I asked Mr. Yovanovich this on the phone. It says, reduce single-family detached side-yard setbacks from six to five feet; however, applicable minimum distances between principal structures will remain 12 feet. So that's pretty clear to me, but in some instances, there may be -- if a home is five foot on one side, then that means the other home's going to be seven foot. There will always be 12 foot between homes, correct? That's the way I read that. You'll always have a 12-foot separation.

MR. FRANTZ: That's right.

COMMISSIONER SCHMITT: So for whatever reason, if there's a 5-foot side yard setback on one side, then the other home will be a 7-foot setback?

MR. FRANTZ: Right.

COMMISSIONER SCHMITT: Okay. Clear. I just wanted to make sure of that for the record. Thanks.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: Just -- I wasn't around when the initial development came. Is



there any affordable housing in this? This is a pretty massive community, and I haven't heard anything about -- or has most of the land already been developed other than this piece we're talking about?

COMMISSIONER HOMIAK: We just had it last week.

MR. YOVANOVICH: I was around for that one and did the original. There was -- there was -- at the time there was an extensive discussion about whether or not there was a need for affordable housing in this area, specifically in East Naples, because there was a lot of affordable housing in the area at that time, and the Board of County Commissioners did not impose in the DRI an affordable housing requirement.

So the answer's, no, there's no affordable housing within this project other than you recently had a change to the senior housing parcel. But other than that, there was no requirement for affordable housing.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Why the change from six feet to five feet? It seems like a very minimal thing but, obviously, it's strategic in some way.

MR. FRANTZ: You know, really, we see quite often that maybe a pool cage is built a little bit closer to the property line, accessory structures and things like that. It gives us a little bit of flexibility but still maintains the, you know, development standards that were approved, we think, in terms of principal structure separation.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Even if you have a zero lot line, then it's still 12 feet, so...

MR. FRANTZ: Right.

COMMISSIONER SCHMITT: Well, this is the area, the last meeting, we just approved an -- and just for the record, again, affordable housing, we just approved a pretty significant development in affordable housing right across the street from Naples Lakes. So that was the large rental that went in there, so...

CHAIRMAN FRYER: Lords Way.

COMMISSIONER SCHMITT: Lords Way, yeah.

And it's just the dilemma of the affordable housing and the opposition to it versus the requirement, and I just wanted to make sure that the record understood that there is a large component of affordable housing going to be constructed there.

COMMISSIONER HOMIAK: Essential services.

COMMISSIONER SCHMITT: Yeah.

CHAIRMAN FRYER: Vice Chair, I'm going to ask you to please speak up a little bit.

COMMISSIONER HOMIAK: Oh, I'm sorry. For essential services.

COMMISSIONER SCHMITT: What about it?

COMMISSIONER HOMIAK: It wasn't really affordable. It's not like low income. They're saying affordable.

MR. YOVANOVICH: No. Those -- in the -- I think we now -- is it the Lords Way PUD? Yes. Now there are significant income-restricted units in that project, both the originally approved ones as well as the new units that were added. So I want to say it's somewhere around -- was it -- Mr. Chairman, we did the math. Was it around 20 percent of all the units?

CHAIRMAN FRYER: Yes, it was. It was just shy of 20 percent.

MR. YOVANOVICH: Were income restricted?

CHAIRMAN FRYER: Yeah.

MR. YOVANOVICH: And there was a larger percentage set aside for essential personnel than the 20 percent that were income restricted.

CHAIRMAN FRYER: Mr. Bosi.

MR. BOSI: Chair, that was -- it was 20 percent, and it ended up to 76 units, and they were dedicated to 80 to 120 percent of the average median income, so it has income restrictions. And as

well as, the prior approval for the affordable housing, prior to that action within the Lords Way, there was 57-some-odd units that were income restricted, and 147 had to be made available to essential service personnel, and I think that's what Commissioner Homiak was referring to.

CHAIRMAN FRYER: Yes. And I wasn't going to bring this up, but I will. At the last Board of County Commissioners meeting a public speaker ran a clip of a comment that I had made with respect to affordable housing, which I see divided into three branches, really, one of which I believe and still believe is illusory, and I don't give it very much credit, and that's when it's set aside for 30 or 45 days for essential services personnel but at market rates. So, really, the only thing the developer or the manager or the owner is doing is keeping it off of the general market for that period of time.

But nonetheless -- and that was a feature in this -- in Lords Way that was inherited from when it was previously before us. But I was satisfied with the meaningful affordable housing concessions that had been made as Mr. Bosi outlined. Thank you.

Let's see. No one is signaling at this time.

Anything further from the applicant?

MR. FRANTZ: Well, I just want to clarify for the other folks in the room that our request today does not change any of those land-use approvals, and I'm not requesting any changes to affordable housing, just so that that's clear for folks who might not be as familiar with the area.

CHAIRMAN FRYER: Yeah. I understand that we can't obligate you to set a trip cap, but I believe -- not that I have personal recollection of this, but from my research, that this might have been the project back in 2011 that gave birth to the request -- the requirement that there would be trip caps. And unless I'm mistaken, Mr. Yovanovich, I don't believe there's a trip cap inherited from the 2011 action.

MR. YOVANOVICH: I just -- I'm sorry. My -- I don't think this was the catalyst to future PUDs that had a trip cap. That was -- we've had that concept around for quite a while, and I think we started to codify it in PUDs. This wasn't the project that set that in motion. That's all I was saying.

CHAIRMAN FRYER: Well -- and you were around.

MR. YOVANOVICH: Yeah.

CHAIRMAN FRYER: I credit your recollection, but others have a different recollection. But that's really not relevant. I take it, though, that this applicant is not willing to establish a trip cap?

MR. YOVANOVICH: I can't, because I don't own all the land anymore. It's much easier to do when you're coming in with a brand-new PUD. But we've sold off parcels to other developers, and I can't now artificially limit their trips. That's where I'm kind of stuck at.

CHAIRMAN FRYER: I understand that, and I know it makes it more difficult that this is not the full PUD. This is just a segment of it.

MR. YOVANOVICH: Right.

CHAIRMAN FRYER: But it still could be done. And my concern -- in spite of what I know is coming to Collier Boulevard, my concern remains that with all of the development that's coming into the Hacienda area, I have serious questions about whether Collier Boulevard, even with its expansions that are planned, will be able to accommodate all that traffic and, therefore, I would like -- am making this public record of my concerns that we should be asking for trip caps even though they are segments of a PUD rather than the entire PUD. I'm not going to -- I'm not going to insist upon how I vote today, but I, nonetheless, wanted to have that word made public.

MR. YOVANOVICH: And if I may, just briefly. You-all haven't seen probably any DRIs since you've all been -- maybe -- actually, Ms. Homiak probably has. This is probably the last DRI that's gone through. But at the time DRIs went through a much more heightened review process, especially on transportation-related issues, so -- and since we're not changing any of the density or any of the other uses, this has been analyzed at a very heightened time, and we're still subject to concurrency as we come in. So it's not like there won't be adequate assurances that there is capacity

on the roads when permits are pulled.

CHAIRMAN FRYER: I understand that. And, of course, Tallahassee has made DRI amendments now localized, which I'm sorry that they did, but that's what we're working with, and I -- as I say, I'm not going to vote against this on account of the lack of a trip cap, but I just wanted to make a record that I wish that we were able to, starting now with that huge area that's undeveloped and with a view to what could possibly happen on Collier, very important series of segments on the AUIR, that we could run into some very serious traffic problems. So I've made my record.

MR. KLATZKOW: And just to note, there is no transportation concurrency anymore. It's a dead concept in reality.

CHAIRMAN FRYER: Thank you. Indeed.

MR. YOVANOVICH: One more thing, if I may. If you look at -- if you look at the DRI and the PUD, there were significant developer commitments to address traffic concerns. There's a huge section of the PUD that addresses setting aside land, conveying land with no impact fee credits.

So transportation was front and center when the DRI went through, and in reliance upon those dedications, we agreed to -- you know, we -- we addressed our traffic impacts.

So this is more difficult than just simply saying we want to impose a trip cap, because we have provided right-of-way and other commitments to address traffic. So I don't think it's as easy as just putting in a trip cap.

CHAIRMAN FRYER: I understand. And I'm not going to be influenced one way or the other about that issue. It's just something that's of concern to me.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Just for the record, as far as DRIs -- and, certainly, when I was the administrator, for my other colleagues, it was a pretty significant issue because of the Regional Planning Council. Though a great concept, it was pretty benign. We used to have to send DRIs through the Regional Planning Council. I guess, in my recollection, it really didn't mean much of anything because it really still fell on the local government. I think that's why Tallahassee said it's a local issue.

My question to the petitioner, do you have any vested rights based on the DRI approval and traffic? Was there any determination of vested rights?

MR. YOVANOVICH: I don't think -- well, we haven't gone through the formal determination, but I believe we have rights vested in this project through the commitments we made and the dedications we've made towards transportation.

COMMISSIONER SCHMITT: As far as the other developments within the DRI that either are under development or have been submitted, you have paid certain portions of the -- of the --

MR. YOVANOVICH: We're paying impact fees.

COMMISSIONER SCHMITT: Impact fees. Thank you.

MR. YOVANOVICH: We're paying impact fees.

COMMISSIONER SCHMITT: Oh, boy. Senior day today. Impact fees.

So, essentially, there are already some vested rights that -- obviously, you haven't made a vested rights determination, but you do -- you must have some there by now.

MR. YOVANOVICH: We certainly believe we do, but we've paid our impact fees as we're going through the project, yes.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you.

Vice Chair.

COMMISSIONER HOMIAK: It is mentioned in here in a couple of places that total -- I'm sorry. Sorry. Total project intensity: In no event shall the project exceed 3,328 p.m. peak-hour trips.

CHAIRMAN FRYER: Where do you see that?

MR. YOVANOVICH: I thought there was one in there.

COMMISSIONER HOMIAK: There is. It's mentioned in here a couple times in the land-use conversion factors.

CHAIRMAN FRYER: So that is -- that's for the whole PUD?

COMMISSIONER HOMIAK: It's Page 281 of the packet. I can't see the page because it's blocked, but...

CHAIRMAN FRYER: All right. Well, thank you for your eagle eye.

COMMISSIONER HOMIAK: Well, I read it.

CHAIRMAN FRYER: Gee, I thought I read it, too. I missed that, though. Thank you. Thank you.

All right. Anything further from the petitioner?

MR. YOVANOVICH: No, sir.

CHAIRMAN FRYER: Okay. Thank you. Staff?

MR. BELLOWS: Good morning, Commissioners. For the record, Ray Bellows, planning manager with Zoning Services.

I've worked on this petition with our consulting planner, Laura DeJohn, and we found this project consistent with the applicable elements of the Future Land Use Element, and staff has reviewed the changes for compatibility, and we support the deviations.

We have a disagreement with the applicant on the buffer issue. And I do applaud the concept of having lake view corridors for both projects and working out an agreement. I'm very supportive of that concept; however, a complete elimination of the buffer east of the FP&L line seems excessive to staff, and we were hoping to have something like clusters of landscape trees every either 60 feet or 120 feet, something to that effect.

CHAIRMAN FRYER: Let me see if I understand. We're talking about the FPL easement. And is that the 900 to 2,200?

MR. BELLOWS: Yes.

CHAIRMAN FRYER: Okay. So what's on that turf now?

MR. BELLOWS: There's nothing now.

CHAIRMAN FRYER: Nothing?

MR. BELLOWS: Correct.

CHAIRMAN FRYER: Okay. And there's no lake, obviously?

MR. BOSI: There's a lake.

CHAIRMAN FRYER: There is a lake?

MR. BOSI: The lake is existing.

CHAIRMAN FRYER: Okay. Does it cover the full length? No.

MR. BOSI: It goes all the way up almost to the eastern -- or to the FPL line; yes, it does.

MR. YOVANOVICH: It's going to be expanded further to the south, but, yes, it's a substantial lake now, and more of it's going to be dug.

CHAIRMAN FRYER: Okay. So is it fair to say, then, that on the -- we're talking about the east side, right? I'm getting confused here. On the east side that -- from one end of the FPL easement to the other, a very large portion of that will be lake, if not all of it?

COMMISSIONER FRY: The FP&L easement runs north/south, I believe. It's like a dividing line that they're --

CHAIRMAN FRYER: Yeah. And I mean from the north to the south on the easement. Is there -- is there a lake?

MR. BOSI: The FP&L is north/south. If you're looking at the -- this here, this here --

CHAIRMAN FRYER: Yes.

MR. BOSI: -- that's the FP&L easement. The lake where the buffer -- where the buffer request is starts, it goes here, over here, over here, over to here.

So what they're looking for is no buffer along there. Staff is looking, could we have 60 or 80 or every 120 feet a cluster of trees to give a little more -- it's not going to block the lake view, but it most certainly will enhance the ambiance of the natural -- of the natural feel. That's what we

were looking for.

CHAIRMAN FRYER: Well, I'm -- I'm in favor of buffers, and it seems to me that that's a reasonable proposal. Do you want to say anything further about it before Mr. Yovanovich replies?

MR. BELLOWS: No. For the record, Ray Bellows.

No, I think that completes staff's concern on that issue, and we are recommending approval.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Well, what about this compatibility thing? The way you're proposing it, it sounds like whatever one builder builds the other builder has to build now.

MR. BELLOWS: That would be subject to the agreement, that both parties understand that when one goes in, the other would have to either install a buffer or have a similar product type.

COMMISSIONER SCHMITT: So -- but again --

MR. BELLOWS: Yes, if they don't have that agreement, then they have -- this applicant has to install the buffer as per code.

COMMISSIONER SCHMITT: Which the buffer, then, would, for all intent and purposes, block the lake view?

MR. BELLOWS: Yes.

COMMISSIONER SCHMITT: But -- so you're objecting to a single-family home overlooking a lake where there may be --

MR. BELLOWS: Multiple --

COMMISSIONER SCHMITT: -- duplexes or --

MR. BELLOWS: Multifamily.

COMMISSIONER SCHMITT: -- or 1,000 feet?

MR. BELLOWS: Well, it's also the ambiance of the area of the landscaping and buffer is generally not solely to screen unlike land uses, but it is an amenity for the area.

COMMISSIONER SCHMITT: I'm not going to -- I don't argue the concept. What I have trouble with is somehow you're placing a burden on another property owner who is not party or parcel to this petition right now. And I know there would have to be an agreement made, but do you have anything from -- this applicant that is going to be allegedly called San Marino going to be coming in, do you have anything from them attesting to any type of objection to --

MR. BELLOWS: Not at this time. And so another option is just to say the first one in, if it's multifamily, has to build the berm and buffer.

COMMISSIONER SCHMITT: Well, again, I have a problem with one development forcing another development to comply with what the one development did. Where else do we do that in county, or where have we done that?

MR. BOSI: Let me provide a clarification. If they choose to have a different unit type, all they have to do -- they have to put the required buffer in. They don't get a deviation. So we're not asking them to do anything extra than the code would require. We're saying, if you have an alternative unit type, then you do have to install the buffer.

And from my perspective -- I understand residential to residential is inherently compatible. We are just a little sensitive sometimes to the issue of single-family against multifamily. And if there was that arrangement, we thought there would be -- could be a benefit to require the buffer to be applied as the code would normally require it.

COMMISSIONER SCHMITT: Again, I have no problem with that, but where have we in the past encumbered one development to comply with this type of requirement? I just don't even understand how, legally, we can force a property owner -- it's residential adjacent to residential.

MR. BOSI: Yes.

COMMISSIONER SCHMITT: And what's --

MR. BOSI: What we're saying is you don't get a deviation. You don't get to exempt yourself from the code that would apply. That's all we're saying. The code -- without this deviation, whatever they put in, they would have to put in a buffer. And we're simply saying, if it's not the same type of product, then the buffer would apply. If it's the same product, the buffer

doesn't apply.

COMMISSIONER SCHMITT: So in this regard, they don't own the lake. It's the neighboring property's lake. They're just trying to take advantage of the view, of course, and the marketability. And so staff is saying, you can't do that? You cannot develop this to afford these property owners who may purchase this property the lake view unless you put in a buffer.

MR. TEMPLETON: For the record, Mark Templeton, Development Review.

When there's development adjacent to a lake, the code does allow for a modified buffer.

COMMISSIONER SCHMITT: Yeah.

MR. TEMPLETON: And modified allows for up to 60-foot gaps between trees. The code contemplates this possibility of development next to lakes and says, well, if you've got a lake there, we can let you do up to 60-foot gaps between clusters of trees to allow -- afford some views to the lakes, and if the lake's wider than, I think, 1,500 feet, then the shrub requirement goes away. So it's pretty -- a pretty reduced buffer to allow for views to the lake. The code allows that right now.

COMMISSIONER SCHMITT: But, Mark, would it allow -- you're saying they can cluster, as was suggested, a cluster of sabal palms, a cluster every so many feet --

MR. TEMPLETON: No more than 60 feet.

COMMISSIONER SCHMITT: -- that, in reality, would not obstruct the view but would -- as you stated, would -- as stated basically that it would enhance -- provide some sort of easing or enhancement or whatever of the shoreline and create at least an appearance that you're looking for in that area. Does the petitioner object to that?

MR. YOVANOVICH: Yes, yes. We wouldn't be asking for that. Give me a second to explain why.

You have -- you have Stock Development who's the developer of San Marino. You have Toll Brothers who is the contract purchaser of these lots. They are working together to talk about how -- Toll Brothers' properties will have a view of the lake. Stock is perfectly comfortable with Toll Brothers having an unobstructed view of the lake because that will result in nicer homes being constructed within the Hacienda Lakes portion of the product which enhances the value of the lots in San Marino.

So you have two developers who are experienced developers saying, we are going to reach an agreement as to what will happen on -- Stock on their PUD and Toll Brothers in their PUD.

What I'm hearing staff say is, if Stock decides to put multifamily there, which is perfectly fine with Toll Brothers, Stock now has to put in a buffer for the multifamily, and I think I have to retroactively put in a buffer on the single-family because I'm no longer like for like.

So I've got to tell somebody who buys a lake view lot, you may not have it forever because Stock may put in multifamily across the lake, when the property owner really wants to see the lake, because even if you cluster every 60 feet, we have a gap; you have trees and scrubs. So the person who gets the trees-and-shrub lot doesn't get the lake view. If I'm going to buy on the lake and I don't want trees in my backyard, I should be -- I should be able to do that. If I want trees, I'll plant them.

COMMISSIONER SCHMITT: I want to remove the hypothetical, because if Stock's going to build there, I have to believe, as they have throughout Southwest Florida, build large single-family homes. That's, frankly, what's selling today. So if it's a single-family home and you're building a single-family home, what is staff's position then?

MR. KLATZKOW: You know, you've got to get everybody in the same room. Because I agree with you; I'm a little bit uncomfortable with a decision being made here by somebody not in the room.

COMMISSIONER SCHMITT: Yeah, I mean, I am, too.

MR. KLATZKOW: I agree with you. If it's the pleasure of the Board, continue this item, get both parties in the room, all right, and hammer it out --

MR. YOVANOVICH: Wait. Hold on.

MR. KLATZKOW: -- or deny the deviation.

MR. YOVANOVICH: We have a PUD in -- it's going through this process. San Marino is going through the process with the very same deviation. It requires the property owners to agree. If they don't agree, no deviation.

MR. KLATZKOW: You know, I hate when we start -- we start with one development, then they balkanize it. Then once we balkanize it, we just lose everything we originally planned for. You know, Heritage Bay is the perfect example of that where now we've got a traffic problem there because we can't get internal, you know, controls there because instead of having a single unitary ownership we've got multiple ownership, and now this community doesn't want that community to use their road and everything else. This is just what happens.

If the Planning Commission's concerned that not everybody's in the same room, put this off till next meeting, and let's see if we can get everybody in the same room.

MR. YOVANOVICH: I don't have time for a continuance. Let's vote --

MR. KLATZKOW: What do you mean you don't have time for continuance?

MR. YOVANOVICH: I don't.

MR. KLATZKOW: Yes, you do. You don't -- you don't dictate when something goes, you know, to the Board of County Commissioners, Mr. Yovanovich.

MR. YOVANOVICH: I'm just expressing that we've been going through this process, and we think it's something the Planning Commission can vote yea or nay on.

CHAIRMAN FRYER: Mr. Yovanovich, I know you've represented Stock in the past.

MR. YOVANOVICH: And I am now. I am -- I am their representative as well. I know what they're doing in the San Marino PUD.

CHAIRMAN FRYER: Okay. Is it fair to say that you, then, can speak on behalf of Stock?

MR. YOVANOVICH: I can tell you that we are just looking to keep the flexibility in the San Marino PUD when it comes through, because you don't know what's going to be around two years from now when you're building the product. More than likely, I agree with Mr. Schmitt, it's going to be single-family to single-family or duplex. If I put twin villas on the Toll Brothers side, now Stock's got to do twin villas on the other side. Those are the types of things that I just don't know what I don't know. But if the developers are comfortable with that, why does the staff need to get into the middle of it? That's my only -- my only comment.

CHAIRMAN FRYER: Mr. Bosi.

COMMISSIONER SCHMITT: Can we not come up with some language that is less restrictive, I guess is the word I'm looking for? Because it does place an undue burden on a petitioner who is yet -- who is not here, of course, but is going through the process, and -- but I'm going to go back to my question. If it's based on today's market, I would have to believe it's going to be single-family and single-family. So what would, then, have to be to put in place if it were that?

MR. BOSI: If it's single-family to single-family, there's no buffer from either side because it would be a -- it would be -- and the deviation in the condition does say that there has to be a unified agreement between the parties. So for them --

MR. YOVANOVICH: Right.

MR. BOSI: -- for them to seek -- for them to receive the deviation request, they will have to establish and show that there is a unified agreement between the two developers.

CHAIRMAN FRYER: Mr. Yovanovich, how far apart are the two developers in reaching the agreement?

MR. YOVANOVICH: They're not far apart at all. It is imminent. So -- and the deviation specifically says if I don't present an agreement to staff that says it can be zero buffer, I have to build -- I have to plant the buffer.

MR. KLATZKOW: Will you get that agreement before you hit the Board of County Commissioners? You said it's imminent.

MR. YOVANOVICH: Yeah, yeah. I'm thinking it will be signed before we get to the

Board.

MR. KLATZKOW: Well, do you want to make that a condition going to the Board that you get that agreement?

MR. YOVANOVICH: I'll present it to the Board.

MR. KLATZKOW: Do you want to make it a condition that you don't go to the Board without that agreement?

CHAIRMAN FRYER: We can make it a condition.

MR. YOVANOVICH: I will -- Mr. Klatzkow, I will present at the Board hearing the agreement. I can't promise you that it's going to be in the Board packet, is all I'm trying to say.

CHAIRMAN FRYER: We have control over our resolutions, and if we think that that's an important step, which I believe is, we can make it a condition of our recommendation if our recommendation is to proceed.

COMMISSIONER SCHMITT: Mark -- can I ask Mark to come up again? And based on your review, that is compatible, then, from a landscaping standpoint? If it's single-family to single-family and an amended buffer of whatever they're going to plant, is that what you're saying?

MR. TEMPLETON: We're okay if it's like to like. If it's multi to multi or single to single, we're okay with a deviation with no buffer.

COMMISSIONER SCHMITT: Okay. All right. Somehow we -- I think we need to either add certainty to this or reword it a bit so that there is certainty when it goes before the Board.

CHAIRMAN FRYER: I agree.

COMMISSIONER SCHMITT: I just -- I am uncomfortable from a standpoint of putting an undue -- I see this as an undue burden on a petition that we haven't even seen yet. I would prefer there be an agreement so when that comes in, we don't have to deal with this again.

CHAIRMAN FRYER: Well, I agree. I think the County Attorney's solution is a good one, and Mr. Yovanovich, who's careful about what he says, is not going to say that an agreement is imminent unless it's pretty doggone imminent. So I don't think that's an unreasonable condition to put in.

COMMISSIONER SCHMITT: Again, I have to believe Toll Brothers -- correction, Stock -- because that's a pretty highly desirable piece of property back there, lake views, and large single-family homes are probably a certainty that will go in there.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: I'd like to make sure that I understand where each party stands here, just crystal clear.

So, Rich, it's your contention that it's between you and Stock to determine what's best for the homeowners of both developments through this unified agreement, whether that's a buffer, no buffer. That -- it's -- you have the capability -- and you're looking out for the values of your homeowners, so you'll come up with what you think is the ultimate buffering solution that's best for them and for all parties, correct?

MR. YOVANOVICH: Especially in this scenario where there's 900 foot of lake between whatever I build on Toll and whatever Stock builds in San Marino. So, yes -- to answer your question, yes, they can protect the values of their own properties through this agreement. If they thought it was a bad idea to not have buffers, we wouldn't be sitting here today with both PUDs going through the process asking for no buffers.

COMMISSIONER FRY: So if we approve it without the staff's recommendation, you could come to an agreement where you have single-family, they have multifamily, but you're -- you have 1,000 feet of continuous shoreline, no landscaping at all buffering the two, but that really is between the two of you?

MR. YOVANOVICH: Correct, and the property owner who buys the lot. I mean, they may want to have a couple of trees in their backyard, or they may want an unobstructed view of this large lake.



COMMISSIONER FRY: They would have the ability to add their own landscaping? It wouldn't --

MR. YOVANOVICH: Sure, sure. Any individual property owner could do that. They're not prohibited from doing that. They just want to have the choice to do that.

COMMISSIONER FRY: And from staff's point of view, you believe you're protecting the aesthetics, I guess, the overall value and the outcome of this project by ensuring that if it's not like to like -- so if it's townhomes one side and it's single-family on the Hacienda Lakes side, there are at least a stand of landscaping every 60 feet so that there's some breakup of this long lake shoreline?

MR. BELLOWS: For the record, Ray Bellows.

That is correct. We are looking at the scenario if they're like to like, we can support the deviation, but if it's multifamily and single-family, we prefer to have some type of buffer as the options we have been discussing. But the agreement will go a long way towards supporting that.

COMMISSIONER SCHMITT: Well, let's put some wording in there subject to a formal agreement --

MR. YOVANOVICH: It's already in there.

COMMISSIONER SCHMITT: -- prior to the Board of County Commissioners meeting.

MR. YOVANOVICH: You mean before -- okay.

COMMISSIONER SCHMITT: Yeah. I mean, we'll put some language in there saying, you know, that an agreement will be presented, this -- this --

MR. BOSI: Yeah. As it currently exists, it says that there has to be a unified agreement between the parties. We can just put the timeline in and advance that to a nebulous timeline to the specifics of the Board of County Commissioners.

COMMISSIONER SCHMITT: I'm fine with that, then.

CHAIRMAN FRYER: And the effect of that would be that if for some reason an agreement were not reached, then our recommendation would not stand as a recommendation.

MR. BOSI: Correct.

COMMISSIONER SCHMITT: Are you okay with that, Jeff?

MR. KLATZKOW: I'm just trying to implement what you guys want.

COMMISSIONER FRY: But staff's position is that despite the fact that they come with a unified agreement, you believe that if it's not like to like, there should be some landscaping every 60 feet? Is that just because that's what's in the code, or is there another more tangible reason why it would really make a difference? When the developers that are selling the homes don't think it's needed, I guess I'm just trying to understand the justification.

MR. BELLOWS: The LD -- as Mr. Templeton indicated, the LDC was created with a condition to allow for these lake views, but it does require 60-foot separation between the landscape clusters of trees. That is the concept that staff would normally support. But I don't have a problem in a unified project or where there's an agreement where both developers are working together harmoniously.

It is a great feature, the lake, and we are supportive of that. We just want to make sure that in a -- unlike the residential scenario with multifamily and single-family, that there should be some kind of buffer. But if both parties come to an agreement, then we can support it.

CHAIRMAN FRYER: When will this be going to the BCC? What does the sign say?

COMMISSIONER SCHMITT: Probably within the next four weeks.

MR. YOVANOVICH: May 24th.

COMMISSIONER FRY: So, Ray, I hear staff saying that you would support allowing the deviation based on a unified agreement even if they decide, homes to townhomes, no buffer. You're okay with that?

MR. BELLOWS: If both developers come in with their eyes wide open and have an agreement in place. The problem is we didn't have one at this point.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: Just so we're clear, that's what my deviation says. My deviation

says I don't get to reduce the buffer unless I present an agreement to staff at the time I bring my plat, because that's when the decision has to be made. I have to show staff I have an agreement that there will be no buffer along those rear lots.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Most developments that -- builders that build, staff doesn't get involved in, nor does the county. Typically, they have landscaping packages that are required of the community at a certain value that need landscaping. This does not impact any of that. If there was a separate landscaping for three oaks trees or two sabal trees or whatever in the backyard, that's part of the landscaping plan for each individual home as its built. This is talking about an actual buffer.

Okay. All right. Well, I'm great with it if we go with the stipulation.

CHAIRMAN FRYER: Okay.

COMMISSIONER SCHMITT: And it's essentially what was originally proposed, but if staff wants to put a date-certain in there, let's go with a date-certain.

CHAIRMAN FRYER: Sounds good.

Commissioner Fry.

COMMISSIONER FRY: I would just like to point out that I was prepared to back staff because of this reason: In a really hot market, I would assume a developer doesn't have to do as much as they do in a colder market in order to attract buyers. So I do think the staff -- part of what this role of the code is is to protect the county, the residents, and uphold some standards, minimum standards, so that even in a hot market developers can't cut corners that really reduce the overall outcome. But I think your saying that you're okay with it with a joint agreement satisfies my concern.

MR. BELLOWS: The agreement is the key part of this. Even though it was part of the applicant's presentation, when we reviewed it we didn't have it in place. And there's still, on some level, concern about multifamily versus -- opposite a single-family. And our -- my preference would be to keep to that code. But in light of an agreement that's in place that the Board sees when they rule on it, then I think I can support it.

MR. KLATZKOW: You either have a look to Naples or you don't, all right. And one of the things that the code does and the architectural standards do is it gives a special look to Naples. And anybody who doubts that should just drive around Lee County for a while, okay, and see what they look like, and let's see what we look like, all right.

Every developer tends to not want to do the code because it's more expensive, okay. And so a development comes in here, they get the Collier County prices, but they don't want to do the Collier County requirements. So every time they ask for a deviation, what you're losing is a little bit of what makes Collier County Collier County. It's really as simple as that.

Again, every application's taken on its own. And I'm not saying that deviations are not appropriate, but you make a habit out of giving deviations to every application here, you're not going to have Collier County look like Collier County down the road. That's just the way it is.

MR. YOVANOVICH: I need to say something.

CHAIRMAN FRYER: Go ahead.

MR. YOVANOVICH: First of all, you know Stock Development and Toll Brothers has never built to the minimum code.

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: They always far exceed minimum code. So they're not looking to save a buck by not planting some trees in the rear. What they're trying to do is -- you don't have too many lakes this big in Collier County where you can actually use that lake as a true lake amenity.

Joe lives on a lake. He probably paid a premium for the -- I know I did in my first house. I paid a premium for basically a water management pond that I could throw -- I could throw a ball across, and there was multifamily on the other side, and I could see it. But this is a different scenario, and the two developers are saying it makes all the sense in the world to have unobstructed

views of this nice, gorgeous lake.

It's -- they're not trying to save any money because they far exceed the staff minimum -- I mean, the code minimum when they build. So I don't want there to be any implication that we're doing this to save money, because we far exceed the code minimum, both of those developers. And that's a fact. You can drive around and see it.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Go ahead, Mike. I think you want to jump in.

MR. BOSI: Yeah. And just -- I want to clarify with the Planning Commission.

Remember, a deviation is not an exemption. A deviation is -- is a way that we have -- we've arrived upon for PUDs to be able to satisfy what the intent of whatever the code provision is but in an alternative manner. That's what the deviation process is. It's the wording of the deviation process. It's not an exemption. That's not the intent. The intent is supposed to be for -- to enhance -- to accomplish the same effect.

And I would agree that there is merits towards what Mr. Yovanovich is presenting and what Mr. Frantz is presenting, that the 900 to 2,200-foot lake is an enhancement that we would not want to screen. So that's the alternative, I think, that's being presented by the applicant. Just -- I want to provide the clarification. Deviations are not exemptions, but they are how an applicant proposes to accomplish the intent of -- whatever that regulation that they're seeking a deviation from.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Rich. Just curious, the use of that lake, is this a water ski lake like Miromar Lakes or just a -- is it fishing? What's the use?

MR. YOVANOVICH: No, there'll be non -- first of all, in the San Marino PUD -- this PUD will have no access to the lake. But when San Marino comes through, it will be nonmotorized, paddleboarding, kayaking.

COMMISSIONER FRY: Fishing?

MR. YOVANOVICH: Fishing.

COMMISSIONER FRY: Okay. Thank you.

CHAIRMAN FRYER: Thank you.

One thing I would like to say -- and I don't know if we're going to have members of the public who speak on this or not, but I believe it's fair for us as a quasi-judicial board to take quasi-judicial notice, if you will, of the high quality of the two developers in question and the track record that they have in this county and elsewhere. This wouldn't necessarily be a resolution we'd reach if one or both of them were unknown quantities.

And, also, we have counsel of record for both parties in front of us this morning making the representation that in his current view an agreement is imminent, and these are the -- these are the property owners who together comprise the entirety of the area in question.

For those reasons, I believe -- and, again, subject to if there's public comment, that having a solid condition in our -- if we recommend approval, a solid condition that there be an agreement reached between the two developers with respect to buffering along that lake or nearby on those property lines and that that -- I'm going to take it one step further now, that that agreement is reasonably acceptable to staff and the County Attorney. Would that be okay with you?

MR. YOVANOVICH: Well, first --

CHAIRMAN FRYER: Otherwise, we may have to bring it back on consent.

MR. YOVANOVICH: No, I'm fine with -- I mean, what terms is Heidi and Jeff going to review? I'm going to show them where they've agreed not to put a buffer, and I'm not going to show you what the consideration for that is. It's not the public's business.

CHAIRMAN FRYER: I understand, and I'm not asking for that, but --

MR. YOVANOVICH: Yeah. I'm happy to share the agreement with them. I'm happy to share.

CHAIRMAN FRYER: The County Attorney and Managing Assistant County Attorney and two senior staff people have been here and heard all of this the same as we have, so they know

what our concerns are and our desires are, and either -- I would want it to be reasonably satisfactory to them given the expressions of concern, or I'd like to bring it back on consent for us to have a final look at it.

MR. YOVANOVICH: I'm happy to bring it to Jeff and Heidi to look at so they can see that the parties agreed to no buffer.

CHAIRMAN FRYER: Are you excluding Planning staff?

MR. YOVANOVICH: No, they can look at it, too, if they want to. I mean, it's --

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: The more the merrier.

CHAIRMAN FRYER: Okay. Thank you very much.

Anything else for the applicant?

(No response.)

CHAIRMAN FRYER: All right. Mr. Youngblood, do we have any members of the public who have registered to speak?

MR. YOUNGBLOOD: Mr. Chairman I don't have any registered speakers for either item.

CHAIRMAN FRYER: Thank you. We have a number of members of the public who are here today. Of course, public comment is also on our agenda at the end. And even if they don't wish to speak, they're always more than welcome to attend.

But I'll ask the question anyway: Does anyone who has not yet registered but is physically present wish to be heard on this matter, please raise your hand.

(No response.)

CHAIRMAN FRYER: Seeing no hands raised, we will close the public comment portion of this hearing at this time.

I assume, Mr. Yovanovich, you've covered all the rebuttal that you feel you need to?

MR. YOVANOVICH: I think so.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: Yes.

CHAIRMAN FRYER: All right. So then at this point it would be appropriate for the Planning Commission to take this matter under deliberation leading up to a motion. I'll open it up for discussion.

COMMISSIONER SCHMITT: Well, I'm in favor based on what everybody stated based on the time limit that's going to be imposed by staff. So I have no problem with it. We'll hear what others have to say, and then we can make a proposal.

CHAIRMAN FRYER: Okay. Thank you.

Commissioner Fry.

COMMISSIONER FRY: Well, pending any other comments, I'm ready to make a motion.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER FRY: I move for approval accepting the deviations with this slight change to Deviation, I believe, No. 5 that the applicant is to present the unified agreement at the County Commission meeting upon presentation.

CHAIRMAN FRYER: With respect to buffers.

COMMISSIONER FRY: Between Hacienda Lakes and San Marino.

MR. YOVANOVICH: And it's Condition No. 5, I think, and it's Deviation 18.

COMMISSIONER HOMIAK: Eighteen.

COMMISSIONER FRY: Condition 5, Deviation 18. Thank you.

CHAIRMAN FRYER: Would you accept a friendly amendment?

COMMISSIONER FRY: Yes.

CHAIRMAN FRYER: That the language of the agreement, the pertinent parts, not the consideration -- that is no business or interest of the public -- but that the substantive language be reviewed by and reasonably acceptable to staff and County Attorney. Would you accept that?

COMMISSIONER FRY: Absolutely.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SCHMITT: I second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

And that's a vote -- well --

MR. YOVANOVICH: Was that on both items?

COMMISSIONER FRY: Yeah. The motion was intended to apply to both items, but I did not state that.

CHAIRMAN FRYER: Without objection -- and if any single planning commissioner objects, we will consider that action as applying to both.

COMMISSIONER SCHMITT: My second was based on that assumption that it was for both.

COMMISSIONER SHEA: My vote was based on the same assumption.

COMMISSIONER HOMIAK: Mine, too.

CHAIRMAN FRYER: All right. So it sounds like unanimously we intended that motion and the vote to apply to both of the PLs.

COMMISSIONER SCHMITT: And I do want to thank staff for persevering and at least, again, making sure that we comply with the codes, and that's -- I know that was your intent.

MR. BELLOWS: And I appreciate the understanding of the Planning Commission of certain issues, and we try to find a solution prior to coming here, but we came close. But I think at the end, this is a good solution.

CHAIRMAN FRYER: Thank you very much.

Thank you, Petitioner.

MR. YOVANOVICH: Thank you.

CHAIRMAN FRYER: That matter is concluded.

\*\*\*And we don't have any other petitions before us, so we come to old business. Does anyone have any old business to bring before the Planning Commission? If not -- Commissioner Fry.

COMMISSIONER SCHMITT: I'm just curious, the members of the public that are here, is there anything that they wanted to address?

CHAIRMAN FRYER: We're going to call on them for public comment.

Commissioner Fry.

COMMISSIONER FRY: Just a quick comment. I think I respect the complexity and the challenges of what you do as the staff in reviewing these issues, and I understand that before it comes to us it's gone through a very thorough review. So I would just -- speaking for myself, I welcome whenever you don't agree with something that you bring it up so that we can put it under the light, under the microscope and examine it. But I also, I welcome -- I also welcome editorial judgments from you guys as you present as well even though it's not the official staff position, and I think just because my interest is in evaluating all the different considerations and coming to a fully informed decision. So don't ever hold back, would be my request.

CHAIRMAN FRYER: And ditto from me.

MR. BELLOWS: Yeah. And it's important to know that not everyone on staff agrees with

every position we finally end up taking. It's a vigorous debate amongst staff as well how we choose --

(Simultaneous crosstalk.)

MR. BELLOWS: -- situations.

CHAIRMAN FRYER: I understood. And without getting too far into the internal politics of staff, when appropriate and when possible, we'd like to hear both the official position and any divergence, recognizing that it's not the official position of county staff, but at least so that we could be enlightened about what other matters were thought about and advocated for.

COMMISSIONER FRY: A great example, I think, was One Naples, and we had Mr. Sabo up there, and he had the staff recommendation, and we kind of pressed him on what his personal opinions were. I just found that extremely helpful in enlightening us into what kind of internal conversations and possible philosophies had come to play in your review of the issues. So thank you.

CHAIRMAN FRYER: Thank you. Any further new business? If not, we come to public comment, and this is available for any members of the public who wish to speak on anything that was not on our agenda today, now would be the time.

Do we have anybody registered for public comment, Mr. Youngblood?

MR. YOUNGBLOOD: I don't have any registered public speakers.

CHAIRMAN FRYER: Okay. Ladies and gentlemen of the public, does anyone wish to be heard today by the Planning Commission? Yes, ma'am. Would you come up to the microphone and identify yourself. We'd appreciate that. The public is always welcome to attend our meetings.

MS. SHAFER: My name is Mary Shafer (phonetic). I live in Azure. And everybody in our development is scared to death that this new development is going to be multi-story buildings, you know, like apartment sort of things. Can I go back and tell them that's not true?

CHAIRMAN FRYER: Well, you're talking about the matter that we just voted on and concluded?

MS. SHAFER: Uh-huh.

CHAIRMAN FRYER: It would have been wonderful to hear from you at public comment time.

MS. SHAFER: I was half an hour late because I couldn't find the building, so I just kind of --

CHAIRMAN FRYER: I understand. Well, say whatever you wish to say on that, but we have -- we've basically lost jurisdiction of the matter. It's now going over to the Board of County Commissioners.

COMMISSIONER SCHMITT: I would have to -- based on what's been approved in the past and what's being built now, I mean, you could pretty much make the assumption it's going to be single-family --

MS. SHAFER: Single-family, yeah, I got that from you.

COMMISSIONER SCHMITT: -- as being built. I mean, that's what the market's dictating, and that's what's selling.

MS. SHAFER: Okay, good. Thank you.

CHAIRMAN FRYER: Thank you, ma'am, very much.

Anybody else wish to be heard on anything?

(No response.)

CHAIRMAN FRYER: Any other members of the public? Yes, ma'am, please rise and approach and give us your name.

MS. ASTLING: Good morning. My name is Jennifer. I own property off of Sabal Palm.

THE COURT REPORTER: Your last name?

MS. ASTLING: It's Astling, A-s-t-l-i-n-g.

I live off of the Sabal Palm side. I'm not sure if this is the appropriate place to ask you, but we've been notified -- and I believe it's connected to your RV removal -- that some of the zoning

land is being changed from our agricultural exempt that we deal with now to -- over to this more multiuse, multifunction.

I know that we discussed the north end today, but it's being presented to us on the opposite side of this development. I'm trying to figure out where we determine whether the zoning is being changed to this and how it affects those of us who have been property owners for 30-plus years over there.

CHAIRMAN FRYER: The property -- the parcel, or the part of the parcel in question, is a triangle that's in the northeast corner, and it had previously been zoned RV, and it's now going to be part of the MPUD.

MS. ASTLING: Okay. So with the zoning change in that area, though, how will that cross over to those of us who have been residents and own property that is agriculture exempt on the opposite side of this project?

CHAIRMAN FRYER: On which side do you mean by "the opposite side"?

MS. ASTLING: We're on the Sabal Palms side of this project.

CHAIRMAN FRYER: Oh, oh, okay. Well, you're south then.

MS. ASTLING: Yes, sir.

CHAIRMAN FRYER: This is really not going to be proximate to you at all.

MS. ASTLING: Okay. So any changes in your zoning on the north side should not, then, by proxy, change our zoning on our side or at least give you, someone, a developer, a leg to change that? Because now where we were, we have preserve behind us, and we're being told, no, we're going to put multifamily homes.

CHAIRMAN FRYER: I'm going to turn to staff, because there was one item that we voted on and approved. I don't remember if it was in a deviation or where, but something that was made applicable to the entire MPUD, and I think it had to do with sidelines.

MR. BOSI: That was the reduction of six feet to five feet --

CHAIRMAN FRYER: To five.

MR. BOSI: -- regarding side setbacks. That would have nothing in terms of changing zoning uses or anything of that. That's just a development standard.

CHAIRMAN FRYER: Okay. But that would -- that would apply to south of Sabal Bay?

MR. BOSI: Well, that would apply to anything within the MPUD, within the Hacienda Lakes PUD.

CHAIRMAN FRYER: But, otherwise, I don't think it has any application at all.

COMMISSIONER SCHMITT: You own -- you're on Sabal Palm Road. It's -- you own your property?

MS. ASTLING: Yes, sir. We own five-and-a-half acres out there, but we have the developers with their signs now that all of our preserve land behind it has now been rezoned as part of this. This is what we were presented. That's, I think, the reason why even Azure families are here is because we're hearing something different over there than what I believe we were just discussing.

CHAIRMAN FRYER: All right. Well, let's get that clarified, because I didn't think there was any change in the preserves.

MR. BOSI: There was no --

COMMISSIONER SCHMITT: No change.

MR. BOSI: -- no change in this preserve.

MS. ASTLING: Okay. Thank you for the clarification.

CHAIRMAN FRYER: You bet.

COMMISSIONER SCHMITT: And it will not impact your property. This rezoning has nothing to do with your property, but you're looking at what now is preserve --

MS. ASTLING: Right.

COMMISSIONER SCHMITT: -- that's not on your property but is part of this, and from our understanding, there's no change in the preserve.

MS. ASTLING: Okay, yes, because our property does back up to, like, the Picayune square and all of that back there, which we have developers coming saying that that's been changed. So that was the point of myself being here, because we have agriculture exempt, and on your docket today it says that you're removing RV and agricultural zoning in that area so we're concerned that that's going to then apply over to the opposite side of this development.

CHAIRMAN FRYER: I don't think any agriculture had been changed at all. It's just RV, and it's a triangle.

MS. ASTLING: Okay.

CHAIRMAN FRYER: A little triangle.

MS. ASTLING: Okay. Thank you for the clarification then. Thank you so much.

CHAIRMAN FRYER: Thank you very much for being here, and I hope that everyone else who came in with those concerns, those concerns have now been allayed. And, certainly, you were more than welcome to speak at public comment. We would have been more than welcome (sic) to hear from you, well, before we voted on the matter. So thank you.

All right. Anything else from anyone before we adjourn if not, then -- Commissioner Schmitt.

COMMISSIONER SCHMITT: No, I turned it off.

CHAIRMAN FRYER: Oh, you turned it off. Okay. I'm sorry. If not, we're adjourned.

COMMISSIONER SCHMITT: Thank you.

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April 21, 2022


There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:15 a.m.

COLLIER COUNTY PLANNING COMMISSION



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EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on 5/19/22, as presented  or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF U.S. LEGAL SUPPORT, INC.,  
BY TERRI L. LEWIS, RPR, FPR-C, COURT REPORTER AND NOTARY PUBLIC.