

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
July 7, 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
Joe Schmitt
Paul Shea
Robert L. Klucik, Jr. (attending remotely)
Christopher T. Vernon
Amy Lockhart, Collier County School Board Representative

ABSENT:

Karl Fry

ALSO PRESENT:

Raymond V. Bellows, Zoning Manager
Mike Bosi, Planning and Zoning Director
Heidi Ashton-Cicko, Managing Assistant County Attorney
Derek Perry, County Attorney's Office
Andrew Youngblood, Operations Analyst

PROCEEDINGS

CHAIRMAN FRYER: Welcome, everyone. This is the July 7, 2022, meeting of the Collier County Planning Commission. Would everyone please rise for the Pledge of Allegiance. (The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: Thank you. Before we go to the matter of calling the roll, we have a commissioner who has requested permission to participate remotely.

And, Mr. Klucik, are you on the phone now? Would you like to, perhaps, state the case for yourself, please, sir?

MR. YOUNGBLOOD: Mr. Chairman, I don't see Commissioner Klucik online with us. Oh, there he is.

CHAIRMAN FRYER: Okay.

MR. YOUNGBLOOD: Give it just one moment.

CHAIRMAN FRYER: Okay. Commissioner, you know the drill. We have to make a decision based on extraordinary circumstances, but we welcome your presentation.

(No response.)

CHAIRMAN FRYER: Commissioner Klucik, are you there, sir?

COMMISSIONER KLUCIK: Yes.

CHAIRMAN FRYER: Okay.

COMMISSIONER KLUCIK: I'm sorry. I didn't hear what you said about a presentation.

CHAIRMAN FRYER: Oh, okay. Maybe that word suggests we need to hear more than we do. But as you know, you know the drill, that we have to make a finding of extraordinary circumstances to --

COMMISSIONER KLUCIK: Yes, yes. I had -- I had several client matters that came up unexpectedly as urgent yesterday afternoon, and I also am dealing with -- my mother is having a healthcare situation that I have -- I've had to tend to her --

CHAIRMAN FRYER: Okay.

COMMISSIONER KLUCIK: -- throughout the day. So that's why I decided not to come in.

CHAIRMAN FRYER: Thank you. Understood.

COMMISSIONER SCHMITT: Make a motion to approve Commissioner Klucik's participation remotely.

COMMISSIONER VERNON: Vernon seconds.

CHAIRMAN FRYER: Is there any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor -- and this is a finding of extraordinary circumstances. All those in favor, please say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER KLUCIK: (No response.)

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you and welcome, Mr. Klucik.

And with that --

MS. ASHTON-CICKO: Chairman Fryer, I would like to put on the record that I did speak to counsel for both petitions, and they have no objection to the remote participation.

CHAIRMAN FRYER: Thank you, ma'am.

In the absence of Commissioner Fry, whose absence is excused, I'll call the roll.

Ms. Lockhart?

MS. LOCKHART: Here.

CHAIRMAN FRYER: Mr. Shea?

COMMISSIONER SHEA: Present.

CHAIRMAN FRYER: Mr. Fry?

(No response.)

CHAIRMAN FRYER: I'm here.

Ms. Homiak?

COMMISSIONER HOMIAK: Here.

CHAIRMAN FRYER: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

CHAIRMAN FRYER: Mr. Vernon?

COMMISSIONER VERNON: Here.

CHAIRMAN FRYER: And, Mr. Klucik?

COMMISSIONER KLUCIK: Present.

CHAIRMAN FRYER: Okay. Very good. We have a quorum of six. And at this point, the Chair is honored to recognize our esteemed brand-newly-minted County Manager, Mrs. Amy Patterson. Welcome, County Manager.

(Applause.)

MS. PATTERSON: Well, good morning, planning commissioners. It's nice to be here with you. I wanted to just stop in today and say thank you to all of you for the service that you provide not only to the Board but to our staff as well as the residents of Collier County. Having been in different roles in front of the Planning Commission, I know the hard work that goes into it and that you're all volunteers, which is amazing.

So thank you so much, and anything that we can do to support you, please know that we are here, the County Manager's Office, myself, to support you in every way.

CHAIRMAN FRYER: Thank you, County Manager. And on behalf of the Planning Commission, our warmest welcome to you. We're honored for your presence today and your thoughtfulness to come before us, and we wish you all the very best. Good wishes and good luck as you take on this challenging assignment that we all know you're up to.

MS. PATTERSON: Thank you very much.

CHAIRMAN FRYER: Thank you so much.

(Applause.)

COMMISSIONER SCHMITT: I just want to say please come back anytime.

CHAIRMAN FRYER: Anytime, anytime. Thank you.

All right. Addenda to the agenda. I've got one, and then I'm going to turn it over to Mr. Bellows who also, I think, has something.

We don't have anything on our consent agenda today, and I would like to use that time to have a brief discussion of how better we can achieve compliance with Chapter 8B of our Land Development Code administrative procedures regarding the conduct of neighborhood information meetings.

For those of you who don't already know, not following, perhaps, what's going on at the BCC level, recent BCC meetings have included very good detailed discussions of issues and developments of solutions to these problems, particularly of maintaining everyone's safety and security, which is clearly a high -- very high priority at the NIMs. And so that part of the NIMs is in the hands now of staff and the Board of County Commissioners to, perhaps, develop new procedures, new policies, new ways and means of achieving safety and security.

But there's another issue regarding the NIMs that may not be quite as important as safety and security but I think is significant and, unfortunately, I don't believe it has been developed fully, and it is -- the existing rules are followed more in the breach than actually being followed.

And so I'd like to have a discussion on that, and it concerns what's called 8B of the LDC

administrative procedures ordinance, and it has to do with the facilitation and the recording of NIMs.

So without objection and I hope there won't be any -- oh, and I've discussed this with staff. Staff's got some thoughts on it.

Mr. Yovanovich is here as a seasoned participant in front of us and in the NIMs. I've asked him if he would weigh in with his thoughts on what we're going to be discussing and he, of course, said he would.

So without objection, I'd like to have that informal and, I think, brief discussion in place of what would have been the consent agenda. And I see -- I don't see any objections, so we'll proceed along that fashion. Thank you very much. And that will be in place of Agenda Item 8A.

And, Mr. Bellows?

MR. BELLOWS: Yeah. For the record, Ray Bellows.

We also would like to have Eric Johnson speak to you about possible night meetings in the future for LDC amendments.

CHAIRMAN FRYER: Thank you.

Mr. Johnson.

MR. JOHNSON: Eric Johnson, Planning and Zoning.

Thank you, Mr. Chair, for allowing me to come up. Members of the Commission, good morning.

We have an LDC amendment that will require a nighttime hearing, and it's been the preference of the Planning Commission to have those be conducted on the same days as a regularly scheduled meeting. And I was looking at the calendar, and I was hopeful that the Commission would be amenable to having a nighttime meeting on September 1st. And, of course, if you were to go in that direction, any other items that would be on the agenda could -- that are under the normal daytime, it could be pushed later in the day. So if that would be okay with you...

CHAIRMAN FRYER: Thank you. Let's find out.

Any members of the Planning Commission, can they see now whether they would not be able to attend an evening meeting on September 1st?

COMMISSIONER SCHMITT: I will not be available on the 1st.

CHAIRMAN FRYER: Okay. Anyone else?

(No response.)

CHAIRMAN FRYER: All right. So then we will do it in that fashion, and thank you for your flexibility and staff's flexibility with regard to moving the start of the daytime meeting later depending upon how many items we have so that we don't have to go home and then come back again.

MR. JOHNSON: Absolutely, Mr. Chair. Thank you so much.

CHAIRMAN FRYER: Thank you. Mr. Bosi.

MR. BOSI: Mike Bosi, Zoning director.

I was just speaking with Troy Miller. We have a slight temporary problem with our push-to-talk with our recording system. If we could take a short five-minute break and just allow for Troy to kind of troubleshoot.

CHAIRMAN FRYER: That's fine, thank you. We'll stand in recess for five minutes until 9:13.

(A brief recess was had from 9:08 a.m. to 9:13 a.m.)

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

CHAIRMAN FRYER: Thank you. We've got our technical issues resolved. Thank you for your patience.

The next item on the agenda, Planning Commission absences. Our next meeting is on August 4, 2022. Anyone know if he or she won't be able to attend that meeting?

COMMISSIONER SHEA: (Raises hand.)

CHAIRMAN FRYER: Commissioner Shea will not. Okay, thank you.

Anybody else?

(No response.)

CHAIRMAN FRYER: All right. We hope we'll have a quorum, but thank you for letting us know, Commissioner.

Then our meeting after that is on August 18. Does anyone know whether he or she will not be able to attend that August 18, 2022?

COMMISSIONER VERNON: Going back to August 4th -- sorry about that -- I may be on vacation.

CHAIRMAN FRYER: Well, we know we're going to be down to five.

COMMISSIONER SHEA: I can remotely tie in. I'm just going to be out of state. So I can tie in if we need it.

CHAIRMAN FRYER: Well, we want to do that for extraordinary circumstances.

COMMISSIONER SCHMITT: I will not be here on the 18th.

CHAIRMAN FRYER: Okay, yeah. And you had told me that, Commissioner Schmitt. Anyone else with respect to the 18th? It looks like we've got two commissioners who will be absent on the 4th and at least one on the 18th.

All right. If anyone's plans change, please let staff know, because it may change the way we organize the agenda.

Approval of minutes. Let's see. We've got two sets of minutes today for our action; those of May 19, 2022, and those of June 2, 2022. Is there any reason we need to vote on these separately?

COMMISSIONER HOMIAK: I'll make a motion to approve both sets.

COMMISSIONER SCHMITT: I second.

CHAIRMAN FRYER: It's been moved and seconded that we approve both sets of minutes. Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: Thank you. They pass unanimously, 6-0.

BCC report and recaps, Mr. Bellows.

MR. BELLOWS: Yes. On June 28th, the Board of County Commissioners heard the Amerisite MPUD and companion Growth Management Plan amendment as well as the Carman RPUD and its companion GMP amendment, and those were approved on the summary agenda subject to Planning Commission recommendations.

They also approved on the summary agenda the Good Turn Center PUD amendment.

And then on the agenda Item 9A, that was the Growth Management Plan for housing initiatives, an amendment, and that was continued to the July 12th meeting.

CHAIRMAN FRYER: All right. Would -- and I'm not asking for any particular detail, but with regard to the affordable housing matter that was continued on their agenda and the, I think, three or four LDC amendments on ours, were these just deemed not ready for prime time, or is there something that maybe we need to know about?

MR. BOSI: From the discussion from the dais was the Commissioner just needed a little bit more time to understand and grasp the nuances of the amendments, because there's five different initiatives that are within those GMP amendments for housing, and being the first time

they saw it, they just wanted a little more time.

CHAIRMAN FRYER: And these are 2 through 5, I think, right?

MR. BOSI: Yes.

CHAIRMAN FRYER: Okay. On our agenda we were going to have four, I think, LDC amendments. And I'm not asking any for any details, but is this just they were not ready for us yet and needed further work?

MR. BOSI: Correct.

CHAIRMAN FRYER: Okay. Nothing substantive that we need to know about or consider?

MR. BOSI: Nothing substantive. They're just making sure that we had all the I's dotted and all the T's crossed.

CHAIRMAN FRYER: Thank you very much.

Okay. Chairman's report: Nothing today.

Special discussion item, I'll call it, and perhaps the title would be "ensuring compliance with Chapter 8B of our administrative procedures ordinance." And in order to tee up this discussion, I'm going to read -- it's a very short provision. It's 8B of the county LDC administrative procedures pertaining to NIMs, and it can be found on Page 225 of the 2019 published procedures handbook.

It's captioned "public notice, generally, contents, categories of notice, and notice recipients," and it concerns neighborhood information meetings, and it has a status of an ordinance because it was approved as such by the Board of County Commissioners.

And it states as follows. It's only a couple sentences. The Collier County staff planner assigned to attend the pre-application meeting or designee must also attend the NIM and will serve as the facilitator of the meeting; however, the applicant is expected to make a presentation of how they intend to develop the subject property. The applicant is required to audio or videotape the proceedings of the meeting and to provide a copy to the Planning and Zoning Department.

Now, personally -- and I've made comments from the dais in previous matters. I wanted -- I wanted to have a discussion that was not related to any particular application, because my concerns, I think, are spread across a number of applications, so I don't want anybody to be singled out. But it has seemed to me -- or I listen to them, or read them if they're written transcripts, religiously, and they're very important to me. And I learn a great deal from them not only about the application that's going to be coming before us but about the concerns that the members of the public have.

So I find the NIM transcripts to be really an indispensable part of our homework and our preparation, and I'm sorry to say that, although three or four years ago I felt that the NIMs were coming to us in perfect order with respect to tapes that were audible and transcripts that were legible. So I had no complaints. But gradually over the last few years it seems to me that the process of recording the NIMs or transcribing them has deteriorated, and it's deteriorated to a point, at least in my opinion, it substantially departs from the language of this ordinance, because if the audio isn't audible, it's not an audio.

So I ask staff to think about ways that would not involve considerable costs or additional expenses on anybody where we could improve the quality of the NIM transcript. It's certainly a significant benefit to me. I know that other planning commissioners look at them all the time. I believe they're a benefit to them. And they're also available to members of the public when they're posted on CityView, which I believe they should be. I recognize there are issues with storage space -- on data storage space, but these are awfully important parts of the process, and I hope a way can be found that they can always be placed on CityView.

I want to say one more thing and then turn it over for discussion, and this has to do with -- I want -- that everyone, particularly staff, rest assured, I'm not looking to expand in any respect whatsoever staff's outward role at the NIMs. The NIMs are produced and directed by the applicant. The content is provided by the applicant in all respects with the exception of whatever

the public provides. And so I'm not -- I'm not looking or calling for a more active public facilitator role or certainly taking substantive positions at the NIMs. That's not at all what I'm about. That would change the fundamental character of it and, certainly, I don't think it's necessary or desirable, because these proceedings are designed for the applicant and members of the public.

So having said that, I'd like to first open it up to comments from the Planning Commission and then turn it over to staff, and then Mr. Yovanovich has agreed to offer his observations on this as well and, perhaps, his suggestions.

Mr. Bosi.

MR. BOSI: Mike Bosi, Planning and Zoning director.

As one of the things that we were discussing internally is in the past, when Mr. Schmitt was the head of Community Development and Environmental Services, we had public information officers who helped coordinate the neighborhood information meetings, and at the pre-application meetings they actually had a short little cheat sheet pamphlet in terms of how to conduct, what's required, what's the best way for an applicant to satisfy the Chair's concerns of making sure everyone identifies themselves, speaks clearly into the mic, that there's a clear record of the recording.

So we as staff have started the discussion of creating the guidelines that we can hand out at the individual pre-application meetings so we can remind the applicants of the importance of all the different procedures and the different nuances that are -- that need to be attended to to make sure that we can give the Planning Commission and the Board and the general public, you know, an accurate reading of what went on.

And you're right, the way that it has evolved, county staff is there to record any commitments that are made by the applicant, but we really don't take a facilitator role. It does say that within the code. So we'll have further discussion with our planners in terms of, you know, how that is best accomplished to make sure that what we're trying to attend to, what we're trying to stress is going to be carried out through the neighborhood information meetings.

And I will say that we have a very good working relationship with the development industry and with the agents. So I think between just additional conversation and putting down the specifics of what we're looking for will help produce maybe a little bit better outcome for some of the packages that you're going to be seeing coming forward.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I just want to follow up with what Mike said. You know, it's been a -- he alluded to my time as administrator of Community Development, which is now Growth Management. And it was -- the NIMs evolved, and there was a lot of prompting from the community, even from the editor of the *Naples Daily News*. Jeff Lytle and I used to chat a lot about it, and his prompting really got me to formalize the process, even produce better maps than went into the paper, into the public announcement. And we did at that time have a public affairs representative that helped or worked with the applicant.

The point back then, though -- and I just want to stress, because the term "facilitator" was nothing more -- the staff was to be nothing more than to organize it, make sure the venue was proper, and make sure the proceedings were done, but they had to be very careful that any of the NIMs did not appear that it was being -- a proposal was being supported by or being presented by staff. And you have to make sure you keep that distinction.

This is a meeting that is run by -- basically, it is the applicant's responsibility. Staff is there, as Mike said, to record, to make sure the proceedings are done correctly, if you want to use the term "facilitator," but you have to make sure that the perception is that it is not a staff meeting where the staff is promoting the project, and that's the nuance there.

CHAIRMAN FRYER: I agree completely. And maybe there needs to be a preamble or some language put in the preamble that's read by the applicant each time to alert the members of

the public who are there that staff is there as a facilitator to make the NIM happen but not to participate in the NIM, something like that, so it's clear. I've heard from time to time staff gets called upon at the NIM to answer questions, and frequently staff will say, well, it's not our role to participate in this, and I think that's correct; that's the way it should be.

COMMISSIONER SCHMITT: But staff should be available to the public for any questions that may be -- typically, they would give their name, just like on the sign, the sign that's posted on the advertisement. It's typically a staff point of contact for the public to contact for any information.

MR. BOSI: Correct. And one of the things staff will do is -- well, from a procedural process, staff is instructed to inform the public as to what are the next steps. How they -- you know, what staff's perspective is in terms of the petition. We review it against the code. We produce a staff report. We don't -- we don't provide commentary in terms of where we're at. We just let them know where that petition is at in the progress, where we would expect the Planning Commission meeting to come, that there will be signs posted on the things. Those types of things is how staff -- and the applicant does a good job of not bringing staff into that sort of a position.

So it has been collaboratively, I think, a good process. I just think we need to tighten up, as you suggested, in a preamble, something that we can give to the applicant who can provide a little bit clarity. And also one of the other things I wanted to let you know is on the July 12th Board of County Commissioners consent agenda there's an item for the Board to direct staff, based upon the discussions we've had with the Board the past two meetings, for staff to suggest some increased -- some increased opportunities for security and efficiencies in terms of how these meetings are going to be run.

The County Attorney is working on a decorum update to the advisory boards and the Board of County Commissioners meetings. We're looking to piggyback on some of that to incorporate in terms of what we're going to kind of craft in terms of the handout to the applicant community.

CHAIRMAN FRYER: Good. I think we're all on the same page. I think we're all saying the same thing. Certainly, neutral comments about objective data, like when the Planning Commission's meeting is, that is definitely adding value.

COMMISSIONER SHEA: Do we get to comment on that? Do we get -- the Planning Commission get to comment on what you're proposing to the -- when you develop it for the --

MR. BOSI: Oh, sure. I could send it out before we --

COMMISSIONER SHEA: But it's not a routine. I mean, it's just a courtesy copy?

MR. BOSI: Yes, yes, absolutely.

CHAIRMAN FRYER: To the end of us being fully acquainted, I've spoken with Ms. Ashton, and she is -- she's prepared to give us a briefing on some aspects of that, if you don't mind, ma'am.

MS. ASHTON-CICKO: Are you referring to the item that's on the Board meeting?

CHAIRMAN FRYER: Yes.

MS. ASHTON-CICKO: Okay. So next Tuesday the Board of County Commissioners will be considering an ordinance that would essentially allow the Chairman to remove a -- Chairman of the Board of County Commissioners to remove a disorderly person, and the law enforcement officer would be required to remove them. And then there are a few other things, too, about -- that I think might already be occurring in some of the meetings as well where you can cut a speaker off if they're going too far off topic or if they're saying, you know, inflammatory things. So that's next Tuesday, Item 17B, if you're interested in taking a look at the item.

COMMISSIONER SHEA: Does that just relate to the Board of County -- is this on? -- the commissioners meeting or the NIMs?

MS. ASHTON-CICKO: No, that does not relate to the NIMs.

COMMISSIONER SHEA: Oh, okay.

MS. ASHTON-CICKO: It's just an example.

COMMISSIONER SHEA: Okay.

MS. ASHTON-CICKO: I do believe there was -- I do believe that there was law enforcement at the NIM that was disorderly, and they did not remove the disorderly person. So I think that might be part of the impetus for the amendment.

CHAIRMAN FRYER: And I have always taken the position -- never had to act upon it -- but in my view, Robert's Rule permits the Chair to have someone removed. I hope I never have to do that, but that's my view of Robert's Rules which supplant our county ordinances by way --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes. Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Can I ask the attorney again, what was the criteria for -- because it sounded like you said inflammatory, and I would just caution that if the speech is lawful and it doesn't breach, you know, the prohibition against, you know, fire in a crowded theater, whatever, I mean, you can't -- because someone is saying things that make a bunch of people upset, that can't be the criteria, so we have to be careful.

MS. ASHTON-CICKO: That was my paraphrase just to give you a feeling of what the amendment was. I have the amendment up, if you would like me to read it verbatim.

COMMISSIONER KLUCIK: That would be helpful.

CHAIRMAN FRYER: Okay. Is it short?

MS. ASHTON-CICKO: Sure.

CHAIRMAN FRYER: Yeah, please.

MS. ASHTON-CICKO: So the Chair may, No. 1, interrupt, warn, or terminate a speaker's statement when such statement is too lengthy, abusive, obscene, irrelevant, or repetitive; 2, request any individual to leave the meeting when that person does not observe reasonable decorum; No. 3, request the assistance of law enforcement officers in the removal of a disorderly person when that person's conduct interferes with the orderly process of the meeting; and, No. 4, call for a recess or an adjournment to another time when the lack of public decorum so interferes with the orderly conduct of the meeting as to warrant such action.

And then there's an additional change to another section that says that the Sheriff or his deputy shall -- I'll just read the section. The Sheriff or deputy shall be the sergeant of arms at the meeting of the Board of County Commissioners and shall carry out all orders of the Chairman to maintain order and decorum, and then the new language is, including the removal of a disorderly person when requested by the Chairman.

CHAIRMAN FRYER: Thank you. Anything else, Commissioner Klucik?

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Yes, go ahead, sir.

COMMISSIONER KLUCIK: I would just say I think that first line troubles me because it seems way too broad and it seems like the Chairman can just decide I don't like what this person is saying, or this makes one of us look bad or whatever. And I don't think in that venue -- that venue is there for the people to be able to contribute their concerns, and if they think everybody is in cahoots and it's all a scam and there's payola, then they should be able to say that, you know. I mean, obviously they can be sued if they're -- you know, if they're saying something that's actionable, you know, that's defamatory, but I don't think it's the Chairman's -- I don't think it's -- I think we're asking a heck of a lot of a chairman and pretending that he has that faculty to discern whether or not someone is violating, you know, the law, or -- and, certainly, you know, we have an issue of prior restraint. Prior restraint, you know, you're not allowed to do that. If someone wants to say something obnoxious, they can say something obnoxious.

The issue is is, of course, if it's going to get the crowd to be violent. I understand there's a line there, but I have seen too much in the past throughout this country, especially during COVID, and, you know, with the issues of introducing, you know, sexualizing and grooming children in public schools, people who say things that embarrass the panel get shut down, and that's the last thing that we should be doing.

CHAIRMAN FRYER: I'm going to ask you, Commissioner -- your comments are well taken and should be considered. I'm going to ask you to direct them to Ms. Ashton or Mr. Klatzkow or someone else in the County Attorney's Office so that they can have the benefit of your thoughts. That's really beyond the scope of what I wanted to talk about this morning, though. Safety and security is very important, but what I want to talk about today --

COMMISSIONER KLUCIK: Mr. Chairman? Mr. Chairman?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: I would just -- I would just object to that only because she's reading something that was being discussed expressly at your request, and the content of what she read expressly -- you know, I mean, the issue, the document, I asked her to read it, but it's the document that you wanted her -- you know, you were referencing because it's how we're going to do -- accomplish how the Commission is -- the County Commission --

CHAIRMAN FRYER: I'm not trying to cut you off, Commissioner. So if you want to continue, you may.

COMMISSIONER KLUCIK: No. I just -- I just object to the characterization that what I was doing isn't -- it's absolutely germane to the issue that you wanted to talk about, and that's all. And I agree with you, I'm happy to talk to Mr. Klatzkow and his staff --

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: -- to make sure they understand my concerns.

CHAIRMAN FRYER: Ms. Ashton.

MS. ASHTON-CICKO: Yeah. Just for clarification on the record, that was an awareness item for you commissioners to just be aware of. It will not -- it's not something that this Chairman will be authorized to do under the current ordinance. It's only Board of County Commissioner Chairman.

CHAIRMAN FRYER: Thank you. All right.

Anybody else? Oh, Commissioner Vernon, did I call on you?

COMMISSIONER VERNON: No.

CHAIRMAN FRYER: Okay. Please go ahead, sir.

COMMISSIONER VERNON: These are really just random thoughts in listening to everybody. I think it's a good discussion. I do remember when I first joined there was a meeting that was recorded, parts of it were recorded, parts of it wasn't, and that concerned me, because the duty is for the developer or the applicant to have a recording. To me that means record every word. And then you get into start thinking, what is a recording? You know, in modern times recording, why isn't it -- is it -- are we doing video right now?

CHAIRMAN FRYER: We can. It's provided for.

COMMISSIONER VERNON: I don't know -- you know -- and I know this is not a safety issue, but I'm guessing having video as well as audio probably will improve the safety because you can see what -- the activity that's going on that maybe -- they may not be in words.

The other thing is, whoever's going to sort of make a decision here, it seems like we should have some real techy stars on the decision-making group to make a proposal. And I know Rich's -- one of Rich's partners is a real tech whiz, and he may even have some ideas, because he does a lot of stuff in the courtroom that may translate into this. So I think there should be some tech people involved. Because technology's supposed to make things cheaper, not more expensive, as well as better.

CHAIRMAN FRYER: Indeed.

COMMISSIONER VERNON: And the other thing is, we may want to create a -- I don't think you want to dictate to the applicant how they do the recording, but maybe create what I call a safe harbor, and that is, if it's done this way, this will be considered a valid way that constitutes a recording.

CHAIRMAN FRYER: That's a fair comment.

COMMISSIONER VERNON: Those are just random comments.

CHAIRMAN FRYER: And I'm going to call on Mr. Yovanovich. Just one thing that I would suggest, so that I don't lose the thought -- and I mentioned this to staff when I met with them -- is that a way to get a higher level of -- higher degree of confidence that the audio recording is working or video recording, if that's what's used, is to have a trial run and then play it back and see if it can -- if it's audible. And if it is, then there's a presumption that it's going to be okay. Maybe a second time during the course of it to just play it back and be sure that it's working is all that's needed. But something along those lines is what I'm looking for, and that's the extent to which I'd enlarge the role of the facilitator. Certainly not anything in the forefront, but just being sure that the equipment's working. Having said that, no one is signaling.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: On this particular point, I kind of think that, you know, you could make it so it has nothing to do with cost or anything; you just -- if there's not a legible or, you know, a quality recording, then the matter is stalled until such time as a NIM is held with a quality recording. I mean, I don't think there's any teeth in this. I understand everyone acts in good faith, but you act in a little bit more good faith when you have a fire under your feet. And there's no fire under the feet if apologies and whatever makes it all better. Then we just move on and, you know, there's just apologies, and we don't really see anyone trying as hard as they should be to comply with the current requirement.

CHAIRMAN FRYER: Well, you're absolutely right on that, and I have -- I have sensed the need on more than one occasion to ask for a continuance of a matter for the purpose of reNIMing it rather than voting to deny, because voting to deny has no teeth at all, but a continuance requires the applicant, before they can move on to the Board of County Commissioners, to comply with the ordinance with respect to audibility. But I'm hoping that we can avoid or overt the necessity of doing that by getting some good, solid procedures in place, because no one wants to do that.

But, Commissioner Klucik, you're correct, that would be an ultimate weapon we would have.

Commissioner Vernon, did you have something else?

COMMISSIONER VERNON: Well, you pretty much said it. I was going to answer Commissioner Klucik. In my mind -- and I think you confirmed it -- we already have that right.

CHAIRMAN FRYER: We do.

COMMISSIONER VERNON: I mean, the applicant is required to record. And if it's a defective recording, they didn't comply with the rules, and we have a right to deny it on that basis or defer it, whatever we want to do. So we already have that teeth as far as I'm concerned.

CHAIRMAN FRYER: Voting against the application is really -- I'll use the word again in a different context, illusory, because then we lose jurisdiction over it and it goes right to the BCC. But if we determine that an application is incomplete and we continue it for the purpose of it being completed, that has teeth, in my judgment.

COMMISSIONER VERNON: And we can do that now.

CHAIRMAN FRYER: Yes, we can. Having said all that, no one else is signaling. I'm going to ask Mr. Yovanovich if he would be willing to weigh in from his perspective on the direction that we seem to be going and any suggestions you might have how we can improve the process.

MR. YOVANOVICH: Yes. For the record, Rich Yovanovich.

I think we have to go back to, really, what's the purpose of the neighborhood information meeting and when this originally came about.

Most of us were doing neighborhood information meetings before they became required because it was an opportunity for us to let the public know what is the actual application and not let their imaginations run wild as to what they think is going to occur. So it was to be informational from us to explain the application.

They used to be much smaller. We had more venues available to us with better equipment to record or video. Over time, the school -- we used to do them at schools all the time. School system said, no more; you can't use schools. We used to be able to use churches, which most churches have great audio systems. That's been less and less of an opportunity for us.

So it's -- we're at very few locations, and sometimes the technology there works, and sometimes it doesn't, and sometimes you don't know until you show up. And I'll give you an example. We were recently doing a neighborhood information meeting out at the IFAS center, which is over by the fairgrounds. We had a fair amount of people show up, but for whatever reason, the audio system at that place wasn't working that day.

So we did our best to make sure everybody spoke loudly and clearly and without a microphone system. I hope the video for that is sufficient and you'll be able to hear every word. But can I guarantee it? No. I think it would be unfair to send us back to do it again, because the people who were there could hear, fully participated, and got to hear about the project.

I think if you're going to require something to be accurate and recorded, I think you should make me have a court reporter there, because then I at least have a transcript, and I don't have to worry about did the technology somehow not work on the 43rd minute to the 50th minute, and I've missed seven minutes and now I come up here and someone at your level says to me, that was seven minutes. It could have been very important. Go back and try to do it again. I think we have to have some flexibility.

These meetings were always intended, again, to get back to be informational, and we run them in an informal manner so that people feel comfortable participating in what's supposed to be a dialogue about the project.

Over time, the tenor and the tone and the public participation has changed, and these meetings are no longer informational meetings on many occasions. Sometimes they still are. They still follow the process of we provide information, the community tells us what they think, and it's a collaborative process, which kind of we'll talk about on that first petition is how that process should work.

But many times now -- and you've heard of one, but that's not the only one that I've been through in my professional career in the last five or six years where they're no longer informational. They don't care what I have to say about the project. They just want to take that opportunity to let you all know they hate the project without me ever presenting the facts about the project.

So we have to work on what's the real reason for the meeting, and you have to give me and anybody else who's actually running the meeting an opportunity to have a good recording. Because, you know, when we start talking over each other, Terri gives us the look, and, you know, we're all afraid. And Mr. Vernon knows, when you're in court when the court reporter gives you that look, you're afraid of the court reporter and -- you know, so we're all afraid of Terri.

But I was at a meeting recently, and I really wanted to talk about my project, and I really wanted those people to leave who wouldn't let me talk, and I was helpless, and we ended up not having a meeting.

So I know you want to know what the public thinks. Safety is a part of the issue, but we have to get back to what's the purpose of the meeting and let us implement the purpose of the meeting.

I'm all for neighborhood information meetings because it's a good opportunity for us to explain it. I'm all for you-all having an opportunity to understand what was happening.

I think the only real safe way to do it is to have a court reporter and have a written transcript. They do their best. Some of these are going to get to where they're a little messy. It's try as you may, people talk over each other at these meetings because they are informal. I don't have -- I don't get to sit up there like the Chairman and you all and conduct the meeting in a more formal setting. So please bear with us as we try to get the information out to the public and bring it back to you.

But we need to really talk about what's the process and what's the best way to get the

information out and you be able to hear what the community wants to say.

But this was a totally different process when we first initiated this process. And I don't even know how long we've been doing it. It's got to be 15, 20 years now.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: Yeah. No, Mr. Yovanovich, I think you make some good points, and it's -- certainly, your explanation seems both reasonable and plausible about the history.

All I would say is that the -- you know, the County Commission came up with a requirement for the recording, and somehow it transitioned from, you know, it being your opportunity, you know, as a petitioner -- the petitioner's opportunity to give information, and it became sort of something more than that in which the County Commissioners decided they want to have this recording, and that's fine. I think you have to -- you know, somebody's going to have to persuade the, quote, lawmaker to change, you know, that requirement or modify it or, you know -- I mean, I think you're making a good point. You have the burden of persuasion on that regard. Right now it's required, and it's not happening.

MR. YOVANOVICH: Well, I disagree. If I may --

COMMISSIONER KLUCIK: Pardon me.

CHAIRMAN FRYER: Let me, if I may --

COMMISSIONER KLUCIK: Excuse me. Right now it's required, and it's happening with a quality that suffers to the point where we might -- you know, it's -- it seems as though sometimes we have no information even though we have a requirement, and all I'll say is that that's -- you're making great points, but right now there's a requirement, and it seems to be not being followed.

MR. YOVANOVICH: There are several parts of the process that are supposed to be a fail-safe to that recording, which is also a written summary of what occurs at the meeting. So there are backstops to if you have a technological issue with a recording. I know what my job is at a NIM. I know what my burden is at the NIM.

You-all were talking about how do we make it better so you know exactly what happened at the NIM, and I'm suggesting don't make me do a video, don't make me do a recording. And I'll give you an example. I had five NIMs for a project called One Naples. There was probably 600 people in the room at each of those NIMs. You tell me how I video that and make that an accurate video and I make sure that it's a totally legible, you know, audio.

I just had one at a stadium that probably had -- Mike was there -- 2-, 300 people there. How do I video that? How many cameras do you want me to have when I've got 300 people in the stands and me at a podium?

Think about what's really happening at these meetings, and they're getting bigger and they're bigger and bigger. So I'm suggesting a transcript be the definition of a recording so we -- you can all know and see what was said, because Terri can take those words down, but I can't -- I can't accurately video someone at these meetings.

CHAIRMAN FRYER: Understood. And pardon me for objecting. You've said it four times. I agree with you. It's a good suggestion that we should add transcript, a court reporter's typed transcript to the available means of recording. It's a very good suggestion. And I think it would satisfy my needs, but we just have to make it in conformity with the administrative procedures, which we can do just by adding a word. So I think that point is well taken.

MR. YOVANOVICH: Good. And then I think you need to revisit the process and how the meetings are to occur and the authority someone like me would have to remove someone who won't let me have a meeting, because I said to the deputy who was standing right next to me, take those five guys out. And he said, I can't. And you know what happened; we didn't get to have a meeting.

And I'm going to stray into the safety issue now just briefly.

CHAIRMAN FRYER: Please.

MR. YOVANOVICH: Whatever -- if you were at that meeting -- and Mike was at that meeting -- you had people who wanted to hear me speak. They may not have liked what I had to say, but they wanted to hear me say it, and you had five people that stopped that from happening. And there was almost a fight in the stands for the people that wanted to hear me speak and the people who don't want to hear me speak. So we've got to have some structure in the administrative code as to how we can conduct those meetings so you can get the feeling for what does the community really think.

And with that, I'll just -- I'll be quiet, but I think they're all related for what you want. This was a discussion about --

CHAIRMAN FRYER: Yeah. That's fine.

MR. YOVANOVICH: -- providing information as to what you think the community wants.

CHAIRMAN FRYER: Thank you. And your comments were -- we thank you for them. Well received. Very useful. The idea of a transcript would certainly satisfy my needs. We just need to add it to the ordinance.

The only other thing I want to say, though, is the original purposes, whatever they might have been, of a NIM, that's interesting as a point of history. But as Commissioner Klucik pointed out, at one point or another the Board of County Commissioners went beyond the original purpose and now are requiring audio or videotape of the proceedings, and that that be provided to the staff, and that we're asking staff, then, to provide it to us.

So whatever the original purposes were, they are what they were. They were what they were. But now it's moved beyond that, I think, and we have to deal with it. So let's see.

COMMISSIONER HOMIAK: Can I just --

CHAIRMAN FRYER: Yeah, I've got two people.

COMMISSIONER HOMIAK: That's because you wanted it when you got on the Board. You wanted it recorded. We never had it done before.

CHAIRMAN FRYER: Well, but the ordinance was here. It just was ignored.

COMMISSIONER SCHMITT: They were recording.

COMMISSIONER HOMIAK: Well, recorded with the transcript, though. We had transcripts all the time, and there wasn't a video of it.

CHAIRMAN FRYER: I'm not calling for a video. I like the idea of a transcript, but it's just that word needs to be added to the ordinance.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Okay. I've got two people ahead of you, Commissioner Klucik. First, Commissioner Vernon.

COMMISSIONER VERNON: Yeah, I always want to be careful about changing rules, because if you do it too quick, you can make it worse. So same -- same theme as last time, I'm not really advocating a position here. I'm just throwing out some thoughts to be part of it.

You know, Rich has thought about a court reporter. I brought up the idea of a safe harbor rather than mandate a court reporter. Say, if you have a court reporter, that will constitute a recording, and that would be the first point.

Another idea -- I'm just throwing out ideas. Again, I'm not adopting a position. But you could -- you could think about the county investing in certain technology, which may be the audio purely for safety reasons, and then have every applicant pay some kind of base fee towards that cost of that technology, just to make it a breakeven.

Yeah, I think the audio bleeds over into the safety issue, so I don't think we need to talk about it for purposes -- again, I like the idea of a court reporter for safe harbor.

And then if it -- because it is a requirement, if I'm required to do something -- and it's Rich's point -- and I cannot do it, I physically cannot do it, there should be an exemption. In other words, if I'm required to record a NIM, and I am -- beyond all efforts I am prevented from doing so, then I shouldn't be punished from that. So I think we -- I think the way the rule is now, we

probably have the discretion to use, as Klucik says, the teeth of saying you didn't record it; therefore, you've got to come back after you've recorded a NIM, or we can say, you made good-faith efforts to record a NIM, and you were prevented from doing so, so we're going to exempt you from that requirement.

And, again, those are just thoughts. I just think there ought to be a lot of thought put into this before we actually change something.

CHAIRMAN FRYER: I like the idea of a safe harbor rather than good-faith efforts, because who knows what good-faith efforts are? And if there's always a court reporter safe harbor, then the burden has been transferred from the applicant to the court reporter, which makes sense to me.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah, first of all, I absolutely do not support a court reporter. This is -- the purpose of this meeting and the intent of the meeting was exactly what Mr. Yovanovich said; it was to inform the public of what was being proposed.

We're almost -- now this thing is sounding like it's evolving into another public hearing, and that is not what these meetings were supposed to be. They are informative. They're an exchange between the developer and the community.

And I'm going to go back to my experience, my days as a commander in the Army Corps of Engineers. We issue a public notice. We have a public meeting. The last thing we ever did in a public meeting was to give an individual the microphone. We would present the facts on a large civil works project. We would discuss in detail, and then we would set up different tables for people to come and speak, because the worst thing you can do in a large public forum, 600 people, is incite the crowd by giving somebody who is an opponent to get up and start speaking and gin up the crowd in order to dispute what the presentation is.

It's not a public hearing. They can come here and do that. They can go to the Board of County Commissioners and do that. That is -- this NIM was nothing more than an information meeting, an opportunity for the developer and the community to exchange ideas, for the developer to hear what the community's concerns are, for the staff to capture that, and then adjust and amend accordingly as it evolves through the review and -- planning and review process.

To add a requirement for a transcript, if the applicant wants to do it, fine, but I just don't -- I will not support it. I don't believe that's what the intent of this is, and it's not a public hearing, and it's not meant to be a public hearing.

CHAIRMAN FRYER: Thank you. Anybody else?

Commissioner Vernon.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: Sure. Just -- Joe, to your point, you mentioned that it was a chance for staff to capture the concerns of the -- you know, of the public, so I'm just trying to figure out, that sounds like the public, then, would somehow have the ability to voice their concerns out loud at the NIM. So what does that look like to you properly?

COMMISSIONER SCHMITT: The -- yes, they can certainly hear what the public has to say, but they also provide their name, their email address, their phone number, and if there are individual concerns, those people can approach the staff individually and provide the information. It is not a public meeting. It is not a public hearing. And it should not -- excuse me. Excuse me. I haven't finished.

COMMISSIONER KLUCIK: Yeah.

COMMISSIONER SCHMITT: It's not meant to be a public hearing. It's a public information meeting. And it is for the public to engage with the developer, not with the staff, but the staff is there to answer questions if asked, but the staff cannot be an advocate. And if the county wants to invest in recording capability and have a recording, again, that's -- staff has to determine the cost of that. I don't think the taxpayers should pay for that. That cost has got to be

back on the applicant. I mean, this is evolving into craziness as far as another public hearing.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik, and then Commissioner Vernon.

COMMISSIONER KLUCIK: Yeah. I guess I would say right now, then, the requirement is that you have this public information meeting -- or this neighborhood information meeting. It's led by and presented by the petitioner. The petitioner presents their project and gets to explain it. There seems to be the opportunity for the public to ask questions.

Is that -- how is that phrased currently in the regulation as far as what the public has a right or had opportunity? Is it -- is it listed as a right or an opportunity? Because if it's just listed as an opportunity, then, I guess, you know, obviously, it's -- we could treat it differently. And what I would also suggest -- and then I'll be quiet after that, if we can have that answered. Zoom can work, something like Zoom, and you limit the size of the crowd so you don't have 600 people there, and then you have it available, you know, so you can participate remotely, which seems to be very low cost. That also is a way to make sure it gets recorded, because you obviously have the cameras for that. And then you just make sure that any public speakers have to use, you know, one designated microphone that's in one spot and doesn't move around that the video will capture if you're going to do video.

But I also agree that a transcript -- you know, I thought we had tried to avoid the transcript because of the cost burden on an applicant that might be in a position where that's just too burdensome.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah.

COMMISSIONER KLUCIK: I had asked a question, I'm sorry, about what the current --

CHAIRMAN FRYER: Oh, let me address to the best of my ability. And I've been through the administrative procedures. I don't think that level of detail is supplied. And I know staff is looking at, perhaps, amending these procedures, and maybe this is the time for that to be addressed particularly on the safety and security side, what the role of the public is and what their rights are and responsibilities.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Thank you, Commissioner Vernon.

COMMISSIONER VERNON: Yeah. Again, I think, there's so many different views and a really good discussion, but we really need to think through it before we make any changes. But just to address your thoughts, Commissioner Schmitt, I think that my thought -- my thought -- and, again, I'm brainstorming. My thought is, the court reporter is a safe harbor; it's not a requirement. So Rich or Noel or whoever's doing it does not have to bring in a court reporter, but if they have a court reporter, they know they have met the requirement so that we don't have the ability to say, this does not constitute a recording. So it's not a requirement. At least that's the thought I brought up.

And as far as the county possibly bringing the tech idea, my thought was the applicants would reimburse or cover the cost on an annual basis, and they'd be charged based so that -- so it's a budget-neutral item for the county.

And then the third other point I was going to bring up Commissioner Klucik brought up, and that is a possibility of a virtual meeting, which I think addresses the safety issue. And I think whatever -- I think it's a really good discussion. I think we should look hard at this and maybe make some changes, but I think even before -- once we've sort of thought this through, before these changes become formal, I assume somebody's going to look hard at the safety issues as well, and then we should look into what changes we propose there and then synthesize the two before we actually adopt changes so we don't make a change and then regret it six months later.

CHAIRMAN FRYER: Thank you. Commissioner Schmitt and then Commissioner

Shea.

COMMISSIONER SCHMITT: The only point I'd make as well is typically at the neighborhood information meeting, what's presented at the NIM is not typically -- most times it evolves, and it's not what we see when it's in front of us. So that's the point is what the public may be hearing at the NIM, it's still -- there's months after the NIM while staff is doing its review, applicant is receiving comments, staff is receiving comments, and adjustments are typically made to the petition before it comes to us. So people -- we just need to understand that the NIM is not the be-all, end-all, and it's not the actual -- in most cases it's not the actual project being presented.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: I'm not sure where this is -- this is heading. What are we supposed to be doing with this? But I do, I place tremendous value in the NIMs. I attend as many as I could particularly on controversial. So I wouldn't Zoom it. I think it's important that we gain control of the process. I would like to see a little better -- as you would, a little better documentation. I like the transcripts. I like being able to read what happened. I place a lot of value in that.

But, ultimately, what are we looking for from the group today? Because we're getting into a lot of discussion and opinions on nothing that we have in front of us.

CHAIRMAN FRYER: Well, we don't have anything in front of us, but I think this has been a very good opportunity for us to express ourselves about our concerns. But the next step is going to be in the hands of staff, because the Board of County Commissioners has asked staff to address the safety and security issue, and I guess I would like a consensus from us that they also address the audibility issue and/or transcript safe harbor, which I don't think is a bad idea at all. It's an opportunity. It's not -- it would not be a mandate.

So I think we've done at least everything that I had hoped we would do, unless -- Mr. Bosi, did you want to make a final comment?

MR. BOSI: No, other than staff's task will be to hear all the comments that have been -- that have been put out on the floor, understand where the larger concerns are, make some suggestions into modifications to the administrative codes related to NIMs. Like I said, the Board of County Commissioners next Tuesday will be directing staff to do just that, include our discussions today, give you guys a first opportunity to review it, provides some feedback, share it with some of the agents as well just to make sure, because it's their meetings, and they need to be onboard as well, and we'll find an agreement and bring it back formally through the process.

CHAIRMAN FRYER: Personally, I think that's a great next step, a great -- I think we've teed it up as well as we can. It's now in the capable hands of staff. No one is signaling at this point, so I would like to, if I may, respectfully declare that this conversation has concluded, and thank you-all for participating in it. I think it was quite useful.

Thank you, Mr. Yovanovich, as well.

So moving right along, we come to public hearings. And we don't have any on consent, of course.

***Advertised, we have PL20210001795, the Lely Resort MPUDA.

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 Ms. Lockhart.

MS. LOCKHART: Reviewed staff materials.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials.

CHAIRMAN FRYER: Thank you.

Let's see. In my case it's matters of public record, meetings with staff, and a communication with applicant's counsel and a site visit.

COMMISSIONER HOMIAK: None for me.

COMMISSIONER SCHMITT: I spoke with Mr. Yovanovich, and I also spoke with Commissioner LoCastro about this specific petition.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: Commissioner Klucik?

COMMISSIONER KLUCIK: Just staff materials and a meeting with staff.

CHAIRMAN FRYER: Thank you.

Mr. Yovanovich, you have the floor.

MR. YOYANOVICH: Thank you. Good morning. For the record, Rich Yovanovich on behalf of the petitioner.

I'm going to introduce the project team. Not everybody on this list is going to speak, but they're available to answer questions if you have questions. Fred Hazel and Gray Schaufler with the petitioner, Davis Development; myself, I will give a brief overview of the project. And then after Lindsay Robin is done speaking, I will come back and talk about the public involvement process. So Lindsay will go over the site plan compatibility issues. Katie Lobarr is here also as one of the planners on the project; Patrick Noll is our civil engineer on the project; and Chris Benitez is our transportation consultant if you have questions for them.

The request is to amend the Lely PUD and DRI. The Lely Resort project was approved initially at over 10,000 residential units. It was amended to bring it down to 8,768 units, with several hundred thousand square feet of commercial as well as a hotel that could have all been part of the development.

We'll go over the master plan, but there were a couple of C-3 parcels where commercial was supposed to go. It's not the same C-3 as Collier County as far as uses go, but it's a commercial parcel.

We are in to amend one of the parcels along the southwest corner of Grand Lely Drive and Collier Boulevard to add residential as a potential permitted use. Our request is to have a not-to-exceed 184 units on that parcel. Unlike the several other apartment projects that have come before you, there's no requirement for a Growth Management Plan amendment because we are simply reallocating some of the density on the project to this particular project. This is the subject location, which is the southwest corner, and you'll see to the north of that Stock Plaza; that was also labeled C-3. So we're in to amend this parcel to allow residential.

It's a vested DRI, which I'm sure you all know, but the public may not; it means the transportation impacts have already been vested either for a commercial development on the property or for this residential, which would actually be a reduction in overall traffic if we did the residential.

I'm going to introduce Fred, who's going to come up and tell you a little bit about Davis Development, what they've done in Collier County and other places, and then he's going to turn it over to Lindsay to take you through some of the planning aspects, and then I'll come back up and talk about how the project evolved beginning with the first neighborhood information meeting, and then we'll open it up to any questions you may have of our team. But, of course, you can always ask questions whenever you feel like you need to, but if we can do our presentation, I think it might go a little bit --

CHAIRMAN FRYER: Thank you. Mr. Yovanovich, we have public speakers, yeah, members of the public here who may want to speak. I know that you have made some significant -- you and your client have made some significant concessions. I'm not telling you how to present your case, but it might be useful to them for people to hear --

MR. YOYANOVICH: Sure.

CHAIRMAN FRYER: -- what is no longer on the table, what is no longer in debate.

MR. YOYANOVICH: Okay. I'll do it, but I'll be taking away some of Lindsay's presentation, but that's okay. We'll adjust it -- we'll adjust the process.

Initially, the first site plan that we had for this project had -- as you can see, right here

there's a curb cut on Celeste. That was intended to be the access for the development of this property. And, in fact, there was a Site Development Plan approved for a commercial project on this property with that access being utilized.

So our first site plan that we had for the residential project included access off of Celeste and included a four-story product to go on the property.

After the first neighborhood information meeting and the feedback we got, we got feedback that access on Celeste was a major issue under any scenario, really, for the residents, whether it was commercial or our project, and they thought the massing of the buildings was too big with a four-story component and with surface parking.

So we went back. We looked at the site plan. We had some -- we had some revisions based upon discussions we had with county staff, and we came back with revisions that included two-story townhomes along Celeste and bringing the buildings down to three stories with parking in the middle and wrapping the residential around the parking so you wouldn't see the parking; however, at that time, the staff was not willing to give up on access on Celeste, so we continued to have access on Celeste.

So we had another -- and we presented this at a second voluntary public outreach neighborhood information meeting, call it whatever you want to call it. We treated it like a neighborhood information meeting. We went back. We presented those changes.

We got some nice feedback at those meetings and some not-so-nice feedback. There's always going to be some people no matter what you do they just rather would see the county buy that property and put a park on it. But, you know, that wasn't going to happen. It was either going to be commercial, or it was going to be a residential.

So we went back, and we looked again, had further discussions with staff about removing access off of Celeste, and we did that. We removed access off Celeste. And let me go back. Another issue at the first meeting was access on Grand Lely Drive. It backs up. So it was clear to us that a dedicated right-turn lane on Grand Lely so people would no longer back up because they were trying to go across the street to the project on the east side of Collier Boulevard, we included a dedicated left -- I'm sorry -- dedicated right-turn lane on Grand Lely as part of our first set of revisions.

Second set of revisions, as I said, included that, included a -- included the two-story product along Celeste and still included access on Celeste, we went back. We got access off of Celeste and still had the dedicated right-turn lane, still had the two-story leading to three-story.

There was still a desire to see if we could get a left turn in off of Collier Boulevard as you're going north. We looked at that. We met with staff. We were not able to persuade them to allow us to have a left-in as you go north on Collier Boulevard.

So to make the evolution of the project complete, we had three meetings with the community. At each meeting with the community, I think the community appreciated our good-faith efforts to make changes. There are still some people who don't want to see it happen. I get that. But I think, generally, we addressed all of the concerns raised throughout this process.

We only have emergency access to Celeste. We have a right-in, right-out off Grand Lely Boulevard. We have the dedicated right-turn lane, and we have our project entrance -- primary project entrance off of Collier Boulevard with a right-in, right-out access.

Lindsay will get into a little bit greater detail about how this all lays out on the site. But I think what we did was we addressed all the traffic-related concerns by getting access off of Celeste, doing the dedicated right-turn lane, and getting our access from Collier Boulevard. And with that, that's where we are with the two-story aspect along Celeste.

CHAIRMAN FRYER: Go ahead, Commissioner Vernon.

COMMISSIONER VERNON: So if you're heading north on Collier and you want to get -- how do you get in?

MR. YOVANOVICH: Well, you'll probably go to the light --

COMMISSIONER VERNON: U-turn.

MR. YOVANOVICH: -- and do a U-turn.

COMMISSIONER VERNON: U-turn.

MR. YOVANOVICH: Which I learned years and years ago that that apparently is one of the safest traffic movements you can make, believe it or not, because people are more cautious on the U-turn movement. So, yeah, there will have to be a U-turn there or --

COMMISSIONER VERNON: You need to tell my daughter that.

MR. YOVANOVICH: I know. Or I guess you could go -- you could go on Grand Lely, go around the circle, come back out, and then --

COMMISSIONER VERNON: Grand -- okay.

MR. YOVANOVICH: Yeah. You could do that or do a U-turn.

COMMISSIONER VERNON: You'd still be U-Turning.

MR. YOVANOVICH: You'll be going -- there's a circle if you can -- I'm sorry --

COMMISSIONER VERNON: Roundabout.

MR. YOVANOVICH: This roundabout, yeah. So I guess you can come do that and come back, and then you'd come in right here.

COMMISSIONER VERNON: All right. Thank you.

CHAIRMAN FRYER: Thank you.

So to summarize, when we come to the time for public speakers, you'll be invited to say whatever you want within the allotted time, but I just wanted to be sure that everyone knew up front that there had been two major concessions. First of all, no Celeste access except for emergency and, second, three stories instead of four stories in the center, and then two stories abutting Celeste for transition purposes. So those have been conceded by the developer, but you're, nonetheless, welcome to, when the time comes, to say whatever you choose. Thank you.

MR. YOVANOVICH: I'll bring up Fred.

CHAIRMAN FRYER: Please. Thank you.

MS. ASHTON-CICKO: May I ask, is there draft language for the townhome commitment?

MR. YOVANOVICH: I was -- the answer is, we will come up with -- I will work with you and staff on adding that commitment to the PUD. We made that commitment at the neighborhood information meeting -- the third meeting -- actually, the second meeting, but staff did not require us to include it in the PUD. I think it would be better if we did include it in the PUD, and we're prepared to do that.

CHAIRMAN FRYER: Good. And hopefully you could maybe do that while we're on our 10:30 break.

MR. YOVANOVICH: Basically, I would envision it would say we would have a two-story townhome project along Celeste Boulevard.

MS. ASHTON-CICKO: Will that affect the permitted and actual height, zoned and actual height?

MR. YOVANOVICH: No. The heights will stay the same, but we'll say it will be two-story product along Celeste, or we can come up with a height for those buildings.

MS. ASHTON-CICKO: Will there be --

MR. YOVANOVICH: There will be less height.

MS. ASHTON-CICKO: I'm tongue-tied, sorry. Will there be parking under the homes?

MR. YOVANOVICH: Yes. It will be garages that -- correct, yeah, there's garages that serve the townhomes.

MS. ASHTON-CICKO: Okay. So then the first story will be the garage, and then two stories after that will be the habitable?

MR. YOVANOVICH: No. Let Fred -- I'll let Fred get into the details of the townhomes.

MS. ASHTON-CICKO: Okay. Thank you.

MR. HAZEL: Good morning. My name is Fred Hazel with Davis Development. Mr. Chairman and Commissioners, my pleasure to be here this morning to discuss our project.

Thank you, Rich, for the overview.

Just briefly about Davis Development, we're a privately funded development outfit based out of -- outside of Atlanta, Georgia, in Stockbridge, Georgia. We have a number of offices around the Southeast and into Texas, closest of which is in Sarasota, Florida.

We have developed, at this point in time -- I'm not sure of numbers, but scores. I've been with the company for 26 years, and this is all we specialize in. Privately funded, so that gives us the flexibility to work with the community in projects and be flexible as we have on this project.

Our company does our own development, then we have our own construction company, so we'll be the same folks out building this project if we're successful and if we move forward. And then we also have a management arm that manages and leases the day-to-day operations of the communities.

I'd like to thank the neighbors who've come to the NIMs that we've had. Their input's been invaluable as much as has been discussed today for us to be able to learn to the depth that we did some of the concerns and thoughts that they had, and we've taken those to heart, as has been said, and made what we feel like were some very nice changes trying to bring forward a community that all can say is pleasing and will work well within the community. Those things, obviously, were access, mass, scale, et cetera.

We did take the step to make what I consider to be a stronger investment in the project in switching to the structured parking to allow the site to loosen, to have the lower density in height in the transition of two-story. So, once again, things we've done to really work with the community, and we've really taken to heart their input. So we appreciate them and thank them and staff and our team.

Just briefly, about the building. The prime building is a wrap project, as we said. Trash is internal. It has ample amenities. We have an example of a recent project, in fact, here in Collier County at the Founders Square project. We're just about done with that. We're receiving extremely strong leasing activity, well received within the community, so we do have an example in the community of our work.

COMMISSIONER VERNON: Where is that project?

MR. HAZEL: That is at the intersection, southeast corner of Immokalee and Collier. I believe it was an old nursery, was it not, Rich, by reference, that I believe Barron Collier rezoned as a mixed-use development, and we did the residential component.

COMMISSIONER VERNON: I know where it is.

MR. HAZEL: They're very proud of how that's turned out.

So we feel like all the work that's been done has resulted in a nice project that will fit well and work well within the community. There's still work to be done finishing architecture. That was of discussion. And we have a team of architects and interior designers that will work with community leaders and ourselves to evolve the architecture to something that fits well within Lely Resort. So I know that's one thing that, as we've done in the past, we'll continue to work with the community and ensure that results in architecture that's pleasing and everybody is happy to see when they come by.

So we're here for questions, comments, thoughts beyond what's been done. And we appreciate your time today, and we respectfully ask for your support of our project. Thank you.

CHAIRMAN FRYER: Thank you. Thank you, Mr. Hazel. No one is signaling at this time, so...

COMMISSIONER HOMIAK: The access onto 951 will be right-in, right-out only?

MR. HAZEL: Yes, ma'am.

COMMISSIONER HOMIAK: Okay.

CHAIRMAN FRYER: Thank you.

MR. HAZEL: Thank you.

MS. ROBIN: Good morning. My name is Lindsay Robin. I'm a certified planner at Stantec. I'm here today on behalf of the applicant, and I have been sworn. Thank you.

I'm going to walk through the surrounding land uses. I apologize if any of this is repetitive.

To the north of the site is Grand Lely Drive, a four-lane divided public roadway, as well as Stock Plaza, which is a commercial strip center. To the east of the site is Collier Boulevard, a six-lane arterial roadway. To the south and west of the site is Celeste Drive, a two-lane divided public roadway. Also located to the west are two two-story residential communities known as Saratoga and Verandas.

Here is the proposed conceptual site plan, and as you'll note, the applicant has made many design modifications in order to enhance the compatibility of this project in response to the community feedback we received.

So I'll just briefly walk through those site features again for you. On Grand Lely Drive there we have the right-in-only access, vehicular access. To the west we have the two-story townhomes that are located along Celeste's perimeter. We have removed the vehicular access on Celeste Drive. The existing permitted vehicular access was completely removed. And in abundance of the Land Development Code requirements, the applicant has agreed to provide decorative fencing and lush landscaping along the Celeste Drive perimeter.

This project represents an appropriate transition of intensity as you move from the two-story townhomes to the three-story multifamily adjacent to the arterial roadway. This also represents a reduction of traffic impacts to the area just by simply removing that Celeste Drive access point. The parking is located interior to the site. There are -- there's a dog park as well as doggy stations located throughout the community.

And on Collier Boulevard, we're providing right-in, right-out-only vehicular access, which was also directly in response to the community feedback we received.

And with that, I'm going to turn it back over to Rich who can kind of go over that public outreach effort we made.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Question on the -- from the right-in, right-out, and what it appears to show on this site plan is a decel lane. You're going to construct that decel lane for the right turn in? It appears --

MS. ROBIN: Yes.

COMMISSIONER SCHMITT: -- right when I look at where it says "dog park," it kind of cuts in. That seems to indicate that the -- I would expect staff has asked for that decel lane and to allow for the right turn in. So that's all going to be constructed?

MS. ROBIN: Yes, sir.

COMMISSIONER SCHMITT: And what you don't show on here yet, though, is the right-turn improvements coming off of Grand Lely right at the north -- at the corner of Grand Lely and Collier Boulevard?

MS. ROBIN: It's here to the site plan.

COMMISSIONER SCHMITT: Oh, I see it.

MS. ROBIN: I might have it mislabeled. I apologize, but that's here.

COMMISSIONER SCHMITT: And that will be the decel lane. So the right-in will be forward of that, or at least in -- it will not obstruct any backup on that.

MS. ROBIN: That's correct.

COMMISSIONER SCHMITT: Has your traffic engineer -- and the question was asked about coming from the north. Did the traffic engineer evaluate the movements required for that? It's a little bit different than what I thought.

MR. YOVANOVICH: Yeah. We did, and we actually met with and talked to county staff about how we would design the access.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: We did put a, if you will, full court press on trying to get that left-in off of Collier Boulevard. And so as part of that process, staff -- staff said you have good,

safe access to the property --

COMMISSIONER SCHMITT: But there's not going to be a left turn into that entrance off of Collier?

MR. YOVANOVICH: Correct. And they said that there was safe access to get to the property without that left turn, so they did evaluate how we proposed access to the site. So they did consider the right-in and how people would use the right-in, Mr. Schmitt, as part of our discussion with staff.

COMMISSIONER SCHMITT: Okay. All right.

MR. YOVANOVICH: I was going to go over at this point all of the commitments we had made through the evolution of the process, but I do want to emphasize that this was how the NIM process was supposed to work. We presented the project. The community gave us input as to what their concerns were. We, then, voluntarily, as we frequently do, went back and held another meeting and another meeting after that because it was the intended dialogue for the process. Hopefully the recordings were sufficient for this one, but I do think that there's value --

CHAIRMAN FRYER: You don't really want an answer to that, do you?

MR. YOVANOVICH: I don't -- it was rhetorical. It was rhetorical.

But I just wanted you to know there was -- there was -- that's the way the process was. And it was a decent-sized crowd at all of the NIMs. So there is -- and it was -- I didn't need a sheriff's deputy at that one. So it was a well-run -- and as you could see through the process and the input, the project evolved into what we believe is -- it was always compatible. It's always a transition from residential to commercial, but we made it -- we made it better by addressing their concerns.

And your staff is recommending approval, and we would request that the Planning Commission transmit to the Board of County Commissioners with a recommendation of approval.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Another question. The two-story townhomes you show an arrow along Celeste.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: Are the -- is that entire building two-story, or is it three-story on one side, two-story on the other? That's what I'm trying to --

MR. YOVANOVICH: They're two stories.

COMMISSIONER SCHMITT: All two stories?

MR. YOVANOVICH: All of those are two stories.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: And your entrance, your front door, faces Celeste.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: You have your -- right, Fred?

Your right front door, yeah. I know Mr. Shea was looking at me; it made me nervous. You can see there's a sidewalk that leads from -- there's garages underneath. You can get in through the garage, or you can walk around on the sidewalk to get to the front door. So you have a nice view of the project as -- if you're walking on Celeste or you're driving down Celeste, you're seeing a front door. You're not seeing a garage or a window.

COMMISSIONER SCHMITT: I'm trying to figure out, but it's hard to read that -- the big white area, the pool there, and the -- what -- is that -- that's not parking, but --

MR. YOVANOVICH: Those are the buildings.

COMMISSIONER SCHMITT: Those are the other buildings?

MR. YOVANOVICH: Those are the units. Those are the three-story units.

COMMISSIONER SCHMITT: Those are the three-story units, okay.

MR. YOVANOVICH: You can see in the middle the three-level parking.

COMMISSIONER SCHMITT: Yeah.

MR. YOVANOVICH: So the buildings wrap around the parking so you don't see the

parking.

COMMISSIONER SCHMITT: That's what I thought. I just wanted to make sure. That's where the three stories are.

MR. YOVANOVICH: That is, yes, sir.

COMMISSIONER SCHMITT: Okay, thanks.

MR. YOVANOVICH: Any other questions? Other than that, that's our presentation, and we're --

CHAIRMAN FRYER: Okay. I have a few comments and questions about the NIM. And without going into detail about the transcript or the tape, there was sufficient information in the summary for me to ask the questions that will now follow.

The -- it says question, Comment No. 6, are these being leased on an annual basis, or could there be potential for VRBO, Airbnb, or what do you anticipate for that? And the answer that was given by the developer -- I assume that was Mr. Hazel.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN FRYER: He said, this would be a market rate for rent with year-plus leases. So, no, this is not a short-term rental of any sort. This is a luxury multifamily project.

And then another question and comment: Who can reside in your community?

Answer: To reside in our community, you have to be on the lease. If you're going to live in the unit, you have to -- you have to be background checked to be accepted into the community. We will know the name of every person living in the community.

All these things sound good. This is good due diligence. But then also in the NIM, the comment -- the question was asked: How long will this developer retain ownership?

And the response was, and I'm paraphrasing, sometimes we own for 10 years. Sometimes we sell them right after we build them.

Now, my question, you can anticipate, is: How are we going to get some kind of ability for, let's say, a private civil action? Because I don't think the county's going to want to do code enforcement to see to it that certain commitments that were made at the NIM are fulfilled by the successor in interest. Do you have any thoughts on that?

MR. YOVANOVICH: Can you give me one second to talk to Mr. Hazel before I say what I'm going to propose?

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Yes, Mr. Klucik. Can you hold, Mr. Klucik?

COMMISSIONER KLUCIK: Sure.

CHAIRMAN FRYER: Okay. Thank you.

Go ahead, Mr. Yovanovich.

MR. YOVANOVICH: We're happy to include in the PUD that it has to be a minimum one-year lease. So that should take care of that. If you want to include -- and just keep in mind this is going to be precedent-setting for every project that comes along. If you want to require us to do background checks, that's fine, too. That's a normal course of operation for luxury apartments, but...

CHAIRMAN FRYER: Well, I'd like to -- yeah, I would like to have that in the PUD, not for the purposes of county enforcement, because I think that goes beyond what the county can do, but something there that would largely act, perhaps, as a deterrent or a positive incentive to successor in interest knowing what they would have to do in order to fulfill the representations made by Mr. Hazel that it's going to be a first-class --

MR. YOVANOVICH: And it will. And I know you haven't had a chance yet, but to give yourselves a level of comfort after this meeting, if you were to go up to the Pearl at Founders Square, you will see the level of the construction, you will see the level of the amenities. If the apartment complex is sold, it will be sold for a substantial sum of money. So whoever buys it will also want to implement those same precautions so they don't lose the value of the asset they just purchased, so...

CHAIRMAN FRYER: Okay. And I don't -- and we've been taught many times by our County Attorney that none of these deals are precedential for the others. And the reason that I brought this up is because it was in the NIM, which was a commitment that was made. And I appreciate your willingness to honor the commitment.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Will there be -- the management association or the management entity be on site, in an office on site?

MR. YOVANOVICH: Yes.

COMMISSIONER SCHMITT: Because those commitments -- and certainly if it's an annual-lease basis, the second piece of that, there won't be an HOA because these are not sold as --

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: -- as a homeowners association. But there has to be some kind of entity that's going to be a management -- assist the management entity. And I would ask how we do that with other projects. Do you have a renters board, council, or whatever? Because that's the way any type -- any issues that neighbors may have in grievances, turning a unit into a bed and breakfast or whatever else, Airbnb, there has to be a way to deal with those, and we need a management entity on site. So go ahead, please.

MR. HAZEL: Our management company -- and even if it were owned by a different company, as Rich said, that might purchase this, we have a professional management company. Every lease is governed by a lease that has been reviewed by Florida counsel that allows us to govern over that occupancy. Obviously, the worst thing we have are nuisance tenants. And so we don't allow any short-term rental. You can't re-lease. You can't sublet. You can't VR -- those are reasons for being tossed.

And so by lease agreement, we have on-site management daily. We have a manager, assistant manager, and probably three to four other leasing staff. You have on-site maintenance. You'll have a groundskeeper. So we have a staff of eight to 10 folks full time on each of these properties every day.

COMMISSIONER SCHMITT: Okay.

MR. HAZEL: And so they're governed over -- through the lease document in particular is how you govern legally the residents' activity, and then the knowledge of who they are. As I said, everybody that's going to occupy in our units must be on the lease. We have to know who they are. Obviously, subject to standards of review of folks and fair housing.

So it's our job and the management company. It's really the owner's job, and they do that through a management company. We happen to own our own, but there are a number of professional management companies in our industry that are hired. Greystar is one of the larger names you might know in the country that's some institutional investors we use, and they have the same type procedures and would be operating along the same lines as we do.

COMMISSIONER SCHMITT: Yeah. I just asked the question --

MR. HAZEL: Oh, certainly.

COMMISSIONER SCHMITT: -- because the neighboring properties, I want to make sure they know there's a belly button to push somewhere if there's --

MR. HAZEL: I understand.

COMMISSIONER SCHMITT: -- issues that are coming from the neighboring buildings.

MR. HAZEL: If it's external, someone has an issue with a resident, they come to our management. Internal, same. Sometimes we have to -- you know, resident issues we have to resolve internally with our residents, but that is the job as manager.

COMMISSIONER SCHMITT: Thank you.

MR. HAZEL: Thank you, sir.

CHAIRMAN FRYER: Thank you. Another question or two for Mr. Yovanovich, if I may, please.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Sure. I guess -- I have a question. You know, we're imposing some things that seem to be concerns of the -- or we're considering imposing some limitations that seem to be at the request of neighbors. I'm just trying to figure out, so can a neighbor not choose to rent their home? You know, they're going to be away for a year? Can they not choose to rent their home to a friend for three months in season?

COMMISSIONER SCHMITT: It's a rental.

MR. YOVANOVICH: Yes, they can. There's no -- the neighbors across the street can do whatever they want with their residence. We are willing to impose --

COMMISSIONER KLUCIK: Yeah, that's kind of -- that's my concern is why are we -- why are we so excited about locking in the applicant to some fairly extreme terms that people complaining, or whatever, requesting these things aren't subject to themselves? I just -- I don't understand that. Well, we were here first, so we get to do it. And you're coming along, and we're going to make sure you can't do it.

MR. YOVANOVICH: I understand.

COMMISSIONER KLUCIK: Again, I don't know the facts. I'm just asking the question. Is that what I see happening? Because I don't like that. I don't think that's something it should be.

MR. YOVANOVICH: I understand that, but, Mr. Klucik, just so you know, I think that's standard operating -- it's certainly standard operating procedure for Davis Development, the one-year leases. But I think for -- you'll find for your luxury rental apartments, they don't allow short-term VRBO. It just -- it's not good for their investment in the property, and that's an issue that was easy for us to accommodate because that was a standard business operation.

COMMISSIONER KLUCIK: Hey, if the applicant doesn't care, then I'm certainly not going to argue about it.

MR. YOVANOVICH: No, we're fine. Thank you.

MS. ASHTON-CICKO: I would caution you about some of the commitments that would be difficult to enforce through Code Enforcement. And because this is an ordinance, anything you put in it would be subject to Code Enforcement.

CHAIRMAN FRYER: Well, I -- when I met with staff, we talked about this. And what we're wanting is to create a private right of action but mostly to create an incentive not to burden the county Code Enforcement people. Is there some language that we could put in to do that?

MS. ASHTON-CICKO: Usually when those kind of commitments are between the owners and the developer, that's done through a separate private agreement.

CHAIRMAN FRYER: Well, I'd like somehow to fulfill the expectations of the public who were at the NIM and who heard very explicit commitments on the part of the developer to do certain things to assure this stays high quality; otherwise, there would be no restraint on all kinds of puffing going on at NIMs.

MS. ASHTON-CICKO: Rich, how would you like to handle it?

MR. YOVANOVICH: I'm perfectly fine with putting it in the PUD, that we would agree that minimum lease term is a year.

MS. ASHTON-CICKO: Okay.

MR. YOVANOVICH: And I think we've done that -- maybe not a year. We may have done nine months or eight months on other projects, but --

MS. ASHTON-CICKO: Okay.

MR. YOVANOVICH: -- we're fine with including that in the PUD.

CHAIRMAN FRYER: Okay. Thank you.

MS. ASHTON-CICKO: Okay.

CHAIRMAN FRYER: Mr. Klucik, did you have something more at this time?

COMMISSIONER KLUCIK: No.

CHAIRMAN FRYER: Okay. Mr. Yovanovich, this is just for clarification. I'm not sure exactly what you meant when you said this, and what I have is a summary of what you said;

not a transcript, and not an audio.

But the summary says that you said, none of them are Section 8. And this, of course, was in response to the mention on the part of a member of the public: Is this Section 8 housing? Of course, it's not.

But then you went on to say this: It's 120 percent of the median income. Did you actually say that and, if so, what did you mean?

MR. YOVANOVICH: I think it was in -- what -- I've learned that at that time the County Commission and sometimes the Planning Commission and sometimes staff would ask for income-restricted commitments, and I said -- I think it was in the context of if there was -- which we were not going to concede to. But if -- at that time it was -- we were using the 120 and below as some of the discussions we'd had in the past. So I think it was in response to, worst-case scenario if something like that was imposed upon us, it would be -- because I, frankly, didn't want to have to do another NIM if you guys forced me to do some income restriction; I had to go back and tell the public. So I think it was in that context.

CHAIRMAN FRYER: Okay. That's fine. All I have is a summary.

MR. YOVANOVICH: Okay.

CHAIRMAN FRYER: So I'll take your explanation as what was intended.

MR. YOVANOVICH: It was probably in response to a question to that effect.

CHAIRMAN FRYER: Yeah, it was. The question was, is what percentage are you willing to offer the county for Section 8 housing to sweeten the pot, because that has happened in some of the bigger communities?

And then you responded, none of them are Section 8. It's 120 percent of median income. So, I mean, I think your explanation makes sense. That's fine.

That is all I have for you.

MR. YOVANOVICH: Thank you.

CHAIRMAN FRYER: Anybody else for the applicant?

(No response.)

CHAIRMAN FRYER: We've run over the 10:30, and I apologize to the court reporter for that. But we're at 10:39. Let's take a 10-minute -- 11-minute break to 10:50 for our midmorning break. And with that, we stand in recess until 10:50.

(A brief recess was had from 10:39 a.m. to 10:50 a.m.)

CHAIRMAN FRYER: Let's return to session. And at this time I'm going to ask Mr. Yovanovich to reopen his application in chief and address a question that was brought to my attention by a member of the public having to do with the emergency access to and from Celeste, where that will be, how it will be enforced. Mr. Yovanovich.

MR. YOVANOVICH: Sure. At the Site Development Plan level, there's a meeting with the Fire Department as one of the reviewing agencies. They are going to require -- and I can't tell you where it is today, but they are going to require an access point for them. The way it typically works is when you're driving by, you have no idea it's even there. There's just a stabilized base that they can drive in and out of in the event they need to get in and out there, but there's no public access point for any of our tenants or anybody who's coming to visit to use that access. The fire department knows where it is. It may include a gate where they can just drive through. It's controlled by their frequency, but it's not a public access, and you probably won't even know it's there.

CHAIRMAN FRYER: I can't get a good visual image of it. How would -- I mean, if it's not gated or obstructed, you would expect at some point, you know, opportunists are going to discover it and perhaps use it.

MR. YOVANOVICH: But there's usually vegetation planted in front of it, and you've got to have a fire truck to go through that vegetation.

CHAIRMAN FRYER: Okay, okay, okay. So they basically plow through the vegetation?

MR. YOVANOVICH: Yes, yes.

CHAIRMAN FRYER: Okay. I got it. Got it. Thank you. Thank you very much.

MR. YOVANOVICH: I don't think you're going to do that with your car, intentionally.

COMMISSIONER SCHMITT: The other one is exactly what he said. There's a gate, but a gate is only controlled by the emergency vehicle.

CHAIRMAN FRYER: Knock box.

MR. YOVANOVICH: Any of those opportunities or all of the above.

CHAIRMAN FRYER: Yeah, thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yes, I thought -- sorry, I was trying to fix my computer. But I thought they had already decided it was going to be on Celeste Drive, that little cut that you guys closed off.

MR. YOVANOVICH: No. I don't know exactly where it's going to be.

COMMISSIONER VERNON: So they'll tell you.

MR. YOVANOVICH: We will work with them to put it where they want it. So you might slide these buildings a little bit and put it somewhere.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: Anything else of us?

CHAIRMAN FRYER: Commissioner Schmitt, did you want to speak?

COMMISSIONER SCHMITT: Yeah. During the break I had one question about stormwater and stormwater management. Rich, do you have anybody from your team?

MR. YOVANOVICH: Sure.

COMMISSIONER SCHMITT: I would just -- I explained to the gentleman this is typical of any application for stormwater management. They have to go through the ERP process, Environmental Resource Permit, through the South Florida Water Management District. I don't know where you are in that process, but I assume you're moving along.

If you could just explain for the public so they're understanding, with stormwater management -- because you don't have any retention/detention areas, and so it has to be engineered and controlled. So if you'd just briefly explain.

MR. NOLL: Patrick Noll, professional engineer with Stantec.

Yes, as you say, we would have to go through permitting through the South Florida Water Management District. It's an Environmental Resource Permit, and that is going to -- they're going to be looking at water quality, water quantity, floodplain compensation, those type of things. You know, the regulations are pretty strict, and we make sure to adhere to all those necessary regulations. And that's reviewed and, you know, we would receive approval for how that water management system would function, and then also at the same time we'd be looking at, of course, Collier County standards that, in certain instances, may or may not be even more strict than the Water Management District in making sure that, you know, all of that is covered.

COMMISSIONER SCHMITT: And just to be clear, that water either has to be retained on site or moved off site through the approval process through the District approving your engineering design, so whatever conveyance you're going to do. You just can't move that water to the east or to the west or down the middle of the road, so to speak.

So I just want to make sure the public understands that and it's clear to them that this is clearly controlled through the South Florida Water Management and through the permitting process.

MR. NOLL: That's correct. This is looking at holistically, you know, from the entire surrounding community and including that parcel. So when you receive approval of that, you've gone through a review to ensure that you're not having any adverse impacts to any of your surrounding neighbors and that everything is kind of functioning in unity.

COMMISSIONER SCHMITT: And typically through that review process, it's a public notice. Public can have access to what's being presented to the District.

MR. NOLL: That's correct.

COMMISSIONER SCHMITT: South Florida Water Management District. Thank you.

MR. NOLL: You're welcome.

CHAIRMAN FRYER: Thank you, and thank you, applicant. Anything further from the applicant?

MR. YOVANOVICH: No, sir, unless you have more questions.

CHAIRMAN FRYER: Thank you. We'll now hear from staff.

Ms. Gundlach.

MS. GUNDLACH: Yes. Good morning, Commissioners. And for the record, I'm Nancy Gundlach, principal planner with the Zoning Division, and staff is recommending approval of the petition. And the reason for approval is because it's consistent with the Land Development Code and the Growth Management Plan. And just to clarify, there is no increase in density. These are part of the previously approved number of dwelling units for this Planned Unit Development.

And approval is contingent upon one stipulation, and that is that the traffic study shall be removed from the record. And if you have any questions about why we're removing it, I have our subject-matter expert from Transportation here this morning, Mike Sawyer, and if you have any other questions, it would be our pleasure to respond to them today.

CHAIRMAN FRYER: Thank you. Quick question for the applicant. Do you object to the removal of what was not a TIS?

MR. YOVANOVICH: I actually don't even know how you remove something that's a public record. I think the right answer is staff did not consider it in their analysis. But if you have the ability to remove something that's a public record, then we have no objection.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: That's my question as well. I don't know -- I read this statement. I asked Rich that specifically when we discussed this. The applicant submitted the documents. The documents are now part of the public record. I don't understand. Legally -- and I guess I'll turn to Heidi -- they're part of the public record. They're part of the public domain. Are we striking that from the record and, legally, can we just say we're removing that? I understand what happened, I understand the transition, I understand what you're saying about the TIS, but it was still submitted. I don't understand how we can just summarily say now we're going to strike it from the record.

MS. ASHTON-CICKO: No, it's clearly a public record. I think what staff meant is to, you know, not accept it for consideration for this application.

COMMISSIONER SCHMITT: Okay. But it's still part of the record. It's just not accepted as a TIS?

MS. ASHTON-CICKO: Correct.

COMMISSIONER SCHMITT: We'll amend Nancy's statement to reflect that interpretation. Thank you.

CHAIRMAN FRYER: Does that work for staff?

MR. BELLOWS: (Nods head.)

MR. BOSI: (Nods head.)

CHAIRMAN FRYER: All right. Nothing further from staff. I take it, then, it's time for the public to be heard if they wish to be. I'm going to ask anyone wishes to speak, first of all, to please raise your hand so I can get an idea of the -- okay. We've got three people, all right.

COMMISSIONER SHEA: Four.

CHAIRMAN FRYER: Four people. I'm uncertain as to whether you've been sworn in. I'm uncertain as to whether you've registered and given your information.

I'll ask Mr. Youngblood, do you have slips?

MR. YOUNGBLOOD: Mr. Chairman, I have two slips for registered speakers here in the room. There's a third one. I also have several online who are wishing to speak also.

CHAIRMAN FRYER: Okay. Good.

So for the people who are present and wish to speak, if you haven't been sworn in, please rise now and be sworn in by the court reporter.

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

CHAIRMAN FRYER: Thank you. And now, Mr. Youngblood, who is our first speaker in person?

MR. YOUNGBLOOD: Our first in-person speaker is Susan -- forgive me -- Vicadomini -- Vicedomini, and she will be followed by Stephanie Rhodes.

MS. VICEDOMINI: Hello. My name is Susan Vicedomini. I am president of the Cottessmore at Lely Resort HOA, and I'm also president of the Lely Master Resort POA.

One of -- the first concern that I want to bring up is at the last NIM, we did receive information there would be ingress and egress on 951, which this is a considerable change from what was last explained to the public; that we were understanding on Collier they would be able to get from the north and the south directly in without the requirement of doing the U-turn or coming around, and that does put considerable stress, now, on that portion of Grand Lely between Collier.

They call it a roundabout. It's really a series of right-turn lanes. It is not built as a roundabout. And we've had several conversations with the county about that particular design of being very limiting for traffic. Traffic actually stops on it to allow both directions on Grand Lely to go back and forth.

So if the county maintains that it can only be a right turn into the community off of 951, that some improvements be made on that quasi roundabout. It would not incorporate traffic coming around and trying to do a U-turn to come back in to do the right turn into the development. So that is a big point of concern.

And also, when the commitment was made that it was not going to have the egress onto Celeste, that was to reduce traffic on Celeste, and by now not having that southbound entrance into the community then people coming up from the south will take Celeste all the way up to turn into the community. And the whole purpose of no road onto Celeste was to eliminate that.

We would also ask that in part of the PUD there be a commitment about the landscaping that will be done on the berm. The Davis was very good about always mentioning that this would happen, but of having this as a requirement on the berm -- that the building design reflect that of the Lely community in both the Lely POA ARC documents that we have. And, finally, that they make a commitment to receive the irrigation services by the Lely CDD who does provide irrigation for Lely Resort. And this would be a commitment they would be part of the CDD with that.

Thank you very much.

CHAIRMAN FRYER: Thank you, ma'am. Would you spell your last name. And then I think Commissioner Schmitt may have a question or comment.

MS. VICEDOMINI: Okay. It's V as in Victor, i-c-e-d-o-m-i-n-i.

CHAIRMAN FRYER: Thank you very much.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Just a discussion on your requirement now. You're asking for a left turn in and out, a full opening off of Collier?

MS. VICEDOMINI: A full opening on Collier would be our preference by -- yes.

COMMISSIONER SCHMITT: And I understand your preference, but did staff or the applicant explain to you Collier Boulevard is restricted on the number of movements, right turn, left turn? That has to be approved through the Board of County Commissioners, and it's -- and, basically, it's a restricted highway as far as continuing to provide more and more openings.

If what you're asking, then that -- all of a sudden now we're back asking for the entrance on the west side of the property.

MS. VICEDOMINI: No, I was not asking for an entrance on the Celeste portion of the property.

COMMISSIONER SCHMITT: Celeste, yeah.

MS. VICEDOMINI: No. What I was saying is our preference would be to allow access from southbound or northbound lanes on Collier. But if it's going to be restricted to only the right-in, that we do some traffic improvements on that -- I don't even want to call that a roundabout -- on that intersection that we have on Grand Lely that currently, as they've mentioned, we do have people backing up, crossing over to go into Verona Walk. By adding the third lane on Grand Lely, that will help, but if you notice, that third lane will be a very short lane because of the ingress into the community because --

COMMISSIONER SCHMITT: I've been around that circle many times. I'll call it -- you call it what you want. I'll call it a traffic circle because it functions as a --

MS. VICEDOMINI: Except you have to stop. Circles, you don't stop.

COMMISSIONER SCHMITT: Well, no, circles there are stops and there's yields. It depends on --

MS. VICEDOMINI: But if you're inside of it, you have to stop on this particular intersection.

COMMISSIONER SCHMITT: I understand. But if I'm leaving -- let's say I'm coming out of Skittles [sic] and I want to head south, so I'm coming out of the --

MS. VICEDOMINI: Right.

COMMISSIONER SCHMITT: -- plaza, I'm going to turn right, I'm going around the circle to head back onto Grand Lely to head south on Collier Boulevard, it's not a very difficult move. There's a traffic engineer --

MS. VICEDOMINI: You'd be surprised how many accidents we've had there, and our traffic committee has worked with the county on that numerous years in a row, and last year -- or was it '19? -- they actually were able to put in extra colors on the road to indicate the lanes. But it's a very confusing intersection, and people aren't sure as they're coming down Grand Lely --

COMMISSIONER SCHMITT: You're asking -- I'm sorry.

MS. VICEDOMINI: They're just unsure when they're coming down Grand Lely of who has right-of-way when you pull out. It's not a circle. It's a large island.

COMMISSIONER SCHMITT: But are you asking now to redesign the entire intersection?

MS. VICEDOMINI: No, to make it more of a circle, make it more that it can take the traffic that's going to be added to it.

COMMISSIONER SCHMITT: Okay. I hear what you're saying. I don't know. I'll let the applicant respond to that if they have their traffic engineer, or I'll turn to the staff, Mike Sawyer, if Mike wants to address that.

MS. VICEDOMINI: This had been brought up before, because the ingress and egress were on Collier.

COMMISSIONER SCHMITT: But I've got to tell you, the chances of getting a left turn off of Collier are probably slim to none and probably less than that.

MS. VICEDOMINI: Okay. But that was what we had heard at the last NIM is it was, so that's what we were basing --

COMMISSIONER SCHMITT: Okay. I'm not going to argue that.

MS. VICEDOMINI: I know.

COMMISSIONER SCHMITT: But the point is, you're pretty much assured you're not going to get a left turn off of that.

MS. VICEDOMINI: Okay.

COMMISSIONER SCHMITT: It's too close to the other intersections, and it's just not going to happen.

MS. VICEDOMINI: Okay.

COMMISSIONER SCHMITT: So I don't know -- I defer to my colleagues on what we're going to do around what is kind of, I call it the traffic circle, where your horses are.

MS. VICEDOMINI: Yes. This is where we're requesting that some improvements be

made to make it more user friendly.

COMMISSIONER SCHMITT: Okay. Thank you.

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

Next speaker.

MR. YOUNGBLOOD: Stephanie Rhodes, followed by Michael Crijan. Did I pronounce that correctly, Michael?

MS. RHODES: Hello. I'm Stephanie Rhodes. I am on the board of directors of the Verandas 1 Association, and I have been a past member of the board of directors of the Verandas HOA.

So first of all, thank you, and thank you, Chairman, for reading the NIMs transcripts, because I have been at all three NIMs. And I totally appreciate how the Davis Development has listened to our concerns and has addressed them.

My question is: On -- and I think Susan did address it just now -- is on the landscaping, since I live right across -- our development is right across the street. When you talk about the front doors coming out of the townhouses onto Celeste, will that be controlled by openings? Is that anybody can come out?

And the reason I'm asking that question is, we have a lot of cut-throughs. We have -- it's a private property. We maintain our own roads. So what we don't -- and, you know, having people walking their dogs and coming through into our development is a concern. So we were wondering, how is the control on that? You said you will have a fence. Will the fence have an opening?

MR. YOVANOVICH: No.

MS. RHODES: It's just anybody can walk out on Celeste?

CHAIRMAN FRYER: Is there a quick answer?

MS. RHODES: Yeah, real quick.

CHAIRMAN FRYER: Let's have is.

MR. YOVANOVICH: It's a solid fence.

MS. RHODES: It's a solid fence.

MR. YOVANOVICH: It's a solid fence, yes.

MS. RHODES: Okay, thank you.

CHAIRMAN FRYER: Thank you.

MS. RHODES: And one more thing to Mr. Klucik, I think, who is on the audio, the Verandas and the Saratoga communities across the street do not have VRBO or Airbnb rentals allowed. We are very consistent on our background checks and our leases, and in Verandas we can only rent three times a year. I don't know what Saratoga is. But I know he was concerned could the neighbors do VRBO. The two neighborhoods surrounding the community are not able to do VRBO. I just wanted to clarify that.

CHAIRMAN FRYER: Thank you for the clarification.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker, Michael Crijan, and then we will go online where we have 15 registered speakers.

CHAIRMAN FRYER: Sir, I'll ask you to spell your last name, if you don't mind.

MR. CRIJAN: My name is Michael Crijan, C-r-i-j-a-n. I am a Collier County resident, and I've been a resident of Ole' for the last nine or 10 years almost. Ole' is just to the south of this proposed project.

And I want to start off by thanking both Stantec and Davis. They have made multiple changes to this project as it's evolved through the neighborhood meetings.

And with respect to that, I think it would be truthfully a great addition to the community. It would bring a more diverse people to the neighborhood. People with -- you know, that make, you know, more money, and would bring more wealth to the neighborhood.

Again, it would bring more property taxes, which I think would be improvements across

the board that we would all benefit from as Collier County residents and as Lely owners.

Again, thank you, Board, for your time. It was wonderful and very informative this morning.

CHAIRMAN FRYER: Thank you, sir.

Now we go online, Mr. Youngblood?

MR. YOUNGBLOOD: We are going online now to Eileen Fusco.

Eileen, you are being prompted to unmute your microphone.

MS. FUSCO: Can you hear me?

CHAIRMAN FRYER: Yes, ma'am. Please spell your last name.

MS. FUSCO: Yes. My name is Eileen Fusco, F-u-s-c-o. I'm a resident of Lely. We own in Classics. I'm also -- I also sent letters to all of you prior to the NIMs. I learned that acronym this morning, so thank you for that discussion.

I do want to agree that we attended two NIMs, the last two ones and Davis, in fact, did listen and made changes to the plan.

What I never heard, though, was sort of addressment of the macro issue that -- why residential would be approved here as opposed to commercial. It was zoned commercial. We've rented and lived in Lely for many, many years, and it was always zoned commercial.

So other than the fact that you have a residential developer, I never heard why commercial would be better for our community -- I mean residential -- more residential would be better than commercial. So that was a disappointment. We never -- you know, we really never heard the reasoning for that.

I don't think that this type of development's in keeping with the neighborhood, so I respectfully disagree with the staff. We did ask but never saw elevations for the proposed buildings. And despite all of our, you know, talking about density, the number of units never changed. So it was 184 in the beginning, it's still 184, so the density has not changed.

And, you know, the two-story townhouses, if I understand correctly, will have parking under them. So they really will be three stories. They'll just be two stories of living space.

MR. YOVANOVICH: That's not true.

MS. FUSCO: Our entrance to Classics, as I'm sure you know if you've driven through there, directly comes out to that circle or turn or whatever it says on Grand Lely. And I could tell you, I'm not a traffic expert, but I'm a licensed driver, and that is a problem. It's a problem already coming out of there between people making U-turns from Stock Plaza, and I could tell you that people who are coming east, south, or north on Collier are going to use that to make a U-turn and go into the Grand Lely entrance. I doubt very much if they're going to continue on Collier when they can take the cut, go around the circle, and go in that direction.

The -- I wanted to just also address the rentals. We in Classics have one-year rental minimum so, yes, there are requirements. All the neighborhoods that I'm aware of in Lely, with the exception, I think of one, have requirements for minimum rentals and number of times a year. So we're not requiring anything special here.

I think that Davis did a good job of convincing the people at the NIMs that, you know, there's -- a big, bad commercial could come in here and put, you know, dumpsters and this and that and so forth. But we haven't experienced that with Stock Plaza. So, again, I'm not sure why we're presupposing that this is -- you know, that this is approved, and we're just tweaking the -- tweaking the development.

The Celeste is a secondary road. People bike there; we do. People walk there. And what I heard at the last NIM were that the townhouses were going to have paths to Celeste so that they could walk and bike and do all of that. So there will be increased pedestrian and bicycle traffic there.

You know, the thought of 184 units is probably 500 -- you know, 400 to 500 cars. There is a fair amount of traffic already in Lely, and I don't think that that this will be a good use. Also, commercial would be presumably not present at night, but residents certainly will be coming at all

times of the day and night.

So for those reasons, I ask that the commission not approve this change. I don't understand the reasons for it, and I don't think -- despite all the tweaking, I still think that a commercial or mixed-use would be a better fit with this -- with our Lely development.

It's inconsistent density. I mean, I know it's within the overall density for Lely, but this particular 184 on nine acres is not consistent with the other density in Lely.

So there's still a lot of issues here. I don't know why it's been approved already. I feel like we're sort of commenting after the fact, but I did write all of you letters, so hopefully you had the opportunity to -- I sent them by email. Hopefully you had the opportunity to read them as well.

CHAIRMAN FRYER: All right. Thank you, ma'am.

Certainly, Mr. Yovanovich will have an opportunity at rebuttal to talk about the commercial use and the market conditions and the like. But one thing I want to clarify right now, my understanding is this is not going to be two stories over parking. It's just two stories.

So with that, I'll ask Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I was going to state the same. I just want to make sure -- ma'am, thank you for your comments, but it was clearly stated on the record this is going to be two stories. It wasn't two stories over parking. There may be parking in the garage adjacent, but it was clear it's two stories. That's what will be in the PUD.

And as far as commercial, I'll leave it up to staff but typically commercial versus residential. Commercial we use the term "intensity." Residential we use the term "density." And in almost all cases, commercial is deemed to be far less pervasive, intense, and have far less of an impact -- or far more of a -- or greater impact than residential. So I'm going to leave it up to the staff or the applicant to explain that. But it's not -- I mean, if the community wanted commercial, certainly it could be commercial. This is now a request, and as you understand it, it's to convert what is deemed -- what's C-3, and C-3 in Lely is a little bit different than the county's C-3. But it is, frankly, from a planning standpoint, deemed to be less intense. But I'll let the petitioner address that at the end. Thanks.

CHAIRMAN FRYER: Thank you.

Thank you, Ms. Fusco.

Our next --

MS. FUSCO: Thank you for the time.

CHAIRMAN FRYER: Thank you, ma'am.

Next speaker.

MR. YOUNGBLOOD: Our next speaker is Renee Valant, and he will be followed by George Metropoulos.

Ms. Valant, you're being prompted to unmute your microphone.

MS. VALANT: Okay. I'm ready.

CHAIRMAN FRYER: Okay. We're ready to hear you.

MS. VALANT: All right. I live in Lely Resort on Lely Island Circle, and my name's Renee Valant.

My concern, I did live in the Plantation, the Classics Plantation, and that roundabout is not a roundabout, and it is an -- extremely dangerous, very complicated for a lot of people to understand how that works, and people will go on -- you're supposed to go against traffic because they think that they're correct, and they're heading the wrong street.

Did you do research on how many accidents have been reported there?

CHAIRMAN FRYER: You've raised a question that the applicant may or may not address in rebuttal.

MS. VALANT: Yeah. I just wondered if anybody did a study on all the accidents that happened there, and with so many more people -- and the real circle, which is at Triangle, is just so filled with traffic. I can't even imagine more people ponding into that; however, did you make a

decision? Is this closed now? I don't even know why we're talking. Is it closed? Has it already been approved?

CHAIRMAN FRYER: The sale or the rezone? No, that's why we're here. The rezone is the issue at hand.

MS. VALANT: Okay. Well, I thank you all -- by the way, I forgot to thank you all for, you know, letting the residents express their concerns.

Another thing I have a concern is with the -- who's maintaining -- are they going to be part of maintaining our beautification of Lely and our streets?

CHAIRMAN FRYER: Another question that the applicant may or may not address. And we'll ask staff also to address it if the applicant chooses not to. We'll get an answer.

MS. VALANT: Okay. Thank you. That's all I have to bring up. Thank you very much.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I just think -- for some reason, I think some of the speakers seem to believe when you said the hearing's closed that we already voted on it. So maybe you could just clarify that for the rest of the speakers so they understand what you meant.

CHAIRMAN FRYER: You're asking me or her?

COMMISSIONER VERNON: I'm asking you.

CHAIRMAN FRYER: Oh, that's fine. That's fine.

COMMISSIONER VERNON: Unless you want me to do it.

CHAIRMAN FRYER: No, no, no. This is an integral part of the process that leads to final action by the Board of County Commissioners on the application to rezone. And so no decisions have been made yet. This is a quasi-judicial body, the same way the Board of County Commissioners is, and we keep our minds open until the end, and then we vote, then we pass it on to the BCC who do the same thing. Thank you.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be George Metropoulos.

Mr. Metropoulos, you are being prompted to unmute your microphone, sir.

MR. METROPOULOS: Okay. Hello, everyone. My name is George Metropoulos, M-e-t-r-o-p-o-u-l-o-s.

I think some excellent points have been brought up from the speakers before me that have addressed several of my questions.

I have two shorter questions and two lengthier questions. The first two questions are, has a current traffic study been conducted given all the existing and new developments? I don't know if you want to answer that now or save that to the end.

CHAIRMAN FRYER: It's been addressed, but I'm sure Mr. Yovanovich will address it again in rebuttal to answer your question.

MR. METROPOULOS: Okay. Thank you.

Why weren't 3D drawings presented today to the audience?

CHAIRMAN FRYER: 3D drawings?

MR. METROPOULOS: Correct. Just -- we saw a -- the layout, but we didn't see any 3D drawings giving the development that the developer had mentioned that was constructed up at Collier and Immokalee.

CHAIRMAN FRYER: All right. Well, we will pose that question to the applicant, but keep in mind that the original proposal was for four stories. It's now down to three in the core and two stories at the periphery against Celeste, and so that -- that is some information about elevations, and we'll see if we can get more as well.

MR. METROPOULOS: Okay. Don't get me wrong. I'm not 100 percent opposed to the development. I'm just saying -- I'm raising my points.

Does Davis own the property? If not, who does?

CHAIRMAN FRYER: I believe Stock owns it, and Davis is a contract purchaser.

MR. METROPOULOS: Okay. So is the -- if Stock still owns it, essentially, unless Davis gets their proposal approved, they might either alter it or abandon the project in its entirety, correct?

CHAIRMAN FRYER: That's how things usually work, yeah.

MR. METROPOULOS: Okay. I'm familiar with it.

Given all the additional development forthcoming -- and where I'm going is the development north on Collier up by Rattlesnake where you've got the development over there by, oh, Saddle -- I forget the road. A lot of new homes. Winding Cypress is just completing. They're completely sold out, but they're still building. When I go -- when I raised the question regarding the traffic study, I think it's an unknown to the community truly what the traffic impact would be.

CHAIRMAN FRYER: Okay. Well, I take your point. The short answer to that is they're not asking for more trips than they already have a vested right to.

MR. METROPOULOS: Okay. Lastly, one point. I would caution the entire audience that the proposed development would increase traffic throughout Lely Resort, not just at the corner -- the southwest corner of Grand Lely and Collier. It would increase traffic through Lely Resort from the north southbound off Rattlesnake Road from the south via Celeste fed by Freedom Shopping Center, which continues to grow. There's another commercial property there, and off Tamiami Boulevard via the Lely Resort Boulevard, and I hope everyone is aware of that. And I don't need a response to that. That was more education.

And, again, in stating, I think some form of development is warranted, whether or not it continues as commercial or a conversion to residential. And I've been through this. I've been on board -- on boards before, condo boards where I had to represent the condo boards. But I would ask the Commission not to approve this at this time until some additional information has been provided by the developer. Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

COMMISSIONER SCHMITT: Let me ask.

CHAIRMAN FRYER: Oh, go ahead, Commissioner Schmitt.

COMMISSIONER SCHMITT: What additional information are you looking for?

MR. METROPOULOS: Well, one of the points that was brought up -- well, additional information, 3D drawings. One of the points that was brought up today was that development -- I was unaware the development up there at Collier and Immokalee up that way. You know, I would think that a lot of homeowners might want to go up there and visit that property, and I think it could either be a plus or a minus regarding what's up there.

COMMISSIONER SCHMITT: Okay, thanks.

CHAIRMAN FRYER: Thank you.

MR. METROPOULOS: Thank you.

CHAIRMAN FRYER: Mr. Youngblood.

MR. YOUNGBLOOD: Our next speaker -- bear with me just one moment here. Our next speaker is Paul Thompson.

Mr. Thompson, you're being prompted to unmute your microphone. Would you still like to speak, sir?

MR. THOMPSON: Yes. My name is Paul Thompson. I'm a snowbird from Ole' and from New York.

CHAIRMAN FRYER: A little hard to hear you, sir. Pardon me for interrupting. Are you on speaker?

MR. THOMPSON: Yes, I am. I'm on speaker.

CHAIRMAN FRYER: You might want to pick up on that so that we have a clearer receipt of your voice.

MR. THOMPSON: All right. I'm full speed right now.

CHAIRMAN FRYER: Okay.

MR. THOMPSON: Okay. I'm getting a little bit closer to my PC.

CHAIRMAN FRYER: You don't have to. I just want to be sure we hear what you have to say.

MR. THOMPSON: All right. The traffic is going to be horrendous if this goes through. Numerous times I have gone up to the supposed traffic circle, and I'll see cars coming in the exit. This has happened numerous times whether I'm driving or on a bicycle or even walking. So that area must be taken care of with the amount of new traffic that's going to take place.

What else? Why did they want to remove the traffic study from the plan?

CHAIRMAN FRYER: We'll address that, sir.

MR. THOMPSON: When?

CHAIRMAN FRYER: Well, first of all, we already have, but I'll address it briefly right now. It did not -- it did not satisfy the requirements of a formal TIS. A formal TIS would not be necessary because they are proposing, and staff seems to agree -- and we'll have Mr. Sawyer come up in a little bit at the proper time and explain in more detail. But whatever you can say about what the actual traffic is going to be, the projections are that it is going to not exceed what they're already vested for. It limits our options a little bit when that's the case.

MR. THOMPSON: Okay. Thank you very much.

CHAIRMAN FRYER: Thank you.

Next?

MR. YOUNGBLOOD: Our next speaker is going to be Patricia Schofield, followed by Tim Schofield.

And, Patricia, you are being asked to unmute your microphone.

CHAIRMAN FRYER: Are you there, Ms. Schofield?

MR. YOUNGBLOOD: Okay. Let's move to Tim Schofield.

Tim? Are you with us, sir?

MR. SCHOFIELD: I am, and so is my wife, Patty. Can you hear me?

CHAIRMAN FRYER: Yes, we can. Proceed, please.

MR. SCHOFIELD: Okay. Mr. Commissioner, I want to stand in opposition along with approximately 300 additional owners in and around the area that have all submitted letters to you, even with Davis' movement on the scope and the height of the buildings.

It's the population density associated with this in not the keeping with what Lely Resort is. Being new homeowners here, we purchased in September of last year. We were assured at the time that this was commercial and would look -- as has been previously suggested, would look very similar to Stock Plaza right across the street. In fact, there are plans -- shovel-ready plans to create a similar facility on this property that would serve the community.

There is not a single thing about this development or change in zoning -- other than a gift to be able to build 184 units, a change of zoning -- that is a benefit to the community of Lely Resort.

So we -- we, and on the behalf of those who have joined us at Save Lely -- savelely.org rise in strong opposition to the development going through and the gift of the change in zoning from commercial as defined to support the community to residential that then adds weight and stress to the community.

Also, we -- also, one last thing. We would like to have the elevations that were committed to being given to us and shown to us, elevations from Collier, elevations from Grand Lely. Even at a three-story instead of a four-story, the only other building within, I think, three or four miles of this facility is the hospital that is three stories tall. So we'd really like to get a look at it. But to be quite honest, we don't -- we don't want the zoning change to facilitate this kind of population density in Lely Resort.

CHAIRMAN FRYER: Okay. Thank you, sir. One point that might help edify you, and

the situation has to do with the larger PUD, which I believe is 2,800 acres. And what's happening here is not adding density but rejiggering it, spreading it out in a different configuration. There's no more density in the 2,800 acres PUD. It's just going to be located in different areas.

MR. SCHOFIELD: I understand that, but the residential? The residential portion --

CHAIRMAN FRYER: Yeah. Density is residential. That's what we're talking about. And this goes back to a PUD that was approved by the Board of County Commissioners in the past, and those standards were set back then, and we're trying to work within them.

MR. SCHOFIELD: I understand that, but by converting from commercial and adding residential space, you're changing what has been. I understand that it was originally only 1,100 then down to 8,700 [sic]. I understand the overall density of the 2,800 acres. I think we all do. What I'm saying is that those acres have been developed, and because they have been developed, that ship has sailed, and there's no necessary reason to rezone to create additional dwellings, specifically dwellings that are -- that take up the space that 12 dwellings take up today in the areas around it. If you look -- if you scope the map out just a little bit across the street at Verona Walk, same exact space, 12 houses. This, 184 dwellings.

CHAIRMAN FRYER: All right, sir. I'm sure the applicant will respond to you in rebuttal.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be Nora Ousley.

Nora, you are being prompted to unmute your microphone.

(No response.)

MR. YOUNGBLOOD: Okay. We will come back to Nora. Our next speaker is going to be C. Klinkerman, and you're being prompted to unmute your microphone.

CHAIRMAN FRYER: And please spell your last name.

MS. KLINKERMAN: The last name is spelled -- can you hear me?

CHAIRMAN FRYER: Yes, ma'am.

MS. KLINKERMAN: Okay. The last name is spelled K-l-i-n-k-e-r-m-a-n.

CHAIRMAN FRYER: Thank you. Please go ahead.

MS. KLINKERMAN: First of all, I do thank mostly Chairman Fryer for his comments and all of the other comments that were made by all of you regarding the importance of the NIMs meetings. Thank you very much.

Along those lines, we were told -- first of all, we were told at the March 10th meeting that three meetings were required and that that was the third one. There were many of us who disagreed because we had absolutely no idea when the second one was held.

But moving on, the second paragraph in the presentation refers to the March 10th meeting and says specifically, for further information, see Attachment D, NIM synopsis; however, Attachment D is a recap or it's a synopsis of the December 14th meeting. There is no recap of the March 10th meeting. And the difference between those two is 86 participants in December and 160 in March.

Also at the March meeting, Stantec stated that they made major traffic changes, which we certainly did appreciate. Although we're still not thrilled with the project, it was nice to have those changes with no traffic on Celeste.

And digesting for a minute what Susan -- the first speaker, Susan Vicedomini, said and many of those, almost everybody that followed her, that roundabout on Grand Lely is a nightmare, first of all, because in many situations intersections that are painted by the county have very wide left-turn lanes, and that really is not the case over at that particular -- if you want to call it a roundabout or a circle, that's not the case. It is confusing to people, even people that live there that are not there all year long.

So the first thing is that something should definitely be put in writing that there will be improvements to that if there can be no access going northbound on Collier into the development. The important thing is to keep the traffic off of Celeste.

Moving on, there were actually two issues at the meetings. The first one was the traffic on Celeste, but the second one was the density. And I specifically asked at the March meeting, you know, why didn't you make any changes to that? And I do realize that they are under -- you know, that supposedly they are allowed to build this number of units; however, as you all said, that part of the function of the Planning Commission is to listen to the residents that are being impacted by the development.

Almost everybody at every single meeting was opposed to the density, and they have done nothing about it. And, you know, as far as we're concerned, it could be reduced to 100 units. But let's say they did two-thirds, that would be 125 units, or 75 percent, that would be 138 units. That would make a considerable dent in the traffic and the congestion that we're going to live with. And I would just ask that that be done, that they reduce the density, because that was the second most important issue right up there with traffic.

And, unfortunately, you don't have a transcript of the March 14th meeting. So I kind of put that on the developer for not providing that to you. It almost seems like it's a misrepresentation of what the community wants.

The other thing I do have to say is I did pay attention to Mr. Yovanovich's concerns about safety for the NIMs meetings, and I do believe that they should be held in an orderly fashion. And, you know, your discussion at the beginning of removing a disorderly person, I certainly understand that; however, I do strongly disagree with Mr. Schmitt's comments that the last thing you should ever do at a meeting is hand someone a microphone.

The NIMs meeting, while it's not a public hearing, it's an opportunity for all of us who are being impacted, at the NIMs meeting, to not only talk to the developer, but also provide feedback to one another so that we know what's going on. And I just feel that that's very important. And I -- like I say, I also agree with Mr. Yovanovich that there needs to be some way to, you know, keep it orderly.

And that's basically what I have. Thank you for listening.

CHAIRMAN FRYER: Thank you, ma'am.

MS. KLINKERMAN: Appreciate it.

CHAIRMAN FRYER: Appreciate your comments.

Mr. Youngblood.

MR. YOUNGBLOOD: Our next speaker is going to be Gae Lennox.

Gae, you are being prompted to unmute your microphone.

MS. LENNOX: Thank you very much. My name is Gae Lennox. I live in the Verandas 3, and the unit that I'm in is approximately 300 feet away from this complex that is proposed, so it greatly affects me as to what is going to be there.

In referring to the density, I just want to let you know, the surrounding area, what our density is and what we're used to. This Tract 12 is -- the density is 20 units per acre because it's on 9.2 acres. Tiger Island has 145 units, but they're on 60.43 acres. The Verandas, all five Verandas in Hidden Sanctuary, there's 108 units on 12.7 acres. Flamingo Fairways has 32 units on 7.75 acres. Chase Preserve has 44 units on 7.72 acres.

So this project that they're doing is so big for our particular area. It's definitely going to affect us. Even though there's no access onto Celeste, we are going to have major traffic with bicycles coming around, people walking their dogs, kids playing. All of this is really going to affect us.

I also want to mention that commitments that are made in the NIM are not in writing. And Rick LoCastro advised us if it's not in writing, it cannot be enforced.

We also already have an issue with the entrance on Collier, and I have the map from Meeting 3 that showed a left turn into the complex from Collier. They, Davis, said it was approved. They had discussed it with Collier County. And so far there's absolutely nothing in writing through Collier County Planning of anything in writing other than the roadway accesses.

And I can't visualize this project because there's no architectural drawings of what we can

expect it to look like. There's no elevations. I cannot even find the apartment buildings on their map. I only see the townhouses, the triangle for the dogs, and a three-story garage. I don't know where the apartment buildings are going to go.

And also, if this rezone goes through and Davis decides to sell the property before building, would the new owner be subject to the same contracts that are in the PUD amendment?

Also, Derek Perry, the Collier County attorney, said that removing the word "only" from 10, 11, and 12 -- and that's from the submittals -- that this is to develop the parcel with a residential project consisting of townhouses and multifamily dwellings and by adding the residential use to the C-3 tract, there is no intent to provide commercial or mixed-use; however, the tract will retain the current allowable commercial use.

So I'm at a loss that they wanted to be zoned for multifamily, and they want commercial there also. That really, really is unbelievable they would do that.

And also the traffic, that circle, I'm right there. It is a definite problem. Something needs to be done about that.

And there is -- as you said, the PUD allows this many units, but why on this particular property? There are so many other properties that are available within the Planned Unit Development. It doesn't have to be on this corner.

So I suggest that they locate their project in a different area. This District 1, by the way, according to the 2020 population adjustment, that the population for District 1 in 2020 was 75,451 people, and that is 301 people over what that should be. District 2 needs 7,631 doors, District 3 needs 4,752 doors, District 4 needs 9,113 doors, and 5 needs 11,713.

So why is this going into District 1? I don't know, but I firmly suggest that you do not approve this. They need to improve the traffic circle. They need to lower the buildings to two-story, even the apartment buildings, to lower the density, and they need to give us an architectural review of what this project is actually going to look at, and they need to put things in writing. So far there's nothing in writing.

So thank you very much for listening to me.

CHAIRMAN FRYER: Thank you, Ms. Lennox.

Next speaker.

MR. YOUNGBLOOD: Our final speaker on this item is going to be -- forgive me, Barbara Capogna.

You're being prompted to unmute your microphone.

CHAIRMAN FRYER: And spell your last name for us, please.

MR. YOUNGBLOOD: Barbara, are you with us?

MS. CAPOGNA: Can you hear me?

CHAIRMAN FRYER: Yes.

MS. CAPOGNA: Oh okay. My name is Barbara Capogna, C-a-p-o-g-n-a.

CHAIRMAN FRYER: Thank you.

MS. CAPOGNA: And thank you for letting me just briefly speak, and I also wanted to thank Gae Lennox and the commissioners and everybody there for their concerns on this.

I am president of the HOA of Verandas. And Gae has pretty much summarized -- I didn't know she was going to address all those topics, but she did a very good point of doing that.

I just want to reiterate a couple brief comments. One is the diagram that I keep seeing, and it is stressed that there are two two-story townhouses on Celeste, but if you look at that original picture that we just saw today, the other three down towards the southern part seem like they are the apartment complexes. Those would be, I believe, higher than two stories so to accommodate 184 units.

So, again, people have requested that we see a map of this so that we see the elevations, because those three apparently apartment complexes are closest to the Verandas, and we are only two-story where we are right now.

And for the record, as Gae has mentioned, we are 108 units in total of Verandas 1, 2, and 3

in Hidden Sanctuary. That's all one unit on about 12 acres.

We have no problem with something -- and I've said this before. If something similar to our density went in, I don't think you'd hear any of these objections.

I do want to endorse the concern about the traffic and that traffic circle. Although it appears to be a circle, it does not completely function as a correct circle. There have been numerous accidents there, as has been mentioned by one of our previous Verandas members.

Also our road into the Verandas is a private road. We maintain it ourselves. It is a concern of ours that it is constantly being used. It's called Tiger Cove, and that it is being used as a cut-through. And it is used as a cut-through from one area of Celeste around the corner to the other. And we are now considering what we may have to do to prevent that.

We have driveways there. We have people walking across to our pool area. If this is going to be used as a cut-through by bicyclists and/or cars, it presents a problem.

And other than that, we are opposed, again, to the density, and I appreciate you looking to me -- listening to me and for this entire meeting.

Thank you very much.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I have several questions. First of all, for all the folks that spoke, thank you very much. Truly well informed and brought up some great issues. I made several notes.

But before Mr. Yovanovich responds, I have several questions of staff of issues that were brought up that I want staff to explain to the public as best that you can from your -- in your review process.

And can I go through those?

CHAIRMAN FRYER: Of course.

COMMISSIONER SCHMITT: Okay. The staff, from either Nancy, I'm not sure, or Ray, or whoever's going to do this. Who's the stuckee?

Commercial versus residential. Can you describe in your review process -- because that was an issue brought up, and the perception that commercial is more favorable -- and it may be from the standpoint of the residents. But how do you -- how do you, in the review process, review commercial versus residential?

MR. BOSI: Mike Bosi, Zoning director.

And when we are looking at a project, we look at the surrounding land uses. And in this case, to the north is a commercial, and then the rest is surrounding residential.

By default, we would say the most compatible of land uses when you have a prominently residential land-use pattern would be additional residential. So I think that the proposal for residential is more compatible with the existing land-use pattern that's been established within the local area.

COMMISSIONER SHEA: Even at the higher density?

MR. BOSI: Even at the --

COMMISSIONER SHEA: That's their point is the localized density is so much higher it's not compatible.

MR. BOSI: So the way that we do density -- and you think of it in transitions. Your transitions. Your density is normally your highest at your access points along your transportation corridors. And as you drop back from -- drop back from that intensity of the roadway, you have a buffering of -- you see commercial, and then from that commercial, you go to a multifamily. And then from a multifamily, you go to single-family transition.

So this is in line with that type of an arrangement. And when you look at the traffic generation of a commercial property of nine acres compared to a residential, even at 20 units per acre, it is a significantly less amount of traffic that is generated by the residential compared to the amount of traffic and trips that are attracted by the commercial.

So what that means is throughout the day, you're going to have consistent numbers of trips attracted to the commercial properties. From your residential properties, you've got peak hours in the morning, peak hours in the night that you have trips associated with that, and then for the most part it's relatively steady and it's relatively low in that regards.

So in an overall assessment, this is much less intense than what the traffic and the intensity that could be associated with the commercial property. So that's how -- that's how the staff viewed this request. It is an actual reduction, in the amount of -- the things that have been cited the most that I've heard from the conversations from the public is traffic.

So this action actually addresses that concern and puts less traffic in the area than what could have been and what currently it's approved for.

COMMISSIONER SCHMITT: Okay. Thanks. And that's basically what I tried to state is typically commercial is far more intense traffic-wise throughout the day than residential. There are peak hours in morning and evening, but typically it's less intrusive and less intense. If the folks want commercial, I mean, it could be -- commercial could be Tire Kingdom. It could be whatever. And --

MR. BOSI: It could be a Stevie Tomatoes.

COMMISSIONER SCHMITT: It could be a Stevie Tomatoes.

MR. BOSI: Next to a residential property.

COMMISSIONER SCHMITT: With the outdoor --

MR. BOSI: Yes, amplified music.

COMMISSIONER SCHMITT: Balcony and everything else, right, and we went through that.

So from a staff standpoint, this was deemed compatible with the surrounding use?

MR. BOSI: Correct.

COMMISSIONER SCHMITT: Okay. Now, let's -- I want to talk about overall density, because I've heard a lot of comments. And Mr. Yovanovich stated there's 8,768 units currently in Lely?

MR. BOSI: Approved.

COMMISSIONER SCHMITT: Is that what you stated?

MR. YOVANOVICH: I said those are currently approved.

COMMISSIONER SCHMITT: Currently approved. If I recall, that PUD's been around probably for 35, 40 years, one of the first truly large developments in Collier County, both Development of Regional Impact, PUD, and, well, planned community. But originally that was over 10,000 units. I believe now it's zoned for 9,150. That's what I got off the staff report. And then you said there was 8,442, plus the 184, which would be 8,626. So still below what's authorized, correct?

MR. BOSI: Correct.

COMMISSIONER SCHMITT: So let's talk about vesting then. The -- and I would wish that you could explain the position we're in from a review standpoint. A perception that the public sees this as an increased traffic. And I guess when you look at it holistically, it is. But vested, they are vested for 9,000 units. They are vested and they have every right to develop any type of development within that community for the 9,140 -- or 9,150 units; is that correct?

MR. BOSI: Not only are they vested for the approved residential units, they're vested for the approved transient lodging facilities as well as the vested commercial square footage.

COMMISSIONER SCHMITT: Correct.

MR. BOSI: So localized, the action can bring more -- can bring a higher density at a localized level, but it's spread -- because of vesting, they get to allocate where the development is most appropriate throughout the -- throughout the PUD.

COMMISSIONER SCHMITT: And I didn't -- I didn't attend the neighborhood information meeting, so I didn't go through it all in detail. But from the standpoint of during the NIM, was the vesting issue explained to the public in regards to traffic? Mr. Yovanovich, yeah,

please, because I've got some more questions because I want to -- but go ahead.

MR. YOVANOVICH: At the neighborhood information meetings -- we had multiple -- I explained what vesting means, and it means we're entitled to. And the reason we're entitled to it is because we paid for it.

COMMISSIONER SCHMITT: You paid for it.

MR. YOVANOVICH: We paid for it through improvements to the transportation network. So we -- so if you look at it, the fact that we're building less in that community, we overpaid for our impacts.

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: So you can't say to the developer, you didn't pay for your transportation impacts. In fact, because they developed less, they overpaid.

COMMISSIONER SCHMITT: Okay. And that -- because that's important, and I hope listeners understand that. We as the reviewers and we as the Board here have to take that into consideration. They are legally entitled to the transportation impact. That's why there was no detailed transportation study. It was one of the questions I had asked even when I spoke to Mr. Yovanovich.

There was a statement made, if the amendment is approved to redesignate as residential, will commercial still be allowed? And I -- is that --

MR. BOSI: The arrangement is to add multifamily -- multifamily residential as a permitted use to the C-3 zoning district that is.

COMMISSIONER SCHMITT: Okay. So the C-3 -- the underlying C-3 stays, but it would be allowed for residential. And it appears right now it will be all residential?

MR. BOSI: Yes.

MR. YOVANOVICH: Can I add?

COMMISSIONER SCHMITT: Yes.

MR. YOVANOVICH: Sorry. It's an either/or. So it will either be residential, or it will be commercial.

COMMISSIONER SCHMITT: Commercial.

MR. YOVANOVICH: It will not be both.

COMMISSIONER SCHMITT: It will not be both. That's clear.

We've heard a lot of statements about elevation drawings. There is no requirement in Collier County as part of the rezoning process to present elevation drawings, though we see them and we've been presented them on various petitions, but we do not have an architectural review board. We do not have -- there are architectural standards within the Land Development Code, and it's clear those have to be met and required, like setbacks and other buffers and those type of things. But, Mr. Bosi, can you explain, is it required to be submitted as part of the rezoning elevation drawings?

MR. BOSI: Architectural drawings, elevation drawings are not required. They're useful. They're helpful. I think they can -- they appease certain segments of the population, but they're not a requirement of the process.

COMMISSIONER SCHMITT: I mean, it would have been nice to have it. No argument. I think it would have probably helped the public to understand what was being proposed, but it is not required. And, again, we as the reviewers are -- or we as the Board, it's not something that I can impose.

Can I ask Mike Sawyer to come up, because I want to talk about traffic. Are we done with speakers?

CHAIRMAN FRYER: Yeah. Well, we haven't closed -- I should close the public comment portion.

COMMISSIONER SCHMITT: Yeah, please.

CHAIRMAN FRYER: I'm going to close -- without objection, I'm going to close the public comment portion of the hearing.

COMMISSIONER SCHMITT: Mike, the traffic circle, the roundabout, I lived in Europe many years. For some reason, Americans seem to not negotiate well these roundabouts. I don't know why. They ought to go to the UK maybe, even try and do it backwards.

But what's the county's opinion of that issue going around the traffic -- I'll call it a traffic circle because, essentially, it is. But it does have unique stops as you go around. But did you all evaluate the traffic impact in that area?

MR. SAWYER: For the record, Mike Sawyer, Transportation Planning.

Let me remind everybody what we're looking at is a zoning petition. We're not looking at a site plan. At site plan, we will get a TIS that includes the operational impacts for the site. At this stage for zoning we look at impacts, as applicable, and we look at access points and making sure that the access points are, you know, meeting our rules and regulations.

That being said, in this particular case -- because we did know that there were going to be operational issues because this area of Lely is known by our operational staff as being somewhat problematic, and there have been a number of improvements that have been done over the years. And, quite honestly, our operational staff isn't going anywhere, okay. They're going to remain working with the neighborhood on any of the issues that they've got.

Now, it's a slow process. We try one thing, see how that works. We try something else to see how that works.

It was mentioned that they recently did some striping out in the area. That needs to get assessed to see how successful that is. The improvements that are going to be in place for this project also need to get evaluated and studied to see what those impacts are for the overall development and, potentially, there are additional improvements that will be possibly needed.

COMMISSIONER SCHMITT: Are those -- but that is a public road.

MR. SAWYER: Yes, sir.

COMMISSIONER SCHMITT: It is a public road. But maintained by the Lely CDD --

MR. SAWYER: Correct.

COMMISSIONER SCHMITT: -- or by the county?

MR. SAWYER: It's a county road, but it's privately maintained.

COMMISSIONER SCHMITT: It's privately --

MR. SAWYER: But we do help with Lely when it comes to, you know, different types of improvements that have been made over the years. We certainly do signage out there. I know that there's also been some NTMP improvements that have been done, some additional striping.

COMMISSIONER SCHMITT: Wait. I'm confused now. It is -- Lely is managed by a community development district.

MR. SAWYER: Yes.

COMMISSIONER SCHMITT: And their board would then be responsible for any traffic improvements, or is the county responsible?

MR. SAWYER: Honestly, Commissioner, I would need to have that question answered by our operational staff.

COMMISSIONER SCHMITT: Okay.

MR. SAWYER: It's -- Lely isn't standard, I'll be real honest with you. It just isn't.

COMMISSIONER SCHMITT: That's something that our traffic folks would probably have to look at it.

MR. SAWYER: That would -- honestly, that would be Tony Khawaja's --

COMMISSIONER SCHMITT: Before you go -- because I want to ask Mr. Yovanovich this issue with the traffic improvement around the traffic circle. But before you go, has there ever been an approval by the county for the left turn off of Collier Boulevard and on -- into the development? Was -- at one time it may have been discussed, but isn't Collier Boulevard restricted as far as number of openings?

MR. SAWYER: It is limited. It's limited by staff. The issue that we've got in particular for this particular segment from this intersection down to 41 --

COMMISSIONER SCHMITT: Forty-one.

MR. SAWYER: -- is that it is a higher rate speed roadway.

COMMISSIONER SCHMITT: Right.

MR. SAWYER: And because of that we wanted to make sure that whatever movements are made there are as safe as possible. If we were to consider a left-in as you're going north on Collier in this particular location, the issue would be that that would not be protected. It would be permissive. In other words, if we get them to the signal, then it's a protected movement to do a U-turn at that location. It's safer.

COMMISSIONER SCHMITT: The only left turn from 41 up to Lely is actually into the plaza. There is a dedicated left-turn lane just north of the plaza, is there not? There's nothing in the Ole'?

MR. SAWYER: No. There's no -- there are no other --

COMMISSIONER SCHMITT: There are no other.

MR. SAWYER: -- median openings, correct.

COMMISSIONER SCHMITT: Because I'm sort of puzzled, this perception that somehow the public -- Susan and others brought it up that this was allowed or discussed, and I saw several of the staff shaking their head. But, yes, I think it's going to create a problem for people coming north. They're going to have to negotiate; either go up to Lely Boulevard, go around the circle and come back in through the right turn off of Lely -- did I say Lely? Is it Lely -- is that Lely Boulevard?

MR. SAWYER: Grand Lely.

COMMISSIONER SCHMITT: Grand Lely, thank you. Grand Lely. So -- but the chances of an opening are pretty slim to none, is it not?

MR. SAWYER: Correct.

COMMISSIONER SCHMITT: Unless the Board approves it.

MR. SAWYER: Correct.

COMMISSIONER SCHMITT: I mean, because I -- if I understand, as I recall many years ago the Board restricted the number of entries off of Collier Boulevard because of the movement of traffic.

MR. SAWYER: Correct.

COMMISSIONER SCHMITT: Okay. So other than that, I would say from the standpoint at Site Development Plan and, I guess, if residents still wanted to see, they still have every right to come into the staff or ask the staff to explain if there were going to be any other improvements made during --

MR. SAWYER: Actually, I would rely to, you know, Development Services to answer that question, quite honestly.

COMMISSIONER SCHMITT: Yeah.

MR. SAWYER: One consideration would potentially be that an operational analysis that is done at time of SDP would include the operations of that particular traffic circle to be included with that analysis, just to make sure that it would be. I believe it would be included in that particular study anyway, but to make it clear.

COMMISSIONER SCHMITT: Thanks, Mike.

I'm going to ask Stantec, did your engineers look at traffic? Or Rich.

COMMISSIONER SHEA: Don't go away, Mike.

CHAIRMAN FRYER: Vice Chair, let's get a quick question in for Mike.

COMMISSIONER HOMIAK: This is getting into a big discussion about 951, which shouldn't even have an opening there to begin with. This is a -- was a DRI. Now it's a PUD. Celeste was intended to keep -- it starts on 41 and goes all the way through. It's a collector road. So it doesn't matter if it's commercial --

COMMISSIONER SCHMITT: I would agree.

COMMISSIONER HOMIAK: -- or residential, and everything has a driveway onto it,

and that's where the traffic should be going, and it shouldn't be on 951. And this -- to me, when I came in here, I wasn't even going to vote for this because there is a cut right-in, right-out onto 951. This whole thing has just got -- now that you're complaining about the roundabout, traffic here, traffic there, that's because they're not using the roadway the right way. And I --

MR. SAWYER: I would not disagree with that assessment. You know, there was a staff meeting with the applicant. During that -- actually there were more than one meeting. I think there was at least two or three. I know I was involved with two, I believe. At those meetings, the neighborhood concerns were brought up quite clearly to us.

When it comes to traffic and the impacts that we see on the network, there's multiple people in different departments that all add to that discussion. When it comes to operations, quite honestly, the specifics about how -- how we treat intersections and how we gain access in one location as opposed to another location, quite honestly, our staff, we're looking to make sure that we have capacity on the roadways, and that is our primary focus of what we reviewed for you.

When it comes to the actual roadways, the actual implementation of improvements, we do rely on other staff members and usually, again, that's Operations, Tony's group. And you've all seen Tony a number of times.

In the discussions that we had on this particular project, Celeste was looked at, and it was discussed quite a bit. The overriding opinion of staff was that there was already provisions to have a potential access on 951 for this particular parcel. It was up to staff to make that determination.

COMMISSIONER SCHMITT: Well, Mike, let me ask, because did the Board -- and I'm going to follow up with what Karen said. Did the Board -- I have to go back 20 years. I thought the Board restricted the number of openings on 951. Is this now deemed an exception to policy?

MR. SAWYER: This particular one is actually part of the PUD itself, so it actually is more specific within the PUD document itself.

COMMISSIONER SCHMITT: But if this were commercial and it was zoned commercial, there would definitely be access off of Celeste?

COMMISSIONER HOMIAK: I hope so. This is all supposed to be interconnected, so all these people --

MR. SAWYER: Well -- and there is -- believe me --

COMMISSIONER HOMIAK: They're supposed to be traveling within this community, and it's -- they're acting like this is a separate property now, and we can't walk on the sidewalk, you can't do this. It's all part of the same PUD. These people can walk wherever they want. They're paying for the road, too.

MR. SAWYER: Right. And part of what we're doing with this particular --

COMMISSIONER HOMIAK: Crazy.

MR. SAWYER: -- configuration is actually splitting this out, in essence --

COMMISSIONER HOMIAK: Yeah.

MR. SAWYER: -- from an access point from Lely itself when it should be integrated into the community.

COMMISSIONER SCHMITT: Everywhere else we've screamed about interconnectivity. We've been hammered by it.

MR. SAWYER: Yes, Commissioner.

COMMISSIONER SCHMITT: Jay's not here; Jay Ahmad's not here. Who else used to come in? I mean, we -- Rich, you wanted to say something about 951.

MR. YOVANOVICH: There's actually an agreement that was entered into between Stock Development and the county when the roads were turned over to the county, and I think they're county maintained.

COMMISSIONER SCHMITT: They are county maintained.

MR. YOVANOVICH: I think they are --

COMMISSIONER HOMIAK: They are.

MR. YOVANOVICH: -- but I could be subject to being corrected -- that allowed for an

access point on Collier Boulevard if staff agreed that it was a safe access point to occur.

So there was the ability to do a right-in, right-out onto that parcel through that agreement. But if I can continue, because it's kind of related to this, but I'll sit back down if you want me to. What I put up on the screen is the actually approved Site Development Plan for the commercial that would go on this site. And if you look at that, yeah, there's a right-in off of Collier Boulevard.

COMMISSIONER SCHMITT: There is, okay.

MR. YOVANOVICH: But if you look, there's also the main access point off of Celeste.

COMMISSIONER HOMIAK: That's where it should be.

MR. YOVANOVICH: And if you look again, you will see there's no right-turn lane on Grand Lely Drive. So you look at all of that and you say, what's the benefit to the community? I think it's pretty self-evident. Under our project there's no access on Celeste, and there's a right-turn lane on Grand Lely Drive. I know that's part of my closing, but I wanted to, I think, tie it into the traffic discussion. None of those improvements occur.

COMMISSIONER SHEA: That drawing shows a right-turn lane off of Grand Lely.

MR. YOVANOVICH: No. There's no additional right-turn lane there.

COMMISSIONER SHEA: That's not a right turn?

MR. YOVANOVICH: That's a right turn in, but there's not a right turn -- there's no right turn at the intersection. That's -- at the intersection we're adding an additional dedicated right-turn lane that's not part of that approval. There is -- you're correct, Mr. Shea, it's right here, but it doesn't extend all the way down. You'll see that there is only one lane that's shared, both straight and right. So that's what -- if I confused you, that's what I was talking about under this project.

I'll step back, but I think those were related to traffic concerns.

COMMISSIONER SCHMITT: The question about the -- did your engineers look at traffic going around the traffic circle?

MR. YOVANOVICH: Yes, we did. We did. And I'm telling you, I fought as hard as I could with my traffic guy to get that left-in. And Tony -- Tony Khawaja said, that circle, that whatever it's called, is safe and our traffic can use it, and it won't negatively impact it.

COMMISSIONER SHEA: Can you explain how that works? Because I've been through a roundabout issue in the last few years. And I hear that there are stop signs, so it's not -- it's really an intersection --

MR. YOVANOVICH: Right.

COMMISSIONER SHEA: -- with two quick stop signs. So it's not really a roundabout or something that flows traffic in a lot smoother state.

MR. YOVANOVICH: It's not free-flowing. It is in circle form. So I don't know. I'm not a traffic consultant or traffic engineer, but it is a method for people to get around that intersection. And the times I've used it, it's worked, you know. And I've gone to that -- I've gone to the -- I'm sorry. I've gone to the commercial plaza several times to go to Skilletts, and I've had no trouble getting around whatever that device is called with my car.

COMMISSIONER SCHMITT: Any other points you want to raise, staff? Yeah. I didn't know if you had a point you wanted to raise.

MR. GALEANO: Thank you. Nelson Galeano, Transportation Planning Manager.
(Interruption by the stenographer for clarification.)

MR. GALEANO: Nelson Galeano, G-a-l-e-a-n-o.

Two points to add on this discussion. The first one is one of the reasons for the opening on Collier Boulevard is the amount of traffic. With 180 about -- 180 units, the amount of traffic that go north and turn left into the property is negligible.

And to make an opening and sacrificing safety towards connectivity is not a good business for the county. That is my point. Safety is an important issue.

And another point on the circle or roundabout, whatever you want to name it, usually these type of features have many functions. In this case, this function is not only to manage the traffic but also to work as a gateway. It means, as a driver, you get into this roundabout or circle,

whatever you want, and your behavior change, because you have prepared yourself to a different area where you -- in the way you drive, to be different, and this is because you get into a neighborhood.

And please be aware of the function of this roundabout. This is not only -- this is not only the traffic controller device that we put in place but also in the way we impact the driver in order to connect land use and in the way we move.

COMMISSIONER SCHMITT: Well, I have to believe it's -- what's there now is safer than a four-way stop sign and with -- four lanes -- four lanes in and out and then across two lanes, plus the traffic. It just seems that, yes, people have to know and understand how to negotiate going around that. You've got yields and you've got stop signs.

MR. GALEANO: And another thing is that this is a cultural issue about the -- regarding the roundabouts. And usually here in America, people prefer -- I don't know why -- four-stop controlled intersections. Germany has about 4,000 -- 40,000 roundabouts.

COMMISSIONER SCHMITT: Right.

MR. GALEANO: And it means -- this is about in the way we grow and the way we move. We need to understand this relationship. And in this case, the roundabout provides -- this is a good feature to control not only the speed, but also to indicate the driver to change the behavior, because it is getting into a different area.

COMMISSIONER SCHMITT: Thanks. I have one last point --

CHAIRMAN FRYER: Go ahead.

COMMISSIONER SCHMITT: -- I'm going to ask Mr. Yovanovich. They brought up about community maintenance standards, Lely standards. Will the developer be subject to all the requirements of the community plan standards? This is part of the Lely development. They're subject to all the requirements as specified in the Lely PUD; is that correct?

MR. YOVANOVICH: We're subject to the PUD, correct.

COMMISSIONER SCHMITT: And they will become part of the master association or whatever the CDD still oversees?

MR. YOVANOVICH: The answer to that question is I don't know the answer to whether we're part of CDD, and I don't know the answer as to whether or not this will become part of the master association. I haven't looked at the title documents. Those are particularly not zoning-level decisions, so I haven't reviewed the --

COMMISSIONER SCHMITT: I would assume yes. Susan? Susan, can you come up to the microphone.

CHAIRMAN FRYER: You have to come up on the speaker.

MS. VICEDOMINI: Lely is confusing. We have so many entities --

CHAIRMAN FRYER: Identify yourself again.

MS. VICEDOMINI: I'm sorry. Susan Vicedomini. I am president of the Lely Resort master POA. We recently took that over from Stock Development a year ago March. So we are a new board.

The Lely Master Association does incorporate the entire Lely PUD. We have commercial. We have residential. We currently have the Arlington retirement community, Inspira apartments and Aster apartments as part of the master.

Currently, it is 5,284 doors, which is how we're defined. The master association -- this community would be part of the master association as in every other parcel. The question is whether they're part of the CDD. I'd have to look at the boundaries and how that one works out. The CDD takes up about half of the entire area of Lely Resort. So we have -- it's about 60 percent of the doors are under the CDD. The other 40 percent are governed by what we call the CSA, the Comprehensive Service Agreement, which is an agreement with these communities that's facilitated by the master to the CDD. And this is where every single door pays the same per-year rate that a CDD resident does.

COMMISSIONER SCHMITT: That's my question that you're hitting exactly. They will

still be a -- you are eligible legally to assess an O&M, operations and maintenance.

MS. VICEDOMINI: For the master association, correct, but it depends on where it lays within the boundaries whether they will be confined to the CDD or they can participate as part of the CSA.

COMMISSIONER SCHMITT: And then -- so they will contribute to the maintenance of the road network or anything that is in that -- authorized within that budget?

MS. VICEDOMINI: No.

COMMISSIONER SCHMITT: I mean, your landscaping, they're going to maintain their own landscaping.

MS. VICEDOMINI: The master association does no maintenance of the common area.

COMMISSIONER SCHMITT: Oh, okay. Interesting.

MS. VICEDOMINI: The master association, our dues are \$70 a year. So as you can see, it's not much, and it's a reduced rate for the apartment communities. They don't pay the exact same per-door rate that the condo or HOAs pay.

COMMISSIONER SCHMITT: But do you have oversight over --

MS. VICEDOMINI: We do not have oversight over the CDD. This is where it's a very confusing community. The CDD has approximately -- it's \$816 per year per door, and if you're in the CDD boundaries, you pay that as part of your taxes. If you are not in the CDD and governed by the Comprehensive Service Agreement, then that is paid to the master association on a quarterly basis, and the master is billed by the CDD quarterly for those communities.

COMMISSIONER SCHMITT: So if there are disputes or concerns about the maintenance of this property, they would fall under -- would your board or some entity have a say as to hey, guys, get your act together?

MS. VICEDOMINI: That would probably be as far as -- not maintaining standards --

COMMISSIONER SCHMITT: Right.

MS. VICEDOMINI: -- or having issues. That would go to the master, but now the CDD takes care of all the irrigation. They take care of the landscaping along all the roads. They do beautification. They do lake maintenance. They do drainage. So it's --

COMMISSIONER SCHMITT: Okay.

MS. VICEDOMINI: There's a lot of overlap within Lely.

COMMISSIONER SCHMITT: All right. But the one last piece was, then, somebody stated that you wanted it to be -- or somebody wanted it to be a part of the irrigation, central irrigation.

MS. VICEDOMINI: Exactly. So they would be -- paying part that every other resident in Lely does pay.

COMMISSIONER SCHMITT: Okay.

MS. VICEDOMINI: When the Inspira apartments were built, Stock exempted them from the CDD because they put in their own irrigation system. And so we have 308 doors that do not contribute to the maintenance in the community.

COMMISSIONER SCHMITT: Okay.

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

Turn back to Mr. Yovanovich. I think a lot of your rebuttal has probably been covered.

MR. YOVANOVICH: I think so.

CHAIRMAN FRYER: If you have more, now is the time.

MR. YOVANOVICH: Okay. Let me look at my notes just real quick.

The main -- I addressed the main comments when I was talking about traffic, and I just want to again say -- because two stories means two stories. Okay. You all brought that up. I just want to make sure that the residents, again, understand that it's two stories.

The reason we didn't show architectural renderings is because when we showed initially an example, the Pearl -- if you guys go look at that, that's a four-story product. People get confused when you show them a four-story product. They didn't necessarily like that architecture for the

community, and that was fine with us. We said, we will work with you. We will design this in a manner that is consistent with Lely Resort.

We're not going to give them veto power, but we will go through and design this appropriately for the community. And that's why you don't have renderings; because we're not at the stage yet to have renderings.

And density is not something we can negotiate on. These are expensive to build. You have structured parking now under this concept. And when people say we refused to change the density, well, that's, in fact, true. We said we cannot change the density and have a project that works; otherwise, you end up with commercial, which I don't believe they really want, because if they really -- the traffic related to the commercial and the access on Celeste, and as Commissioner Homiak pointed out, all the people who would drive internally up Celeste to get to that commercial, would be far worse.

So I think what they really want is just a vacant piece of land, and they'll hope that something will never get built on it. But it's going to either be developed as commercial or with a nice luxury apartment complex.

And I hope I'm not speaking out of school, but as you've heard me say before, I have looked for apartments for my daughters. The current market rate for a two-bedroom unit is about \$3,000 a month. That is not inexpensive housing. So for -- sometimes there's this factor of renters somehow shouldn't be living in our community, and it bothers me when I hear those kinds of comments. This is going to be an asset to the community. It's going to increase the tax values, and it's going to be a great project with less traffic and access off Collier Boulevard.

And with that, if you have any other questions for us, we're happy to answer them. But if not, your staff's recommending approval, and we're hopeful that you will also make a recommendation of approval to the Board of County Commissioners.

CHAIRMAN FRYER: Thank you. No one is signaling at this point. Last chance from the dais. Anyone want to be heard?

(No response.)

CHAIRMAN FRYER: If not, it's time for us to deliberate, leading up to a vote. Who would like to lead off? You could also lead off with a motion.

COMMISSIONER VERNON: I move we approve. Do you want my thoughts? Let me give just some thoughts.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER VERNON: You know, sort of the lane that I think I'm supposed to live in is the LDC, the GMP, and vested rights. Personally I never talk about those three up here because that's the world I'm living in and everything comes, you know, within that lane, what I will want to do, and listened heavily to the staff, and I listen a lot to the public, I think I've proven, and I listen a lot to the presenter and try to push things around to make the best product we can for the community.

And in here I just -- and I think a piece of that -- and I want to say this -- is try to look behind the presenter -- no offense, Rich -- but look at, you know, who the developer is and try to figure that out, and it's somewhat subjective. But it just seems to me we have a developer here that has really gone a long way to try to address the concerns of the public and seems, from what I can tell, to have a really good track record of being a quality developer.

I mean, I'm involved in growth management sitting up here, so we're managing the growth. And I like the idea of having really high-quality developers. And I almost feel like he's gone -- or Davis has gone so far that we've gotten into, on a macro level, have we now done things for the local community that are actually not consistent with what we should be pushing for on a macro level.

So I just -- I don't see any -- I understand the concern about the circle, I understand the concern about the no cut, but I just don't think that's a reason to deny this project. It seems like they've hit all the right buttons, and they're a good-quality developer, and I wholeheartedly support

it.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: I would second the motion subject to two conditions.

One is that they be required to connect to the central irrigation system, whatever that takes to do that. I don't know if that is something that would be stipulated in the PUD, but I would think that that's -- they asked for it. It seems it would be appropriate from the standpoint of the association or other managing entity.

The second is, Mr. Yovanovich committed to some kind of a review. I'm not going to -- I don't know if that's in the PUD, but you will work with the community as far as the design of the buildings so they are deemed accessible to the motif or whatever other entity they're trying to present. I don't know what you would meet with. I don't even know if we can put that in the PUD.

MR. YOVANOVICH: What we committed to is a design that was consistent with --

COMMISSIONER SCHMITT: With Lely.

MR. YOVANOVICH: -- with the Lely community.

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: So if you want to put in there that we have to have a design that's consistent with the Lely community, I guess you could put that in there. I think it's difficult to enforce.

COMMISSIONER SCHMITT: I don't want to put it in there because then I have to have criteria, and it's subjectivity. I'm just saying, you did commit, and somehow you will meet with some type of entity in Lely that will -- you could show them what -- exactly what you're going to build.

MR. YOVANOVICH: We will be happy to present our ultimate design, but we are not going to give them veto power.

COMMISSIONER SCHMITT: Right. Okay.

Mike, do you have a suggestion?

MR. BOSI: Sorry about that. We did get a note -- and I know this is -- you guys have closed the public hearing. We got a note from Andrew Youngblood that one of the speakers who had signed up who did not speak or didn't respond was having technical difficulties, and they were hoping that they could provide their public comment. I know we've closed it down, but I just wanted to raise it to the Chair's attention.

CHAIRMAN FRYER: Thank you. Without objection, we'll hear --

COMMISSIONER SCHMITT: I will hold my motion until we hear from --

CHAIRMAN FRYER: We'll hear the speaker. Is it someone that's physically present or online?

MR. YOUNGBLOOD: Mr. Chairman, it is an online speaker. His name Michael Kehew.

CHAIRMAN FRYER: All right.

MR. YOUNGBLOOD: Michael, are you with us, sir?

MR. KEHEW: I am with you. Thank you for the opportunity.

CHAIRMAN FRYER: Please go ahead, sir.

MR. KEHEW: Can you all hear me well?

CHAIRMAN FRYER: Yes, we can.

MR. KEHEW: Thank you.

And I'm sorry. I've been holding since 9:00 watching the meeting, and I meant to comment and misunderstood when I could comment.

CHAIRMAN FRYER: What is your last name, sir?

MR. KEHEW: K-e-h-e-w, Kehew.

CHAIRMAN FRYER: Thank you.

MR. KEHEW: So I am president of Verandas 4 and an owner in Verandas 4 for over 10 years. I'm a snowbird. I spend four to six months a year in Florida. My background is I've been on planning boards, zoning boards, 12 years on a town council, and I'm a developer by trade.

So your director in Planning did a wonderful job of explaining the difference between density and intensity.

Our main complaint from Verandas 4 was already stated by the Verandas 3 president, which was your density is 20 units per acre, and that's double and triple what the abutting area is. So I'll just put that on for the record.

My next objection would be the turn lane on Grand Lely into the new residential area, if approved, will funnel the traffic into Grand Lely to that turnabout, if that's what we want to call it, which is not the best. I would much prefer that the lane that is extended would be on Collier northbound in and out of the project, because the southbound Collier people -- I'm sorry, yes -- southbound Collier people could make the turn, the U-turn, legally into the lane on Collier and enter that particular residential unit, keeping that traffic out of the Grand Lely area because we know water finds its level. People will start to go backwards from Triangle, down Celeste, and into Grand Collier into the unit to avoid that. So it will increase traffic on Collier.

My last -- my last point is going to be having, up north here, been on these boards. The standard for a zoning change -- and I know I'm not a Florida expert on zoning -- is no beneficial use under the current zoning. So I bought a property that had that lot as commercially for sale. Understood that. And now I'm sitting here, and that's being changed potentially with a vote, and that's not what I bought. I knew it could be commercial.

I was living there before Stock south was built. So am I okay with Stock north being built commercially? Yeah, it's their right. But changing the density from what would be like five to 10 units per acre to 20 units per acre I find to be too much.

And that is just our two cents. And I'm sorry to interrupt when you were all ready to take a vote. But I did want to get on the record. I thank you for your time.

CHAIRMAN FRYER: Well, we appreciate your comments. Thank you, sir.

Mr. Yovanovich, did you want to respond to any of that?

MR. YOVANOVICH: Other than I was going to point out that the law's a little bit different in Florida with regard to our request. As long as our request is consistent with the Growth Management Plan and consistent with the Land Development Code, we are entitled to come in and ask for an amendment to an existing zoning district.

We rezone property all the time from ag or other designations through the process. We have provided competent substantial evidence that we do, in fact, meet all of the zoning criteria and all of the PUD rezone criteria.

And just for the gentleman's, you know, clarification -- because I don't know how they do it in New Jersey -- in Florida, if we meet those requirements through competent substantial evidence, we do have a property right to change the zoning, and I think we've met all of that through this process.

Can I ask the Chair's indulgence to address one of Commissioner Schmitt's conditions?

CHAIRMAN FRYER: Go ahead.

MR. YOVANOVICH: We don't have an objection to using the CDD's irrigation water as long as I don't have to spend \$5 million to connect. I don't know where the line is. I don't want it to be, you know, an open checkbook as to the conditions to connect. So I have a little bit of a concern about an absolute, because I don't know where the line is. I don't know what it will cost to do that, and I don't think it would be a fair burden to this property owner to get stuck with paying whatever it cost to use the irrigation water.

COMMISSIONER SCHMITT: And I amend my motion. I accept that from the standpoint of an explanation that it would be best, then, to say that you'll explore the alternative of using -- the preferred alternative would be to use the Lely irrigation if that is economically feasible.

MR. YOVANOVICH: Sure.

COMMISSIONER SCHMITT: Okay.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. I would just like to say that, you know, once again, as has been pointed out -- and certainly Mr. Yovanovich pointed out -- you know, the criteria. We sit quasi-judicially -- you know, is the criteria, has it been met. And, you know, regardless of whether I think it's a good idea or not, none of us -- you know, that's not really how we can make our decision. It has to be whether or not the applicant has met the criteria, and I firmly believe they have, and so I'll be voting to approve it.

CHAIRMAN FRYER: Thank you. Any further --

COMMISSIONER SCHMITT: I'll continue my second. Thanks, Robb. I agree with exactly what Robb said. I looked at this from a standpoint of the rules and criteria I have to live by. I may not like the project, but from a standpoint of the criteria that we have to review it, it fits all the requirements in the PUD.

And, in fact, there's been a lot of statements about density, but density is calculated by the entire mass of the PUD. It's not individual communities. You can look at Fiddler's Creek. You can look at other units -- PUDs of the same size. They're zoned by the entire project, not community by community or village by village.

And the density is far less than -- I would even hesitate to calculate given the amount of land. It's probably, what, 9,000, 10,000 acres out there.

But within the criteria, it meets all the requirements. It's fully vested. It's below the authorized number of units for the Lely PUD. I -- like Karen, I'm not that excited about the Collier Boulevard entrance, but it is approved. It was allowed. It clearly was allowed with the original commercial that was shown.

So with that, I would second the motion, recommend approval.

CHAIRMAN FRYER: Okay. Any further -- go ahead.

COMMISSIONER HOMIAK: Will it be in the PUD that its 951 access is right-in, right-out only?

MR. YOVANOVICH: Well, can -- two things. I assume the motion included the commitments we made regarding the right-turn lane.

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: I'm going to try to announce those.

MR. YOVANOVICH: Going into the PUD.

CHAIRMAN FRYER: A friendly amendment.

MR. YOVANOVICH: I just wanted to make sure.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: And then the reason I don't want to limit the access to right-in, right-out in the PUD, because if they -- if the speed limit changes out there or it's determined by county staff that they would prefer us to also have a left-in that would operate safely, I don't want to have to come back and amend the PUD to implement that change, and if we were to put it in there limiting me to right-in, right-out only, I've got to go through a process that takes several months to do what Transportation staff might think is the better safety answer.

My guess is your staff's not going to be doing that anytime soon. So I think effectively it -- Ms. Homiak, you're going to get the right-in, right-out unless there's dramatic changes to the speed limit or staff's position.

COMMISSIONER SCHMITT: Mr. Chair, I'll turn to you for the additional amendments.

CHAIRMAN FRYER: Thank you.

And we're over time for a court reporter break, and so as soon as we finish with this, we're going to need to talk about how we're going to spend the rest of our afternoon. We've got another matter scheduled.

I believe the conditions -- and I'll ask if I can make a friendly amendment to the motion

and for the second. That there's going to be no Celeste access, now just Collier Boulevard, except in the case of emergency.

COMMISSIONER SCHMITT: Or in the case that it reverts back to the commercial development. It may be required.

CHAIRMAN FRYER: Good point.

MR. YOVANOVICH: Don't forgot the right-in off of Grand Lely.

CHAIRMAN FRYER: Yes, and that, right.

Then three stories instead of four in the center, and two stories abutting Celeste for transition purposes.

The traffic study, which was not a TIS that was submitted, is not accepted. It's part of the public record, but it was not considered by staff and is not accepted.

The applicant agrees to put commitments in the PUD to the following effect -- and if I need to be corrected, please correct me -- year-plus leases only, background checks, prohibition of subleasing. I think those were the only ones. Were there others?

(No response.)

CHAIRMAN FRYER: They were picked out of the NIM. Okay. It sounds like not. And then a connection to the CDD central irrigation if economically feasible. Have I missed any?

(No response.)

CHAIRMAN FRYER: Will you accept that friendly amendment?

COMMISSIONER SCHMITT: Yes, accepted as stated.

CHAIRMAN FRYER: And -- the movant --

COMMISSIONER VERNON: Vernon accepts.

CHAIRMAN FRYER: -- and the seconder.

All right. Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor of the motion with the amendments, please say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously, 6 to nothing. Thank you, applicant.

COMMISSIONER SCHMITT: One comment for those who are listening. Because of the number of people that objected to this, it will not be on the consent agenda for the Board. It will be a full public hearing at the Board as well.

CHAIRMAN FRYER: Good point. Thank you.

Now, we certainly owe the court reporter a break. Are we going to do that in conjunction with lunch, or are we going to just have a 10-minute break and come back and finish up as soon as we can after?

COMMISSIONER SCHMITT: I would propose a 10-minute break. The next petition is going to be very quick.

CHAIRMAN FRYER: Okay. Anybody object to that?

COMMISSIONER VERNON: No. Good idea.

CHAIRMAN FRYER: That's exactly what we'll do. Let's see. It's 12:37. We will stand in recess until 12:45.

(A brief recess was had from 12:37 p.m. to 12:45 p.m.)

CHAIRMAN FRYER: We're back.

***And we're going to our second and final application today. This is PL20190000360. It's the Seminole Trail Government Center conditional use, and not only will we be acting on the CU, but we'll also be asked to vote as an EAC as well.

All those persons 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 beginning with Ms. Lockhart.

MS. LOCKHART: Just staff review of materials.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Thank you.

Matters of public record and meeting with staff.

COMMISSIONER HOMIAK: None for me.

COMMISSIONER SCHMITT: None for me as well.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: Thank you.

Mr. Klucik, Commissioner.

COMMISSIONER KLUCIK: Staff meeting and staff materials.

CHAIRMAN FRYER: Thank you very much.

Madam, you have the floor.

MS. DIFFENDERFER: Good afternoon. Is this on?

Michelle Diffenderfer from the law firm of Lewis, Longman & Walker.

I'm pleased to be here this afternoon with you on behalf of the Seminole Tribe of Florida and its wholly-owned subsidiary, STOF Holdings, LLC, the applicant for this matter.

COMMISSIONER SCHMITT: Michelle, can I interrupt a minute?

MS. DIFFENDERFER: Yes.

COMMISSIONER SCHMITT: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, sir.

COMMISSIONER SCHMITT: Michelle, unless you feel compelled to make a presentation, I'm ready now to make a motion to approve this.

MS. DIFFENDERFER: I do not feel compelled to make a presentation. That's the first thing they teach you in law school. If they're ready to approve, you need not say a word.

COMMISSIONER SCHMITT: I reviewed all the matters in detail. This has really minimal to little impact. It's a great proposal. It's super from the standpoint of what we need out there for the residents. I don't see any objection to it. I would recommend approval both as the EAC and as the Planning Commission.

COMMISSIONER SHEA: With --

COMMISSIONER SCHMITT: It has to go to the Board because it is the Area of Critical State Concern. That is the reason why it's in front of you today. But if you want to go through the presentation, and we'll go through the question and answers, but I'm going to make a motion to approve.

COMMISSIONER SHEA: Joe, is that per staff recommendations?

COMMISSIONER SCHMITT: Per staff recommendations, yes.

COMMISSIONER SHEA: Because they have quite a list.

COMMISSIONER HOMIAK: Second.

CHAIRMAN FRYER: Two things -- then it's been moved and seconded. Before we go to a vote, I'm going to ask Mr. Youngblood if we have any registered speakers.

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

CHAIRMAN FRYER: All right. Is there anyone present in the room who is not registered who wishes to be heard?

(No response.)

CHAIRMAN FRYER: I see none. Thank you.

Now, my question for Ms. Ashton. Is there any reason why we need to make a more complete record, or can we proceed in this fashion?

MS. ASHTON-CICKO: You may proceed in this fashion.

CHAIRMAN FRYER: Thank you very much. All right. Are there any further questions or comments from the dais?

COMMISSIONER SCHMITT: I only ask Michelle, do you have any objections to the conditions as proposed by staff?

MS. DIFFENDERFER: No. We support the conditions.

COMMISSIONER SCHMITT: You support. Okay.

CHAIRMAN FRYER: Staff, do you want to make a quick one-sentence statement of your recommendation on this?

MR. BELLOWS: Yes. For the record, Ray Bellows. I worked with our contract planner, Laura DeJohn, and we are recommending approval subject to those conditions. And I have no other information to proffer at this time.

CHAIRMAN FRYER: Okay. Thank you very much.

Any further questions or discussion from the dais?

(No response.)

CHAIRMAN FRYER: If not, all those in favor of approving the motion, which was seconded, and this is a joint motion, approval of the CU and as EAC recommendation, please say aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: And that is, of course, subject to the conditions that I think we all are aware of, and there's no dispute over what those conditions are.

So with that, we'll go -- thank you very much, applicant.

MS. DIFFENDERFER: Thank you very much. We very much appreciate it.

COMMISSIONER SCHMITT: I'm sorry you missed the opportunity to rehearse your presentation.

MS. DIFFENDERFER: We had a great morning.

CHAIRMAN FRYER: Oh, good. Good. Well, we appreciate it.

All right. So now we need to touch a few more bases, but I don't think it will take any length at all.

Is there any old business to come before the Planning Commission?

(No response.)

CHAIRMAN FRYER: If not, any new business?

(No response.)

CHAIRMAN FRYER: If not, is there anyone present who wishes to be heard on a matter that's not on our agenda?

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

CHAIRMAN FRYER: Okay. Thank you.

COMMISSIONER VERNON: I'll just make a comment. I want to say thanks to my board members for -- you guys are invaluable to have as a resource sitting up next to me, and I want to -- and I want you to know you guys are very much appreciated.

CHAIRMAN FRYER: Well, very kind of you to say, and same back to you, sir.

If there are no objections, we stand adjourned.


There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 12:50 p.m.

COLLIER COUNTY PLANNING COMMISSION



EDWIN FRYER, CHAIRMAN

8/18/22

These minutes approved by the Board on _____, 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.