

September 1, 2022

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
September 1, 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 10:00 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Edwin Fryer, Chairman
Karen Homiak, Vice Chair
Karl Fry
Joe Schmitt
Paul Shea
Robert L. Klucik, Jr.
Christopher T. Vernon
Amy Lockhart, Collier County School Board Representative

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

PROCEEDINGS

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

CHAIRMAN FRYER: Thank you. Good morning. The morning session of the September 1, 2022, meeting of the Collier County Planning Commission is now in session.

Everyone please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

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

COMMISSIONER FRY: Thank you, Chairman.

Ms. Lockhart?

MS. LOCKHART: Here.

COMMISSIONER FRY: Mr. Shea?

COMMISSIONER SHEA: Here.

COMMISSIONER FRY: I'm here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER FRY: Vice Chair Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER FRY: Mr. Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER FRY: Mr. Vernon?

COMMISSIONER VERNON: Here.

COMMISSIONER FRY: Mr. Klucik?

COMMISSIONER KLUCIK: Present.

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

CHAIRMAN FRYER: Thank you, Mr. Secretary.

Addenda to the agenda. Mr. Bellows, I think we do have a few things to talk about here.

MR. BELLOWS: There was an indication that there may be a motion by one of the Planning Commission members to move one agenda item up. I don't know if that motion's going to be made or not.

CHAIRMAN FRYER: Well, Commissioner Schmitt, were you going to make that motion?

COMMISSIONER SCHMITT: No. I discussed with Dan there was a possibility of moving it, but I don't -- I'm not going to inconvenience everybody that's here this morning. Unfortunately, Dan's going to have to wait.

But I think maybe we as a board ought to -- it appears this is going to take all day. And since I've got the microphone, I have a hard break. I have to depart at 2:00, no question. I've got a flight out of RSW this afternoon, and I have to leave.

So we may decide at some point, if this is going to go on, Isles of Capri -- Isles of Capri go on for quite a while prior to going to vote, do we want to entertain a hard stop at some time so Mr. DeLisi can -- his petition; otherwise, I doubt he'll even get to his petition today.

CHAIRMAN FRYER: I would agree with that. What is the sense of the Planning Commission on that?

Mr. Yovanovich, do you want to be heard? Let's first ask -- we want to hear from people up here.

COMMISSIONER HOMIAK: We did vote last time to do the Capri first.

COMMISSIONER SCHMITT: We voted to time [sic] do this first, yes.

COMMISSIONER HOMIAK: So I mean --

COMMISSIONER SCHMITT: It's settled, yeah.

COMMISSIONER HOMIAK: -- everybody knows.

CHAIRMAN FRYER: Mr. Yovanovich, did you want to say something?

MR. YOVANOVICH: I was just trying to help. I agree, I don't think we're going to

finish for Isles of Capri, and my understanding is that first item may not take very long. So it might be -- and I could be wrong. I'm just -- from what I'm being told, it could be maybe a 20-minute, 30-minute inconvenience.

My hope would be we would at least get through the public comment today on the first item and then pick up with rebuttal the next time. That's what I think is a realistic schedule, if you all agree that that's a realistic schedule. I'd hate, you know, for a 30-minute delay -- I don't have an objection. The rest of the community may have an objection for a 30-minute delay, but I'm assuming it's a quick item. If it's not, then I would object to an inconvenience. But if it's not, then I would hate to make Mr. DeLisi and his client pay to sit here all day.

CHAIRMAN FRYER: I understand. Without prejudging a quasi-judicial matter, because I wouldn't want to do that, none of us would, it's my understanding there are no public speakers for Ariva, correct?

MR. BOSI: Mike Bosi, Zoning Director.

Correct. I just checked with Mr. Youngblood. He said there are no registered speakers for that item.

CHAIRMAN FRYER: Okay. And without prejudging, I think it's fair for me to ask, does anyone on the dais believe that this is being to be a lengthy matter, that Ariva would be a lengthy matter? I personally do not think it is.

COMMISSIONER HOMIAK: No.

COMMISSIONER SCHMITT: No.

CHAIRMAN FRYER: Anybody disagree?

(No response.)

CHAIRMAN FRYER: I'm going to -- I'll probably want five minutes to talk about some uses that I don't think are necessary, but that's all that I'm going to do.

So under the circumstances, then, without objection, why don't we hear Ariva Plaza first. But before we go to that, I want to talk a little bit about the order of proceedings when we get to Isles of Capri. It's my understanding that we have 66 people online and perhaps 12 or 14 in the room, and in the room we have counsel for some or all of the residents and an expert whom counsel wants to submit evidence through.

So as we ordinarily do, I would propose giving counsel and the expert more than the usual minimum -- or maximum time that we assign for public speaking.

But then the question comes to, what do we do with 66 people online, all of whom want to speak? Certainly, as a matter of policy, it's our job to listen to the public, and I think we do our job pretty well. We want to continue doing that, and we will listen carefully to the public. There is something, however, to be said for avoiding repetition, and sometimes that becomes an irritant, and I'm not saying it would in this case. But if we went for five minutes times 60, that's 300 minutes, which is five hours, and that's a pretty long time. If there's new information that's coming up, we want to give the speaker sufficient time to provide that information. But just to repeat and repeat and repeat, sometimes it becomes a detriment to your case.

So having said that, I think at this point I would recommend that, besides the counsel and the expert, the people in the room should have five minutes, and if they can make a compelling case that they need a couple more minutes to make their point, we would at least entertain consideration of that, but that the people on the phone be requested to speak for only three minutes. What's the wish of the Planning Commission on that?

COMMISSIONER SCHMITT: I would agree that three minutes would -- typically with the Board of County Commissioners, it's three minutes. Hard stop at three minutes.

And, certainly, yeah, that's -- it's the old adage, don't snatch defeat out of the jaws of victory. If you've got 60 people all saying the same thing, it will be very tiresome, so -- but everybody has the right to speak, and it's our obligation to listen. So we leave it up to you. But if everybody gets up and says the same thing, we don't want this, I mean, we clearly know. All of us have received hundreds --

CHAIRMAN FRYER: Yeah.

COMMISSIONER SCHMITT: -- literally hundreds of emails, cards, letters and other things, so we're pretty cognizant of the fact of your feelings, so -- but we leave it up to you. You're the citizens, and you have -- you certainly have your right, but I would say three minutes max.

CHAIRMAN FRYER: That's kind of where I was --

COMMISSIONER SCHMITT: If there's a presentation and somebody wants to relinquish their time to give it to someone else for additional time, we'll entertain that as well.

CHAIRMAN FRYER: Okay. I've got three commissioners who are signaling. First, Commissioner Klucik.

COMMISSIONER KLUCIK: Thank you, Mr. Chairman.

I guess I would encourage everybody. If you think what you're going to say is repetitive and has been said before, I would like you to come up and at least say that, you know, that you -- don't not come up because what -- it's already been said. Come up and say that you agree with what was said if -- rather than not say anything. That would be very helpful to me, because that does -- you know, that shows me how many people are here that want to say the same thing.

The other thing I would ask is for the attorney. Is the attorney then being given time from other individuals who are present?

CHAIRMAN FRYER: No. But, typically, when we have counsel representing a group, we give more time. And, preliminarily, I told Mr. Brooke's that he could have 10 minutes and that his expert could have 10 minutes, for a total of 20.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Thank you.

Next is Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I think we're all saying the same thing. I echo what Commissioner Schmitt said, and Mr. Klucik has one idea that I think's a good one. My idea was maybe during a break, you know, figure out, maybe have a few spokespeople who speak for a number of you rather than having each of you come up. Either one works, but I think you're -- it is a strategy to make sure that everybody up here knows there's vigorous opposition. And again, just to echo what Commissioner Schmitt said, it's clear to all of us. I usually don't go look at the properties. I did in this case. I know. I've gotten all the postcards. So I'm with Commissioner Schmitt, that we know this is a big issue for you guys. We see the T-shirts.

CHAIRMAN FRYER: Thank you. So I believe we have a consensus to that effect. As you know, it is -- we do allow individual speakers who are physically present to take time from other potential speakers who are physically present. So if someone gets ceded five minutes of time from another person or 10 minutes of time, five minutes each from two other people, that person would get additional time. We can't do that on the phone, but we can do it for people in the room and will do it.

All right. So the only other thing that I want to cover, be sure that we have consensus of the Planning Commission before we go to Ariva, it is -- it's my suggestion -- and I did not have an opportunity to speak to the court reporter about this beforehand, and I should have. Ordinarily we would take our mid-morning break at 10:30. That doesn't make any sense.

COMMISSIONER SCHMITT: Time for a break?

CHAIRMAN FRYER: And, Madam Reporter, you can nod. Would you prefer that we take, like, an 11:15 break or go to noon?

THE COURT REPORTER: Either way.

CHAIRMAN FRYER: Either one. Okay. Thank you very much.

We'll see how things are going, and if -- we'll revisit it at 11:15, and if you need a break, we'll take one at that time.

Okay. So having said all of that, let's -- we need to cover a couple more -- anything else on addenda to the agenda?

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes.

COMMISSIONER KLUCIK: I would just like to say that I appreciate very much everyone who is either online or present in the room being involved because that's what -- that's how I got here is by being involved in my community, and I love that you give a damn, so thank you for being here.

CHAIRMAN FRYER: Yeah. And I agree completely, and I think we all do. We have the utmost respect for people who care enough to take time out of their busy days and sometimes large portions of time out of their busy days to be with us. So thank you for that.

All right. And we might -- we might talk about continuances under old business if we have time, but if we don't, we'll just roll that subject over to a subsequent meeting.

Okay. Planning Commission absences. Our next meeting after our evening session, of course, is on September 15. It will begin at the regular time, 9:00 a.m. Anyone know if he or she will not be able to attend that meeting?

(No response.)

CHAIRMAN FRYER: Commissioner Schmitt, you will be --

COMMISSIONER SCHMITT: I will be here. I only missed one meeting.

CHAIRMAN FRYER: I know. I didn't mean --

COMMISSIONER SCHMITT: I wasn't going to be here today, but I did change travel plans.

CHAIRMAN FRYER: I didn't mean to call you out. I just wasn't sure how long -- how long you were going to be gone, so we'll...

COMMISSIONER SCHMITT: You'll dock my pay for that.

CHAIRMAN FRYER: Yeah, we will, yeah. We'll cut it in half.

Okay. So it looks like we'll have a full house, a quorum on the 15th.

And approval of minutes. We have only one set of minutes in front of us, and those are those of August 4, 2022. Any corrections, changes, or additions to those minutes?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER FRY: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor of approving that set of minutes as submitted, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: They stand approved as submitted.

BCC report and recaps, Mr. Bellows.

MR. BELLOWS: For the record, Ray Bellows.

The Board did not meet since the last Planning Commission meeting, so there is no recap.

CHAIRMAN FRYER: Okay. Thank you. Let's see.

Chairman's report, none today. Consent agenda, none today. And, therefore, we'll go to our rearranged agenda, and the first meeting -- first matter for us for hearing is PL2022 -- is that right? Or 2021?

COMMISSIONER SHEA: Twenty-one, 2021.

CHAIRMAN FRYER: Oh, wait a minute. Okay. I was looking at -- okay. Bear with me here, folks. All right.

***It is 20210001195, the Ariva Plaza Commercial PUDZ. All those wishing to testify in this matter, please rise to be sworn by the court reporter.

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

CHAIRMAN FRYER: Thank you.

Disclosures from the Planning Commission starting with Ms. Lockhart.

MS. LOCKHART: Staff materials only.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER FRY: Ditto.

CHAIRMAN FRYER: Public records and a meeting with staff.

COMMISSIONER HOMIAK: Nothing for me.

COMMISSIONER SCHMITT: Spoke with Dan DeLisi about this petition.

COMMISSIONER VERNON: Communications with staff.

COMMISSIONER KLUCIK: I had a meeting with staff and the materials that we have before us.

CHAIRMAN FRYER: Thank you.

All right. We're ready to hear from the petitioner on Ariva. You have the floor, sir.

MR. DeLISI: Thank you.

CHAIRMAN FRYER: You'll begin by introducing --

COMMISSIONER SCHMITT: And you want to move the microphone over so -- oh, okay. Good.

MR. DeLISI: Dan DeLisi, for the record. I am the land-use planner on behalf of the petitioner.

So first off, thank you very much for this accommodation. I know my client and I truly appreciate it a lot.

In the interest of time and based on the accommodation you-all made, I'm going to make this very, very brief. The property is located at the corner of Golden Gate -- Golden Gate Boulevard and Everglades on the south, on the -- I'm sorry -- on the southwest corner.

COMMISSIONER SCHMITT: Hold on, Dan. Some of our screens are not showing up here, the petition.

COMMISSIONER SHEA: None of them.

COMMISSIONER SCHMITT: One.

COMMISSIONER HOMIAK: One.

COMMISSIONER SHEA: Oh, one?

COMMISSIONER KLUCIK: Not showing.

CHAIRMAN FRYER: Okay. Mr. Miller will be in, I'm sure, to correct that situation. So we'll have -- why don't you continue and we'll get -- we'll get this resolved. Here's Mr. Miller.

MR. DeLISI: You can get all the kinks out on the easy one.

Okay. So we are located, as I said, at the southwest corner of Golden Gate and Everglades. We are one of only three neighborhood centers designated in the Golden Gate Area Master Plan.

As you can see, Golden Gate Estates is almost entirely residential with, again, just very few areas for commercial.

The Golden Gate Master Plan highly regulates neighborhood centers. What we're proposing is a neighborhood center consistent with the neighborhood center to the north of us on the north side of Golden Gate Boulevard. We're not asking for any deviations. We're complying with all of the standards in the Golden Gate Master Plan. We've gone through extensive discussions with staff. We had our neighborhood information meeting, which I would

characterize as, I think, very supportive.

There were comments about the types of commercial people want to see. People want to see things that are -- that they could use, like a convenience store. We heard that loud and clear, our client heard that loud and clear, and so we're, obviously, looking into that. Market allowing, you know, it's something obviously we'd like to see.

So that's essentially what's being proposed, maximum of 30,000 square feet. You could see the indigenous preserves. We're complying with the 75-foot indigenous buffer to the residential. The access -- the two access points, the one on the north and on the east, are as far as away from the intersection as you can put them.

And with that, we've met all of the criteria of approval, and so I'm here for any questions. We do have an entire team of consultants here as well.

CHAIRMAN FRYER: Thank you.

No one is signaling at this point. I'm going to begin. I have just a few very brief points that I want to raise, and I frequently do, and it has to do with permitted uses. And Permitted Use No. 18, Miscellaneous 7389, you have a broad array of exceptions, but you left in some things that I feel quite sure that you really don't want or need, and I'm going to ask you to take them out, and they are as follows: Bonds persons; handwriting analysis; process serving services; racetrack cleaning, whatever that is; tax collection agencies. Would you be willing to delete those or add them to your exceptions?

MR. DeLISI: I believe so.

CHAIRMAN FRYER: Thank you. All right. Then Use No. 25, debt counseling. I just -- I have some misgivings about that, and if -- do you realistically intend to provide that use?

MR. DeLISI: I don't know. I'd have to confer with the client and look on debt counseling. I don't know what that has to do with banks and financial services, but...

CHAIRMAN FRYER: Well, think about it. My next one is under Permitted Use 39. 8049 includes massage therapists, psychiatric social workers, hypnotists and psychotherapists. What -- how do you feel about those uses?

MR. DeLISI: Well, I mean, there are people that I know that see therapists but, again, let me talk with staff about the broad category there, and we'll --

CHAIRMAN FRYER: On No. 50 -- and this is the last one I have -- this is Group 8699: Humane societies; meditation instruction; dance clubs; livestock recording associations, whatever that is. Do you want all of those?

MR. DeLISI: My guess is probably not. We can work with staff, again, on limiting.

CHAIRMAN FRYER: All right. Well, let's take a five-minute break. No one else is signaling yet. Ask staff -- ask your client if they need any of those uses. If we can get rid of them, I think we can get right to a vote.

COMMISSIONER VERNON: I've got one thought before we break.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER VERNON: Yeah. I'm not telling you how to do it, but I think he's more concerned with unregulated and unlicensed operations. A debt counselor could be a law firm. A therapist could be a licensed psychologist. I don't think we want to prohibit them. I think we want to prohibit people who aren't regulated, aren't licensed properly. And I understand his concern. Is that -- is that correct?

CHAIRMAN FRYER: That covers much of what I was saying but, for instance, Humane Societies, I suppose they're regulated, but I'm not sure that that is a use that would -- that would well integrate into the -- what the -- you know, what the area would be benefited by.

MR. DeLISI: If you wanted to make a recommendation that went to what Mr. Vernon just said, I don't think we'd have any problem with that. I don't think they're looking at unlicensed therapists. But if there was a psychologist that wanted to have an office there and there was a need for it, that would, in my opinion, make a lot of sense. So, I mean, we wouldn't oppose something like that, for sure.

CHAIRMAN FRYER: Okay. Well, I get that on psychiatric social workers and psychotherapists. I certainly can see the point that people who are licensed in those categories should -- that should be a permitted use. But massage therapists and hypnotists, I don't know whether they're licensed or not. Are they?

COMMISSIONER HOMIAK: Some of them are, yes.

MR. DeLISI: I'm almost positive massage therapists are. I don't know about hypnotists.

CHAIRMAN FRYER: All right. Well, I'll -- okay. On 39, if you put "licensed" in front of all of those, I'll go with that.

How about -- what do others think about humane societies, meditation, dance clubs?

COMMISSIONER HOMIAK: I don't have a problem with a humane society. Why would you have a problem with a humane society.

CHAIRMAN FRYER: Only because it involves having lots of animals on the site and --

COMMISSIONER KLUCIK: Here's -- Mr. Chairman, I don't understand this, because there are so few acres dedicated to these uses that I don't see why we would put any restrictions on them. This is the only place they can have anything. So I would be inclined to just leave it how it is.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: I have to say I concur with both of what I've heard. I do understand the desire to make -- be licensed businesses, but I have a Humane Society in my neighborhood. They're a great neighbor and a great addition to the neighborhood, and I don't know if that would fit on this parcel, but I don't have -- by nature, I don't have a dispute with -- some of them I didn't understand, I don't think we know what some of those are. Like racetrack cleaning, what is that? But I don't have a problem with any of those things remaining in unless there are specific things that we are -- that you're trying to avoid, I guess, would be --

COMMISSIONER KLUCIK: And, Mr. Chairman, if I may, what I would say is that I certainly appreciate the concern, and I think in some areas -- and I would say in the future I think it's always a good idea when it's a conditional use that that's great to remind people that maybe we don't want to have the whole laundry list, which is what we've been doing. I think in this instance the area doesn't -- I don't feel as concerned because it's been long known that it was going to be this way, and it's also -- there are so many -- such a limit on where they can do anything in the Estates that I would not want to further limit it.

CHAIRMAN FRYER: Okay. Well, I'm going to withdraw my request, then, because I don't have the votes. And I really didn't feel that strongly about it except I wanted to make mention of it so that people know what the possible uses are. And I think the point -- the point that was made that this is a rural area, some of these uses may be more appropriate unless -- Commissioner Fry.

COMMISSIONER FRY: Oh, I just would say, Mr. Chairman, I -- personally, I appreciate the time that you put into reviewing these specific uses, because I believe you're the only one that does that on a regular basis, and it adds a lot of value.

In this case, I think -- you know, I think you've raised some valid concerns, but I believe we've heard often that the market -- you know, I believe in this case, because it's a solitary neighborhood center, it's one of very few, the market -- I believe we can trust the market to dictate that the services that go in there will be beneficial, or they won't work -- you know, they won't work in that location.

So I don't want you to stop doing what you're doing just because we may not want to filter out all of those uses today.

CHAIRMAN FRYER: You promise to stay with us, then, if I do that?

COMMISSIONER VERNON: Second that.

COMMISSIONER FRY: That I can't do.

CHAIRMAN FRYER: I'm sorry. Okay.

COMMISSIONER KLUCIK: That's how I feel, Mr. Chairman. I don't want my

comments at all to be anything but, you know, this specific instance. I very much appreciate that you raise these issues.

CHAIRMAN FRYER: Thank you. I'll withdraw it.
Commissioner Vernon, did you want to be heard, sir?

COMMISSIONER VERNON: Yeah. I just want to take what Commissioner Fry and Klucik said one step further and say, you do -- to your credit, you do this, and the concept is great, and that is, I don't like the idea of somebody standing before us saying we're going to put up a 7-Eleven, but we approve dog track cleaning or racetrack cleaning.

And so I think -- I don't know. We've talked about this before, some way of avoiding a situation where we approve beyond the universe of what they really think they might do, and I don't know how you fix that on a larger scale -- and it's a discussion for another day, but I'm saying -- I'm echoing what two commissioners already said: What you're doing is great in concept. And, frankly, you shouldn't have to do -- the onus should be on the other side of the dais to bring to us a more limited approval. And I don't know how you -- maybe that -- like I said, that's for another day, but I just wanted to throw that out there.

CHAIRMAN FRYER: Thank you. I appreciate the comments. And under the circumstances, I'm withdrawing my concerns about those.

And that's really all that I had on this matter. And no one is signaling. So, Commissioner Schmitt.

COMMISSIONER SCHMITT: I just want to ask Dan, did you confer with your client? Are there any limitations you want to add before we close?

MR. DeLISI: Sorry. I was not able to. He's in Texas listening in.

COMMISSIONER SCHMITT: All right.

CHAIRMAN FRYER: All right.

COMMISSIONER SCHMITT: Thanks.

CHAIRMAN FRYER: Thank you.

We'll now hear from staff.

MR. BOSI: Thank you. Mike Bosi, Planning and Zoning Director.

Staff is recommending approval. The -- as indicated by the applicant, there are adequate buffers being provided, 75 feet as instructed by the Golden Gate Area Master Plan when adjoining the Estates lots.

And this is the third quadrant of a four-quadrant neighborhood center. The idea of what we're trying to do is what we're trying to do on the broader basis throughout the county is bringing goods and services that are demanded by households in a better spatial relationship to where those households exist, and that's to improve our transportation network, improve our environmental qualities and quality of life for the individuals.

So we're bringing goods and services in closer proximity to where people live within the Estates. This is one of the primary goals and objectives of our Growth Management Plan. So staff is wholeheartedly supporting the application.

And we will provide a little more scrutiny toward the range of uses of -- what the problem is is sometimes SIC codes have uses that are 16 to 116 individual uses within that SIC code. So staff will try to work with the applicants a little bit more to try to ferret out some of the uses that we do know the Planning Commission has some concerns with.

CHAIRMAN FRYER: Thank you very much.

Commissioner Fry.

COMMISSIONER FRY: Mike, I'm just looking for clarification here. And correct me and maybe put this in the proper context. But I believe part of the vision of the Estates is people enjoy the tranquil, rural lifestyle with limited services. And I guess what I see is a possible contradiction. To me, that's absurd, because everybody -- everybody that I know would like to have services that they need on a regular basis to be closer rather than farther away. So can you just clarify what the vision is and whether there is a conflict here or not.

MR. BOSI: No. This is a location that's been long designated by the Golden Gate Area Master Plan for neighborhood centers. And like you mentioned, the tranquil, rural character of the Estates recognizes that every household has needs, and those needs have to be fulfilled. You're either -- you're going to satisfy those on long trips or you're going to satisfy them on shorter trips. Shorter trips are satisfied when those goods and services are located in closer proximity. So this is -- this is consistent with the vision of the Golden Gate Estates.

Neighborhood centers, meaning smaller scale, 30,000 square feet potential of square footage, limited uses, designed to be neighborhood serving. So this does fulfill the intent of the master plan.

COMMISSIONER FRY: Are there enough neighborhood centers in the plan?

MR. BOSI: I believe there are enough centers in the plan. The market is now finally starting to recognize those locations and take advantage of those locations. So as we move forward, I think you're going to see more of these requests, and that's only a betterment to the overall quality of life within the Estates.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: Mike, just -- could you speak a little bit on the wellfield areas, what that really means? Is this -- they're not -- it's, obviously, not a recharge area. But how exactly does that work? Because we're obviously taking potable water somewhere within that vicinity drawing that down to feed the community.

MR. BOSI: It's a Wellfield 3, which has --

COMMISSIONER SHEA: Three and 4.

MR. BOSI: Three and 4, which are the furthest in terms of the distance away from the individual potable wells. So it limits some of the more heavier potential uses that could be associated with it. None of those uses have been identified by our environmental staff that needed to be restricted. So in that regard, the uses that are being proposed are not in disagreement with the designation of those wellfield zones and what those restrictions are intended to be for.

COMMISSIONER SHEA: Are the wellfield -- are the wells recharged from the surface in the area, or are they lower-tiered strata that are recharged maybe out in the Everglades?

MR. BOSI: The specifics of the individual wells, whether they're in the Hawthorn or whether in the Lower Tamiami, I'm not sure. I know that groundwater influence does have, you know, an effect. But what I would say is when you're in 3 and 4, that groundwater effect is somewhat mitigated by the distance because it is a little bit further distance than if it was a Wellfield 1 or Wellfield 2.

CHAIRMAN FRYER: Ms. Cook, did you wish to be heard?

MS. COOK: Good morning, Jaime Cook, your director of Development Review.

So as Mike explained, the way the Wellfield Protection Areas work is the geology within the area surrounding the well, depending on which way the water will move through the groundwater, there are different Wellfield Protection Areas. So Wellfield Protection Area 1, if there were contamination within that zone, it could reach the well within one year all the way out to Wellfield Protection Zone 4, which it would take at least 20 years -- approximately 20 years to actually reach the well. And as Mike said, none of the uses that have been proposed with this PUD are uses that would cause concern for the wellfields in that area.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Thank you.

MS. COOK: You're welcome.

CHAIRMAN FRYER: Anything else from staff, Mr. Bosi?

MR. BOSI: No, that concludes our recommendation. I did get a note from Mr. Youngblood. We do have one speaker who has asked to speak on this item, just to let the Planning Commission know.

CHAIRMAN FRYER: All right. Mr. Youngblood, would you introduce that person to us, please.

MR. YOUNGBLOOD: Mr. Chairman, I have one speaker, Gary -- I'm sorry, I'm going to do my best to pronounce your last name -- Kluckhuhn.

MR. KLUCKHUHN: Gary Kluckhuhn.

CHAIRMAN FRYER: Go ahead, sir.

MR. KLUCKHUHN: I submitted before I had any explanation about what the Wellfield Protection W3 rezoning is, and I thank you for clearing that up.

So my question really is simply left with, please, when we rezone something, there's a reason we have wellfield protection. The rezoning, the density, what happens when we modify this, even though it's 20 years before it contaminates, we really need to re-think our rezoning process.

Thank you.

CHAIRMAN FRYER: Thank you, sir.

Any further comments or questions from the Planning Commission?

(No response.)

CHAIRMAN FRYER: No one is signaling. And we don't have any further speakers.

Anyone else in the room who hasn't registered wish to be heard on this?

(No response.)

CHAIRMAN FRYER: Seeing none, we'll close the public comment portion, and it would be appropriate for us either to deliberate or have a motion.

COMMISSIONER SCHMITT: I make a motion to approve 20210001195, Ariva Plaza.

CHAIRMAN FRYER: Thank you. Is there a --

COMMISSIONER HOMIAK: Second.

CHAIRMAN FRYER: Thank you. And there is no need for EAC approval.

COMMISSIONER SCHMITT: No.

CHAIRMAN FRYER: So we have a single motion in front of us. It's been seconded. Any other discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, Applicant.

COMMISSIONER SCHMITT: I just want to add to the public speaker, there are very significant well protection procedures in the LDC in regards to wellfields, and it's strictly enforced by the -- by the county staff. I mean, we could -- we could talk about other aspects of the Estates, but it's not here at this point. No, sir, we don't need you to comment again. Thank you. It's not a debate.

CHAIRMAN FRYER: Thank you, Commissioner.

All right. So we're ready to move on to the Isles of Capri matter.

COMMISSIONER SCHMITT: Dan, you sure you don't want to stay?

CHAIRMAN FRYER: ***Now, I had -- in the interest of assuring that the public has adequate time and doesn't have to wait an inordinate amount of time, and without knowing how

much time the applicant and staff are going to need to be spending on their presentations and how many questions or comments are going to be coming from the dais, during the applicant and staff's presentation, I want to raise for consideration whether we should establish a time certain to hear from the public, and whoever -- either the applicant or staff would suspend their presentation in order that we could hear from the public at a reasonable hour of the day.

Does anybody up here want to comment on that?

COMMISSIONER KLUCIK: I guess I would say I'm against that only because then the people commenting, the public, are at a disadvantage and they don't know what's said before that, and so their comments, then, can be totally undercut by the -- you know, whoever speaks next.

CHAIRMAN FRYER: All right.

COMMISSIONER KLUCIK: And I understand -- you know, in my view, that's what I would prefer than to just speak earlier at a set time.

CHAIRMAN FRYER: Okay. Commissioner Fry.

COMMISSIONER FRY: I think that's an excellent point, Robb. And I think it is in the public's best interest to hear what is said before you speak so that you could put your comments in context and address things that you've heard. They're going to be building a strong case. They're very good at why this makes sense and why we should approve it. So it's important that you are informed when you do speak.

I guess I would -- if you have an interest in a -- if time-certain is still under consideration, I think it would make sense to try to find out how long the presentation might be, the staff report, to give the client [sic] -- we could at least do that to give the client an idea of when they might speak even if we don't do a time-certain.

CHAIRMAN FRYER: Thank you.

Mr. Yovanovich, do you have an estimate that you could provide to us? Assuming no questions, because you don't have control over that.

MR. YOVANOVICH: I think we're probably about an hour or a little over an hour. I will tell you that I have a lot of questions of staff when staff gets up.

CHAIRMAN FRYER: I see.

MR. YOVANOVICH: So that will be probably pretty lengthy.

CHAIRMAN FRYER: I'm going to ask, Mr. Brookes, are you here, sir? Would you mind approaching? And first of all, tell us whom you represent and then give us your take on whether the residents, if you represent the residents, whether they would want a time-certain to be heard or to hear out the full presentations of the applicant and staff before they speak.

MR. BROOKES: Attorney Ralf Brookes representing SaveCapri.org. They're the people here in the white T-shirts and red letters, so there's quite a number of them here as well as online.

I think, in doing this for a while, it's appropriate to hear the presentations of staff and of the applicant in full and then go into public comment, and I'd like to go first and then put my expert on. That way the public hears all the information.

Most of my members have read the staff reports. They've read the application documents, as many as they could find, and they've read newspaper articles, and they've had, you know, some information. But today I imagine there may be some new information that's brought forward, and that may be helpful to us as well, so...

CHAIRMAN FRYER: All right. Thank you, sir. I appreciate that.

And under the circumstances, I think Commissioner Klucik's point is well taken and, without objection, we will simply let this flow.

Commissioner Schmitt.

COMMISSIONER SCHMITT: When Mr. Yovanovich starts, I just have a question on this picture.

CHAIRMAN FRYER: Oh, okay.

COMMISSIONER SCHMITT: I do have a question.

CHAIRMAN FRYER: We'll come to you on that. All right. Let's see. We

have -- we've not made our disclosures and sworn witnesses yet, so let's do that.

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

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

CHAIRMAN FRYER: Before we go to disclosures, I neglected to announce this matter, which needs to be done. So this is PL20210002313, the Isles of Capri Small-Scale GMPA, and its companion, PL20210002314, the Isles of Capri MPUDZ.

So we've sworn in the witnesses. It's now time -- oh, and also, this will call for an EAC vote. So when the time comes, there will be three motions or a combined motion on three subjects for us to deal with.

Ex parte disclosures now, please, starting with Ms. Lockhart.

MS. LOCKHART: Review of staff materials only.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials, conducted a site visit, and I attended the May NIM meeting.

CHAIRMAN FRYER: Thank you.

COMMISSIONER FRY: Site materials, public record and, obviously, materials received separately, host of emails, letters, and a brief conversation with a couple of Isles of Capri folks in the white shirts on the way in today.

CHAIRMAN FRYER: Thank you.

In my case, materials from and meetings with staff, communications with developer's agent, and communications and a meeting with members of the public as well as a site visit.

COMMISSIONER HOMIAK: I have a lot of emails, postcards, a lot of correspondence. I'm not sure if everybody got the same thing, so...

I've lived here for a long time, so I'm very familiar with the area, and I spoke to Mr. Yovanovich.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Likewise, I received a lot of emails and correspondence, all of which are in a file on my Collier County website as a matter of public record, if anybody wants to access those, and I did speak to Mr. Yovanovich.

CHAIRMAN FRYER: Thank you.

COMMISSIONER VERNON: As I said before, a site visit, communications from people objecting, and communications with staff.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: I have received emails, postcards, letters; I've looked at publicly available information; I spoke with Mr. Yovanovich; I spoke with staff, Mr. Klatzkow, Commissioner McDaniel, and Commissioner LoCastro; and I also had a staff meeting where we spoke at length about this.

CHAIRMAN FRYER: Thank you. Without further ado, Mr. Yovanovich, you're recognized.

MR. YOVANOVICH: Thank you.

Good morning. For the record, Rich Yovanovich on behalf of the applicant.

Mr. Schmitt, do you want me to wait before I --

COMMISSIONER SCHMITT: Yeah. I just -- this is a compelling picture for those who are watching on TV. Much of what is shown on the waterfront here already exists. It is not part of this petition. Well, the existing boat barn is as I look at it on the left side of this picture. But all the boats and everything on the right are not part of the petition; is that correct?

MR. YOVANOVICH: That's correct.

COMMISSIONER SCHMITT: Okay. I just want to make sure the public's aware those are other businesses and other entities. Thank you.

MR. YOVANOVICH: Correct.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: The project team that is here before you today is myself --

COMMISSIONER KLUCIK: Could you go back a slide?

MR. YOVANOVICH: Sure.

COMMISSIONER KLUCIK: Please. Just different angles of the same --

MR. YOVANOVICH: Just different angles, and you'll see these pictures again as we get further into the presentation. You'll see this picture again as each speaker comes up as -- just to show you where we're breaking in the presentation.

The applicant is FCC Beach and Yacht, LLC. I will -- I'm the land-use attorney, Mr. Arnold is the professional planner on the project, Mark Minor is the professional engineer on the project, Jim Banks and both -- and Ted Treesh are both our traffic engineers, Tim Hall is our environmental consultant, and Russ Weyer is our economist, did the analysis of need for different parts of the project.

The property is located -- bear with me one second -- on the Isles of Capri. It's an approximately 5.32-acre site. When we go through this presentation, we're going to address a couple of, I'm going to call them, myths because I can't think of another word about what was the Isles of Capri originally intended to be as far as zoning and density and height. It is not intended to be a fishing village with low density --

CHAIRMAN FRYER: I'm going to --

MR. YOVANOVICH: -- and low height.

CHAIRMAN FRYER: -- interrupt you for just a moment to ask everyone to please put their phones on mute. Thank you very much. Sorry.

MR. YOVANOVICH: And during his presentation, Mr. Arnold will go through the history of the zoning for this particular piece of property and the properties around it. And also, when you learn the history of Isles of Capri, you will see that it has evolved like much of Collier County has evolved. It's probably the last waterfront piece of property. And if you go out there, and several of you -- I know Mr. Vernon says he's been out there -- you will see that a lot of the older houses, like other parts of Collier County, are being replaced with rather large, nice houses that I don't think fit the definition of a quaint fishing village.

So we have to put that in context as to how is the island evolving and how does our project fit in with how the island has historically been intended to be and is evolving today.

On the -- Troy, if I mess -- oh, Troy's not in here. There it is, okay.

The proposed project, this is, you know, a rendering. I'm going to take you through each of the buildings so when we do our presentation, you'll understand what we're proposing to do.

Just from the outset, the dry storage and the proposed docks are already approved and permitted. Although they're part of the PUD, those uses have already been approved and have already been permitted, and the dry storage has been constructed, and the docks are in the process of being constructed.

I will be referring, through the presentation, to -- I can't see the cursor. There we go. This will be referred to as Building 1. That building is currently designed with two units per floor.

COMMISSIONER KLUCIK: Which one is that?

MR. YOVANOVICH: This is Building 1. Building 2 is currently designed with three units per floor, and Building 3 is currently designed with four units per floor.

COMMISSIONER VERNON: I'm sorry to interrupt. But where is the already-approved dry storage and the already-approved docks?

MR. YOVANOVICH: I'm going to get to you right now. This is the dry storage. These are the docks that have been approved and will be -- I'll show you some pictures of what's there today.

COMMISSIONER VERNON: The dry storage is already fully built.

MR. YOVANOVICH: Yes, it's fully built.

And this is going to be parking and amenities. The pool -- I'll show you another picture.

This will be kind of a private grill restaurant for the residents, and this will be the fitness facility, but I'll get you -- so this is basically the amenity building which is -- currently has a zoned height cap of 40 feet.

Yes, sir.

COMMISSIONER KLUCIK: When you say "currently," you mean in your proposal?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: Yes.

COMMISSIONER KLUCIK: You weren't referring to what you could do without this petition?

MR. YOVANOVICH: Today, no. We will get into the existing zoning. If you can just bear with me, I'm going to get there pretty quickly.

I wanted to also discuss a little bit about our attempts at public outreach and to engage in dialogue with the residents of Isles of Capri. We had two neighborhood information meetings. At both meetings, there was -- it didn't appear to be a willingness from those who were there to speak against the project to engage in a dialogue as to what might be an acceptable alternative to what we're proposing.

I have reviewed several -- I guess they have a local flyer, newsletter, whatever you want to call it, called the *Coconut Tele*. They've outlined very clearly -- and their strategy was to not talk to us, not negotiate with us, and not engage in any conversation with regard -- or their modifications to what we're proposing to this project to perhaps make modifications, which I guess that's a strategy. It's unfortunate, because we have historically tried to work with the community to make things better.

I also want to remind the Planning Commission that -- and you weren't part of this, but there was a proposed food truck park to be constructed around this portion of Isles of Capri, and I believe maybe some of the parking was over here, but it was definitely in this area right here.

The community was fundamentally opposed to a food truck park, as was my client, and at the time we went to the Board of County Commissioners, and the community was opposed to the food truck park for several reasons, including the amount of traffic that would be brought to the island if a food truck park was going to be constructed on that property.

At our first NIM, there was a lot of conversations about traffic being an issue, and they don't want traffic coming to the island. That strategy changed, as provided in the *Coconut Tele*. They realized that if they talk about traffic, that C-3 uses are more traffic intense than residential, and you'll hear that through our testimony. And I can't -- I don't think it can be disputed that if we were to do a C-3 attractor at this piece of property, there would be far more traffic generated.

So the strategy has changed all in their publication that now, apparently, at the last NIM we were told they want something like Tin City to be constructed on this piece of property.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: I just want to seize upon that point. So what you're saying is under the current zoning, the C-3 zoning, if you compare the traffic, if you did something typical that you could do that was commercial, C-3, that what you're proposing now today before us would have more traffic -- excuse me -- less traffic than what you could do right now with the current C-3 zoning?

MR. YOVANOVICH: Correct. You'll see the slide. It's about half.

COMMISSIONER KLUCIK: About half.

MR. YOVANOVICH: About half.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: So it's a significant reduction to do residential.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: Rich, is this a gated community? And --

MR. YOVANOVICH: Not all of it. Yes, the residences will be --

COMMISSIONER SHEA: Would you go through where it's -- how it's gated?

MR. YOVANOVICH: You're going to -- there are two primary entrances, and I'll get to these slides.

COMMISSIONER SHEA: If it's in your presentation, go ahead.

MR. YOVANOVICH: If you'll let me -- yeah.

COMMISSIONER SHEA: Go ahead, please.

MR. YOVANOVICH: We'll go through how the community works and what's open to the public, what's not open to the public. But there are public aspects. For instance, the marina is a public marina.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Rich, are you going to cover what had existed there in the past?

MR. YOVANOVICH: I'm not going to spend a lot of time about restaurants that were there, like Backwater Nick's and other restaurants that were there, but I'm going to tell you when I get to that slide --

COMMISSIONER SCHMITT: Okay. It's coming.

MR. YOVANOVICH: -- what we could propose to do if we were to do C-3 zoning.

So the existing land use is Urban Mixed-Use District, Urban Coastal Fringe Subdistrict. I will go into a little bit of detail as to why I disagree with staff's analysis as to what density can be requested under today's Comprehensive Plan versus what their staff report says.

Our proposal is to create our own infill district to allow this mixed-use project to go forward and to add residential to the mix. The current zoning is C-3 intermediate, which is, as Mr. Arnold will get into greater detail, an intensive traffic-generating use on the property, and it's supposed to be located in activity centers; not supposed to be located on this piece of property.

COMMISSIONER KLUCIK: I don't understand what you just said. If you could clarify.

MR. YOVANOVICH: I will. The Growth Management Plan, as it was adopted in 1989-ish, established activity centers as where commercial is supposed to be. That's the major intersections. Pine Ridge and Airport, as an example. Collier Boulevard and Tamiami Trail is another example. There are many of these. That's where commercial was supposed to go. The Growth Management Plan recognized that there were some properties that had already been improved. They were deemed consistent by policy.

And in the Growth Management Plan, there is a provision that I'm going to take you to shortly that basically says, we don't want you to develop this as commercial because it's not supposed to be here in the first place, and there's an ability to come in and ask for conversion of commercial at 16 units per acre. Your staff report says something differently, but I will take you through those provisions. But there is an encouragement to remove commercial where it has been deemed consistent by policy and substitute with it residential. So --

COMMISSIONER KLUCIK: Seemingly in accord with what had been the objections when some commercial was previously proposed?

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: Meaning that it's largely inconsistent with the residential nature of --

MR. YOVANOVICH: The commercial that the residents would like to see happening on this piece of property is, one, not financially feasible and, two, never going to happen. So if it stays C-3, as I get a little further in the presentation, we will have no other choice but to develop something that will attract people to the businesses that locate there.

COMMISSIONER KLUCIK: Mr. Chairman, if I may.

CHAIRMAN FRYER: Commissioner Klucik, go ahead.

COMMISSIONER KLUCIK: So is it -- I'm just trying to conceive of this. So the current

C-3 zoning is really because, as this developed like most rural areas or most parts of the whole county, you had small commercial areas/enterprises pop up, like in the rest of the whole country, and it wasn't highly regulated. And so what happened is over time, when you had that use, they didn't take away the use. They just left it there. And now the playing field is so different that commercial -- the commercial use doesn't seem like it's as compatible as it could have been back when it was used for that small whatever it was, and that's not going to be the use that anyone does in the future because it's just -- the property just has too much value with the current zoning that is possible.

MR. YOVANOVICH: Correct. And I'll give you another example.

COMMISSIONER KLUCIK: I mean, I'm just -- I'm trying to think logically about why we're at where we're at.

MR. YOVANOVICH: We are. And let me give you an example of another project that was in the Coastal High Hazard Area that converted to residential. It's called Aqua today. I think it was the Coconilla PUD. It was an old marina up on Vanderbilt Beach -- not -- Vanderbilt Drive. That marina was, I think, zoned C-4. I went through, and we rezoned that property to PUD using the same very provision we're talking about here today, converting the commercial. It was in the Coastal High Hazard Area, and we were allowed to convert at the 16 units per acre. I don't think we took advantage of the full 16, but we did, in fact, convert it under that provision.

There are other -- if you look at your Future Land Use Map series, you'll see a lot of commercial pieces -- basically all of the East Tamiami Trail is deemed consistent by policy, a lot of that -- the change in planning strategy for Collier County in 1989 was to get away from those small strip commercial. And what we're doing is furthering the Growth Management Plan policy to convert this away from commercial.

CHAIRMAN FRYER: Commissioner Fry and then Commissioner Schmitt.

COMMISSIONER FRY: I want to just be clear on what the agenda is here, Rich. Are you -- staff has recommended denial. You're obviously presenting a case that justifies why this makes sense, it's consistent with the GMP.

Is it your position that we are bound by what you're saying that the plan, even though it said it was commercial, there's, you know, times when you'd want to convert it to residential? Are you saying that we are bound based on what you're going to present to decide to approve it, or we're sitting up here, I believe, with the belief that we have the ability -- you're asking for a change, and that we have the ability to evaluate all the information and decide whether or not we believe it's in the best interest of the county and consistent.

MR. YOVANOVICH: You have two petitions in front of you, okay. You have a Growth Management Plan amendment. In my opinion, what we're asking is to go from 16 units an acre under the current Growth Management Plan to 20.3 units per acre, and that's the difference in density that I'm asking for under the Growth Management Plan and the ability to do a mixed-use project. So that's the part of the Growth Management Plan that you can review and consider, and then the rezone is consistent with that.

My opinion is, if we were to not ask for the Growth Management Plan amendment and we were at -- staff's calculation is 85 units at 16 units per acre, I don't need the Growth Management Plan amendment, and then you would just be focusing on the MPUD. But you have both in front of you today because we are asking for the increase above 16 units per acre.

What I'm going through is to show you why -- leading into what Mr. Arnold's professional testimony is going to be as to why what we're proposing is, in fact, compatible with and comparable to what's around us and why you should not follow your staff's recommendation and you should transmit to the Board with a recommendation of approval.

COMMISSIONER FRY: Thank you. That's very helpful.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I just want to take a moment so I can pass on some information to Robb, and I might as well make it a matter of public record.

Based on my staff experience, having been the administrator for Community Development from 2001 to, what, 2010, or whatever it was, plus my past experience in the Army Corps of Engineers, I'll just give a little history.

Isles of Capri is a -- was mitigation land that was offered for development to mitigate for the stoppage of development on Marco Island. And after the passage of the Clean Water Act and the Endangered Species Act in the early '70s, there was a settlement called the Deltona Settlement. The Deltona Settlement stopped all dredge and fill basically throughout the country, more specifically in Florida and Marco Island. There were lands offered to the Mackle brothers, who were the developers of Marco Island, to mitigate for the lost development rights. Much of that was then termed Marco Shores DRI. Part of the Marco Shores DRI elements of Hammock Bay, some of the first elements of Fiddler's Creek, much of -- some of the pieces of Isles of Capri, even Horr's Island, which is an island named after Captain Horr. I want to make sure we have the right spelling, H-o-a-r. But I'm not sure why this was C-3 --

MR. YOVANOVICH: H-o-r-r.

COMMISSIONER SCHMITT: H-o-o-r?

MR. YOVANOVICH: H-o-r-r.

COMMISSIONER SCHMITT: Thank you. H-o-r-r. Thank you.

I'm not sure why this was C-3, but some of it was a vestige of what was forced upon the area to make up for the lost development rights in -- on Marco Island. And that's the best I know from a historical perspective. It is really off the beaten path to be C-3, as the petitioner has so noted.

But, Robb, the history of it is sort of it was a vestige of what happened after the Deltona Settlement. A lot of signators [sic] in the Deltona Settlement, but it was -- the county just -- was not a signator of it. They just -- or they complied with it. It was a settlement based on the stoppage, again, of dredge of fill.

COMMISSIONER KLUCIK: What year, roughly?

COMMISSIONER SCHMITT: I think it was '83 or '84 was the Deltona Settlement.

CHAIRMAN FRYER: Commissioner Klucik, did you want to say some more?

COMMISSIONER KLUCIK: No, just -- no. Thank you very much, Joe.

CHAIRMAN FRYER: Thank you.

Mr. Yovanovich.

MR. YOVANOVICH: Okay. As I mentioned to Commissioner Fry, we have two requests. They're both, essentially, the same. One's the Growth Management Plan amendment, and the other is the PUD, to allow for 108 residential dwelling units; up to 64 wet slips, of which 35 have already been constructed; indoor storage for boats, which has already been constructed; a ship store of approximately 1,000 feet; a dockmaster's office; another 6,000 square feet of commercial and office uses to not exceed the intensity of the C-3 that's already on the property; and a 200-seat restaurant including membership clubs, beach clubs, boating clubs, yacht clubs, et cetera, not to exceed 10,000 square feet. So that's the summary of the two requests before you.

Getting to the Growth Management Plan, we are in the Urban Coastal Fringe Subdistrict. If you read your staff report, staff claims that the only way to get above four units per acre is to do affordable housing. I couldn't tell -- or provide a public benefit, or that's the only public benefit. But if you read the actual language in the Comp Plan that I've highlighted, it says, residential densities within the subdistrict shall not exceed a maximum of four dwelling units per acre except as allowed in the Density Rating System to exceed four units per acre through the provision of affordable housing and transfers of development rights, and as except -- and except as allowed by certain FLUE policies under Objective 5.

Objective 5, policies, Policy 5.3, is the -- is the language that says, you can convert commercial under the provisions of the Density Rating System. Your staff acknowledges that the property is deemed consistent by policy. So what does the Density Rating System say with regard to converting property that is deemed consistent -- commercial property that is deemed consistent

by policy?

Under 2a it says you can get a bonus of up to 16 units per acre. Now, there's a compatibility analysis that occurs with that, but we can ask for up to 16 units per acre to convert the commercial. So I don't understand why staff has taken the position that I don't have the ability to use this policy to request up to 16 units per acre.

Then the burden shifts to me to show that it's compatible and comparable with -- the density is comparable and compatible with what's around me, but I can request it under today's Growth Management Plan. I don't have to provide affordable housing to get to the 85 units staff is saying I have to under the Growth Management Plan.

Also, I didn't see language in there that says I've got to provide a public benefit, but let's just say I have to provide a public benefit to get above four. We are proposing two very important environmental improvements that are included in this proposal in the PUD. One, we are going to construct two flushing culverts to allow for the water to better circulate, and Tim Hall could get into, you know, the details of how this works, but it's going to clean up and make the water around Isles of Capri better to have these two additional culverts, and if the project moves forward, we will be bringing sewer to the island of a sufficient size that the island can get off of septic and connect to this -- these lines, which will be large enough and the pump station will be large enough, to accommodate converting septic systems to central sewer.

COMMISSIONER VERNON: For the whole island?

MR. YOVANOVICH: Yeah. It will be big enough to accommodate the whole island.

COMMISSIONER KLUCIK: And what was the first -- the first of those two things?

MR. YOVANOVICH: And I'll show you an exhibit. There are basically two culverts that will basically connect the water so we can flush better and be cleaner, and Mr. Hall can get into greater detail. Those are -- and that flushing system --

CHAIRMAN FRYER: Commissioner Shea.

MR. YOVANOVICH: Hold on a second. The flushing -- the flushing has been a high priority for the island.

CHAIRMAN FRYER: Commissioner Shea?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER SHEA: On that chart, conversion of commercial, just so I understand it, is that 16 dwelling units based on the 5.3 acres?

MR. YOVANOVICH: Yes.

COMMISSIONER SHEA: So you're not converting the marina into residential, so you would subtract that out, wouldn't you?

MR. YOVANOVICH: Staff has calculated under the affordable housing provision the full 5.32. If you were to take off an acre for the marina -- because that's basically what it would be -- then you're 4.32, and we do the math times 16. But my point is, I'm not going from three units per acre to 20 in my Growth Management Plan amendment to get to the 108. I think that's a significant difference when you're asking to go from three to 20 versus going from 16 -- and we could do the math as to what that number is to the 108. Those are significant differences.

CHAIRMAN FRYER: Commissioner Vernon, and then Commissioner Klucik.

COMMISSIONER VERNON: Yeah. I think you just answered it. But if I'm sort of just sitting here as a judge reading these rules you're laying out, you're making an argument that 16 an acre would be appropriate, assuming --

MR. YOVANOVICH: Right.

COMMISSIONER VERNON: -- I agree with everything you said, but you're going to ask for even more than that.

MR. YOVANOVICH: That's the Comp Plan amendment. That's why I'm in for the Comp Plan amendment.

COMMISSIONER VERNON: Under this argument, you're entitled to 16 rather than three or four.

MR. YOVANOVICH: Correct.

COMMISSIONER VERNON: You're not entitled to 20 under what you just laid out.

MR. YOVANOVICH: Right.

COMMISSIONER VERNON: I know you're going to get there, but --

MR. YOVANOVICH: No. But what I'm trying to say is the delta of what I'm asking for under today's Growth Management Plan.

COMMISSIONER VERNON: No, I understand. No, I got that.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: I'm -- I'm trying to figure out -- so if you have the 16 -- if you go back to the acreage, I would just like to know the number of units if you take out the marina just because, obviously -- you know, if you want to make your argument of what you're entitled to now, I want to know what that number is because, obviously, what you're entitled to now wouldn't convert the marina because it's not residential, but -- so it's around 70, maybe?

MR. YOVANOVICH: It's 69.

COMMISSIONER KLUCIK: Sixty-nine units, okay.

MR. YOVANOVICH: I rounded down. It's 69.1.

COMMISSIONER KLUCIK: And then that assumes -- obviously, that high density assumes that it's, you know, going to be multistory, and then the question is, is it consistent -- is it compatible? And so then -- so it seems to me this -- you know, assuming that your legal analysis, based on what the code -- you know, how the code would be properly applied, which seems to be objective, at least what you're arguing is an objective argument, then assuming that that's how it should be interpreted and how, you know, we would determine as a -- as a panel here, then the issue is, it all hinges on compatibility.

MR. YOVANOVICH: Correct, correct.

COMMISSIONER KLUCIK: Okay.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Mike, I'd like to ask staff: Obviously, this argument and evidence has been presented to you guys over the dialogue that you've had with the applicant.

MR. YOVANOVICH: Can I -- I know -- I know -- I really would like to do my presentation. Let staff do their rebuttal or talk about their presentation.

COMMISSIONER FRY: This question -- I understand. This question is simply: Has staff changed their position prior to this meeting? Are we still -- are we still denying? Are we still --

MR. BOSI: Staff has a different interpretation.

COMMISSIONER FRY: Okay. Thank you. That's all I wanted to know.

MR. YOVANOVICH: Obviously, they wrote that in their staff report, so that's why --

COMMISSIONER FRY: I understand. But I'm just making sure that this information wasn't deemed so compelling that they've changed their mind coming to the meeting. Thank you.

MR. BOSI: No.

MR. YOVANOVICH: I'm looking forward to the explanation of how I'm not reading the code correctly.

We have some -- these are photos of the property -- the subject property today. So this is our property. We're going to show you some photos of what's around us, but this is our property as it sits today and what we're proposing to develop with the 108-unit residential condos and some other commercial.

This would be -- I tried to put on -- if you look in the lower left, this is to help try to orient you as to you're going around the project and where each of these pictures are from. So you're coming onto the island kind of this way, and now you're getting to our first entrance.

This is the entrance. This is Building 3, and this is the amenity building, which is the parking with the pool on the upper level and the grill room and the exercise facility. So this is what you're going to see as you're coming around the curve.

This is directly looking into the project when you get to that entrance. Again, Building 3 and the amenity building.

COMMISSIONER VERNON: So that's not going to be gated or -- you just -- anybody can drive in there?

MR. YOVANOVICH: My understanding is the gating will be at the parking, because there's parking under these buildings as well, Commissioner Vernon. I'm not aware of a gate going right here. Is there going to be a gate? I'm not aware of a gate going there.

So the answer is the public can get to the parking spaces because some of those parking spaces are necessary for the commercial, but access to the building will itself be secured. So I guess, Commissioner Shea, it's not your traditional gated community, but it is secured to keep the residential separate from the general public facilities.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Rich, just looking ahead, do you have renderings that show -- this shows, like, the first story or two of the building on the right, which is obviously the taller of the two, which I would think is more of what people might object to. Do you have renderings that show the complete height of that as it would appear from the road that you'll be showing us?

MR. YOVANOVICH: Well, that's the interesting thing. When you drive and you walk, unless you're walking like this (indicating), what you're going to see is what we're showing you in this picture. Now, I do have aerials that will show you -- I have pictures that will show you from the air, in context, all of the buildings.

UNIDENTIFIED MALE VOICE: Back up about 500 yards and take a picture.

MR. YOVANOVICH: I have that for you. I have that for you.

CHAIRMAN FRYER: Let me make a statement here, please. Everyone is going to have a chance to speak. We don't want to be talking over one another. When you're recognized, you have the floor. When you're not recognized, you don't. And it's also impossible for the court reporter to record what more than one person is saying at a time. So, please, let's all be respectful of that.

Go ahead, Mr. Yovanovich.

Oh, Commissioner Vernon. I'm sorry.

COMMISSIONER VERNON: If I could just --

COMMISSIONER FRY: I wasn't -- I just had --

CHAIRMAN FRYER: Commissioner Fry then Commissioner Vernon.

COMMISSIONER FRY: I'd just like to say, I believe it is a fair request that your renderings do not show just the first floor or two, that it actually does show --

MR. YOVANOVICH: If you'll let me finish, I'll show --

CHAIRMAN FRYER: Don't interrupt the commissioner.

COMMISSIONER FRY: That was my initial question. That was my initial question was, do you have those pictures? Because I do believe it's fair for us to see those.

MR. YOVANOVICH: I have pictures, but I don't have a picture where I'm shooting straight up from the road. I have pictures that show you, in context, the entire project. So if you want different pictures, let me know. But let me get through the pictures first. And maybe I didn't anticipate every question, but I tried to.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Yeah.

MR. YOVANOVICH: And I'm sorry I interrupted.

COMMISSIONER VERNON: I think -- I think I'm looking at and listening to what Mr. Yovanovich is saying with a very critical eye, and it is not helping if you guys are making noise, calling out. It really makes it --

UNIDENTIFIED MALE VOICE: Sorry.

COMMISSIONER VERNON: You're not scoring any points with me. I'm just letting

you know.

UNIDENTIFIED MALE VOICE: Sorry.

CHAIRMAN FRYER: Go ahead, Mr. Yovanovich.

MR. YOVANOVICH: We're further along the project. We're now around the back. And we are at -- again, it's a street-level view of the project and the level of landscaping that will occur as people are in their car, riding their bicycles, or walking. This is what they will see unless they elect to look straight up.

This is also around the corner. It is by the amenity building, and you can also see the taller Building 3, again, the planting plan that we have and cars and pedestrians in perspective of what we're proposing to do.

Continuing along the project getting closer to Building 1 and Building 2, there's another entrance there. Building 2 -- I'm sorry, Building 1 on the left is the two-wide, if you will, and Building 2 is the three-wide option that we're discussing right now.

From the water view, this is looking west to the improved property. The Tarpon Club will be at the ground level of the -- of the residential building, so that will be a mixed-use concept for that building.

On your left is the existing pilings that will be removed and replaced with the docks that I just showed you earlier.

I wanted to give you an example of the proposed planting plan. This is from the Moorings Park project on Airport Road. This is the intensity of plantings that we will have at the street level to be in front of the amenity building and the parking structure so that the intention is to have intense landscaping to basically block that from the view of people who are driving along the road. So that's an example of what we were proposing to do.

Looking west from the project, I've already pointed out to you existing dry storage, Building 1, Building 2, and Building 3. And as you can see, the amenity building right here, well landscaped and, basically, hidden from view.

This is looking east. Again, an attempt to show you the buildings and the layout of the buildings on the site and the views that people would see, I guess, if you were across the water a fair distance away from the project.

Another -- this is Building 3, which is the four-across building. Again, putting in context the proposed amenities -- amenity building and parking structure that will be seen from the public, again, attempting to put -- show you everything from every possible angle and at varying heights as to what you would see.

CHAIRMAN FRYER: I'm going to ask the court reporter to nod whether we need a break right now.

THE COURT REPORTER: (Shakes head.)

CHAIRMAN FRYER: We don't. Thank you. Go ahead.

MR. YOVANOVICH: A little bit closer up. You've seen these already, but these are closer-up pictures of the entrance that I already showed you as you're first coming onto the island.

Again, the direct shot in, a little bit closer-up views. Again, trying to give you what you would see if you were, basically, kind of right on the sidewalk, seeing what you would see. Again, Building 3 doing the same, and a prior picture of Buildings 1 and 2 that I showed you. Again, trying to give you the perspective if you -- what you're going to see when you're basically on top of the building either in a car or walking.

And this is the amenity level. This is going to be kind of a grill room only open to the residents in the condominium project, and this is the fitness facility and other amenities.

These are to give you the concept plans of the level of finish and the quality of construction that's going to be on this project. Obviously, we're going to have a substantial fitness facility. The pool area, the elevator lobbies are going to be first class. This is going to be a first-class project.

I find it hard to believe that something of this quality can negatively impact anybody's

property values on that island as it's converting into these rather nice, large homes. I don't think it's a credible evidence argument that we'll be diminishing property values by building something of this quality on the property.

CHAIRMAN FRYER: Question for you, sir.

The facility, what is its relationship going to be to Fiddler's Creek?

MR. YOVANOVICH: None.

CHAIRMAN FRYER: None whatsoever?

MR. YOVANOVICH: It's a totally -- it is not a Fiddler's Creek project.

CHAIRMAN FRYER: So memberships are going to be open to everyone irrespective of whether they live on the Isles or in Fiddler's Creek or anywhere else?

MR. YOVANOVICH: You can ask to be a member of the Yacht Club. You can apply and be a member, assuming -- I could apply and be a member. I don't live in Fiddler's Creek. It is open -- if you live on Isles of Capri, you can apply if you want to be a member of the Yacht Club.

CHAIRMAN FRYER: And the standards will not be preferable toward people residing in Fiddler's Creek?

MR. YOVANOVICH: I don't -- I'm not aware of any -- they get a preference. It's going to be a yacht club available to membership and people -- you could apply. Isles of Capri can apply. I can apply.

CHAIRMAN FRYER: Well, I understand I physically can apply. I'm just trying to find out if there are any built-in preferences or expectations of preferences for people in Fiddler's Creek or elsewhere.

MR. YOVANOVICH: I'm not aware of a preference. There will be a limitation, I'm sure, on number of memberships in order for it accommodate and be accessible. But I will confirm that on a break.

CHAIRMAN FRYER: Okay. Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I'll put on the record I live in Fiddler's Creek. I've been a resident of Fiddler's Creek for 20 years. The Tarpon Club is a separate entity. You can join it or you don't. I'm not a member of the Tarpon Club. I do not pay any dues to the Tarpon Club. I have no affiliation with it. You're offered to -- when you buy a house at Fiddler's Creek, you are offered an opportunity to join the Tarpon Club.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Or certainly anybody. It's like the golf course now. You can join the golf course or you don't.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHMITT: Okay. So for clarity, it has nothing to do with the Fiddler's Creek Club or Foundation.

CHAIRMAN FRYER: Understood. Thank you.

COMMISSIONER FRY: Joe, can outsiders apply to join the Tarpon Club and the --

COMMISSIONER SCHMITT: As far as I know, yes.

MR. YOVANOVICH: I just said yes, you can.

COMMISSIONER SCHMITT: In fact, many -- the boat barn's been there for years, and you pay a fee and store your boat there, and you can be a member of the Tarpon Club.

COMMISSIONER SHEA: But you don't have to be a resident of Fiddler's Creek?

MR. YOVANOVICH: You do not have to be a resident of Fiddler's Creek to be a member of this Yacht Club, buy a dry storage, rent a wet slip. It's not a requirement. It's not limited. The universe of people who can acquire a right to use these facilities is not limited to Fiddler's Creek.

CHAIRMAN FRYER: And at the break you'll confirm with your client there will be no preferences given for memberships to people --

MR. YOVANOVICH: I will check into that.

CHAIRMAN FRYER: Thank you. Okay.

MR. YOVANOVICH: I wanted to talk a little bit about the commercial option that can occur on this property. This is a project that includes multiple restaurants.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: And what you're proposing -- or what you're going to show us is what you think you can do by right to do right now where you wouldn't need to ask any permission?

MR. YOVANOVICH: It's actually what I know I have by right.

COMMISSIONER KLUCIK: Right, yeah.

MR. YOVANOVICH: It's not -- it's not -- I'm not thinking. I know I can do this.

It is -- it has four restaurants. It's a similar concept to Tin City. It's a waterfront community. It's going to -- for any commercial to survive on this, there's simply not enough rooftops on Isles of Capri for commercial to survive just based upon the rooftops. So it's going to have to be a type of commercial development that's going to encourage people to drive to it to enjoy it, like people drive to and enjoy Tin City, Venetian Village. That's my only option if we don't -- if we're not successful with the residential. We have adequate parking. We have --

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: I just want to -- you've made a statement that this would have to be an attractor of some sort.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: And I just want to make sure that at some time Russ Weyer will come up and validate that based on his analysis. Are you going to have him discuss that?

MR. YOVANOVICH: Actually, I have two letters from commercial realtors, Dan O'Berski, who specializes in commercial development -- and I'm going to enter those into the record -- and David Stevens, also who specializes in commercial. And their letters say it will have to be -- that both -- it will be that because of not enough rooftops, but it will be successful. They would love to lease it up.

COMMISSIONER SCHMITT: I mean, it's going to be the highest and best value basically that --

MR. YOVANOVICH: Correct. It's not going to be one restaurant on that piece of property. It's not going to be a bank on that piece of property. It's not going to be a shopping center on that piece of property.

COMMISSIONER SCHMITT: Has Russ done that kind of analysis?

MR. YOVANOVICH: No. These are letters from --

COMMISSIONER SCHMITT: These are letters, okay, yes.

COMMISSIONER KLUCIK: Mr. Chair?

MR. YOVANOVICH: I'm sure he will confer -- or confirm that, but --

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: And this is a question for you and for staff, just because the traffic analysis is -- the comparative traffic analysis is for this?

MR. YOVANOVICH: We've done both. In your TIS you can see we've analyzed both.

COMMISSIONER KLUCIK: But when you're saying "both," this -- what you're showing here is what you're using as to what the commercial would be?

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: What our analysis will show is that there is adequate road capacity to support commercial development you see on this as well as the residential, and the residential trips are roughly half.

Now, this is your C-3 language that's in your Land Development Code. And you will see that the purpose of the commercial intermediate district is to provide for a wider variety of goods and services intended for areas expected to receive a higher degree of automobile traffic. That's what C-3 is. That's why your Growth Management Plan says they don't want C-3 here. They want it to convert to residential.

Wayne will show you other provisions within this, but I just wanted to show you that people who think that this is going to be localized shops to serve just the homes on Isles of Capri, that's not what's going to happen on this piece of property. So we have to put that in context of what is really compatible with the island. Is the existing C-3 compatible with the island, or is what we're proposing to be more compatible with the island?

I will provide these two letters to staff. Mr. O'Berski gets into a little bit more detail about what he sees as comparable types of developments that he's worked on and is aware of as what would be successful here, and he's talking about -- Tin City, Venetian Village, Bayfront has commercial on the ground floor, and also Esplanade on Marco Island are successful commercial developments that attract people to them, and he believes that that will be a successful venture.

Mr. Stevens -- I don't know how many of you know Mr. Stevens. He's a little shorter with his words on the letter. But if you ever talk to him in person, it takes a little bit longer for him to explain. But he also believes that this would be a successful commercial venture should it have to go forward as the proposed development.

I'm going to turn it over to Wayne to get into more of the details about compatibility.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: I mean, I want to be clear on this. Just, succinctly, it's very clear that if this were to be developed as commercial, it is going to be an attractor?

MR. YOVANOVICH: It has to be.

COMMISSIONER SCHMITT: It has to be to be financially and fiscally feasible. It's not going to be a shell shop or a little beach store.

MR. YOVANOVICH: It's not going to be a little bait shop for people who live on Isles of Capri.

COMMISSIONER SCHMITT: Right.

CHAIRMAN FRYER: I'm going to remind everyone to please mute your cell phones.

COMMISSIONER SCHMITT: So -- but that's clear from both -- from the developer's standpoint, from a point of developing it and making it a financially successful project from the standpoint. You buy something, certainly you don't buy it to put -- you could put Joe's Hot Dog Stand. I'll let you use my name. But, no, he's not going to do that, right?

MR. YOVANOVICH: Not unless you're, like, a world-famous Joe's Hot Dog Stand that's going to bring a lot of cars and you're willing to pay a lot of rent. I don't mean to be facetious, but it's not going to be --

COMMISSIONER SCHMITT: Right.

MR. YOVANOVICH: It's not going to be a mom-and-pop commercial to serve Isles of Capri.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: Just in summary, before you move on, how will this benefit the local community, a simplified answer?

MR. YOVANOVICH: Simplified answer?

COMMISSIONER SHEA: Yeah.

MR. YOVANOVICH: I think it is going to reduce traffic that comes to the island. It's also going to provide for the flushing of the waterways that is very critical. And at some point, that island's going to have to get off septic; it's going to have to. And you're going to have sewer there ready for the island to go ahead and do that and not have to build the big force main and the big pump station. So reduction in traffic, the culverts, the force mains, and first-class residential

on an island that is converting to a high-end waterfront community. I think that's why -- that's the benefit for the community.

CHAIRMAN FRYER: Commissioner Klucik and then Commissioner Schmitt.

COMMISSIONER KLUCIK: So I would ask, then, your sewer capacity, you said you would be running whatever is necessary that would give the capacity that then could be used by the residents?

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: So my question simply is, are you doing that -- are you having more capacity than you need, and the idea is you're doing that on purpose to show that you're -- that it is a benefit, or are you doing this because, you know, that's just how it works, and the capacity would be there anyways? And I'm not trying to, like, undercut it. I mean, it would be a great benefit that one slice all by itself. Everyone would probably be clapping for it.

MR. YOVANOVICH: Sure.

COMMISSIONER KLUCIK: But in this case it's tied to something else. I'm just trying to figure out, are you going beyond what you need to do capacity?

MR. YOVANOVICH: Yes, we are. But in fairness, if this were to be a mom-and-pop commercial that the islanders want, we don't need the magnitude of sewer capacity to bring it. So there's the benefit that they're going to get under the commercial option and under the residential option. We are upsizing it, but not 100 percent of everything is related to upsizing to them. But the benefit is, if we don't develop it the way we intend to develop it, either in the commercial or residential, they don't get the level of sewer service that that island needs.

COMMISSIONER KLUCIK: And what's the height what the -- your commercial proposal versus your height as proposed of this -- the current project?

MR. YOVANOVICH: The commercial C-3 is a zoned height of 50 feet, so it would be 50 feet starting from FEMA, plus probably another 10 or 15 feet for the rooftop amenities. So probably 70 feet-ish. And it's an "ish." I'll confirm the exact number.

COMMISSIONER KLUCIK: And then for your -- the proposal that you have before us?

MR. YOVANOVICH: The proposal is 148 feet zoned and 168 feet actual, which is 12 residential floors over two levels of parking.

If you're ready, I'll have Wayne get up here or --

COMMISSIONER SCHMITT: One question, Chairman.

This is -- this will be supported by the Marco Island Utilities, correct?

MR. YOVANOVICH: On the sewer side.

COMMISSIONER SCHMITT: Sewer side. Water and sewer?

MR. YOVANOVICH: I think water's the county, right?

COMMISSIONER SCHMITT: Water is the county, okay. I wasn't sure. So sewer is Marco Island.

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: And I know in the staff report it talked about adequate public facility.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: So there's no question that -- the capacity. If you were to put commercial there, would you still require the upsizing to support the water/sewer?

MR. YOVANOVICH: We would still need to upsize, but we're upsizing beyond that to make the sewer big enough to accommodate.

COMMISSIONER SCHMITT: Okay. And this is a question you may not be able to answer. But, typically, if sewer is installed and run through the community, there's a requirement for the homes to come off of septic and connect to sewer. Will that encumber the homeowners?

MR. YOVANOVICH: My understanding is, I don't think we have gravity lines -- and this is where I'm getting a little bit beyond maybe what I could testify to, but we don't have --

COMMISSIONER SCHMITT: I saw Mark Minor come in. He's our expert.

MR. YOVANOVICH: I don't think they could tap into a force main. They'd have to tap into gravity. So it's not going to force them to do it, but it's there should they want to put the infrastructure in place to then be able to tap into the force main.

COMMISSIONER SCHMITT: I mean, being serious about this.

MR. YOVANOVICH: Seriously.

COMMISSIONER SCHMITT: It's the biggest contributor -- just that some of the issues of water quality are homes along the waterfront that are on water -- that are on septic, and it's a problem throughout Collier County.

MR. YOVANOVICH: Right.

COMMISSIONER SCHMITT: So I just was wondering if there was now going to then -- if the Marco Island Utilities then would require them to connect.

MR. YOVANOVICH: I haven't talked to them about requiring it, because someone's going to have to put in the lines in the roads.

COMMISSIONER SCHMITT: Put in the gravity and the pump stations and everything else. Okay, thanks.

COMMISSIONER SHEA: Rich, since it's part of your proposal, you're running a force main all the way down and connecting at Collier?

MR. YOVANOVICH: Yeah. I have a slide later. I don't want to get you sick by flipping all the way through, but I'll show you where that line is, and I'll show you where the culverts are.

CHAIRMAN FRYER: Vice Chair Homiak.

COMMISSIONER HOMIAK: So, Rich, the height there in that area for the commercial is 50 feet, but there are other areas on Isles of Capri that are 75, allow 75 feet?

MR. YOVANOVICH: Zoned height, yes, sir -- ma'am. Whoops.

COMMISSIONER HOMIAK: So the way you read what you read before about the 16 units, so that would give you 69 units. So you could go to 75 feet?

MR. YOVANOVICH: Zoned.

COMMISSIONER HOMIAK: Not -- so if you went to 75 feet, you could get 69 units without the marina included? Because that's not converting to residential.

MR. YOVANOVICH: Correct. If we -- and let me ask you: Are you asking me, is it my opinion that that request would be consistent with today's Growth Management Plan?

COMMISSIONER HOMIAK: Well, you wouldn't need the Growth Management Plan, then, right, according to what you're saying?

MR. YOVANOVICH: Right, the amendment. I wouldn't need -- I would not need the amendment.

COMMISSIONER HOMIAK: So you could just ask for that PUD with half the building height you're asking for, basically, and 69 units?

MR. YOVANOVICH: I believe, yes, I could do that.

COMMISSIONER HOMIAK: Okay. And that would be a lot less traffic than the commercial?

MR. YOVANOVICH: And it would not be an economically viable project, so I would build the commercial.

COMMISSIONER HOMIAK: And it wouldn't be so obnoxious in height?

MR. YOVANOVICH: Again, I've got to -- you know, no developer goes into a project intentionally trying to lose money. I'm not saying it doesn't happen.

COMMISSIONER HOMIAK: Well, you just charge more.

MR. YOVANOVICH: Well, you can -- there's only a market -- I know, but there is a -- there is a limit to what the market is.

But I understand your question. The answer, I agree with you, if that's what we could make work at 75-foot zoned height and 69 units, I believe that's 100 percent consistent with the Growth Management Plan as it's written today.

CHAIRMAN FRYER: Anyone else --

MR. YOVANOVICH: Are we ready for Mr. Arnold?

(No response.)

MR. ARNOLD: Good morning. I'm Wayne Arnold. I'm a certified planner with Q. Grady, Minor & Associates. And I'm going to sort of build on what Rich has laid out as the foundation for our discussion and probably delve into the discussion on compatibility.

You know, this is the image that you've seen before. It shows our property highlighted in yellow, zoned C-3. All the immediately adjacent properties to us are also zoned C-3. Properties a little bit to the northeast are the Tarpon Condominium units; those are zoned RMF-16. So this, as the residents call it, is the commercial island, if you will. It's really the mixed-use island because it does have an element of RMF-16. It has a C-3 zoning.

COMMISSIONER KLUCIK: Excuse me. I'm not familiar with -- the housing that you just mentioned.

MR. ARNOLD: Okay. It's right here on the point.

COMMISSIONER KLUCIK: Okay.

UNIDENTIFIED MALE VOICE: It's residential multi-family.

COMMISSIONER KLUCIK: Got it.

MR. ARNOLD: That was built in the 1970s. And what I wanted to talk about, just to talk about the island and its history, is, you know, we heard a lot of discussion that this is the quaint fishing village. You can go down on the island and see the evolution that Rich talked about, the homes that are there. Mr. Fryer and I live in neighborhoods where it's very common that you leave your house in the morning, by the end of the day, there's another house that's gone and another one starts construction very soon. And those houses don't look like the ones that were there previously.

And that is an evolution that's happening countywide. This is waterfront property, very high property values. Marco Island is setting new sales records for homes that are under construction there. The same thing is happening throughout all of coastal Collier County, and that is happening here.

But, you know, to dispel the myth that this was a quaint fishing village, this started back in the 1950s and '60s as a developer out of the East Coast who bought mangrove islands, 600 acres of them, seawalled them, and got permits to dredge and fill the water around it to fill these mangrove islands to create a community that he had set up to have commercial development and residential development, including single-family and multifamily development.

Now, Collier County has a lot of history, too, because they are the zoning entity for Isles of Capri. And, you know, those of us who are familiar with the codes go back to the 1950s in Collier County, and then every so many years they would make changes. But this property that we're talking about that's zoned C-3 was really originally zoned GRC commercial, which was one of the higher-intensity old zoning designations for general retail commercial. And part of the evolution then became it allowed elements of residential, which is why we have an older residential property right on the corner. It was developed back in the day when that designation allowed for there to be residential and commercial in that same category.

But the history that we go back to from my perspective goes to the compatibility discussion -- and I'm going to get to that in just a second -- because the policy that we're talking about is called Policy 5.6. You've seen this in many other zoning cases. It says that all new development has to be compatible with and complementary to the surrounding land uses. You don't define the word "complementary," but you do define "compatibility," which says it's a condition in which land uses or conditions can co-exist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted either directly or indirectly by another use or condition. So that's the definition in your Land Development Code that says what is compatible.

And we deal with compatibility in many different ways. Your Land Development Code

isolates certain uses. It isolates landscape buffers and tells us that we have different type of buffers between certain types of land uses, et cetera. But in this particular case, you know, you have to listen to the history of the island because, you know, the C-3 zoning, in its precursors it was known as C-2 at some point in time. It was GRC, General Residential Commercial, and now it's C-3, and that's what we're dealing with today. But in no time was that low-intensity commercial use.

So as Mr. Yovanovich mentioned, the notion that you're going to get these mom-and-pop shops here is probably never going to occur, because in one sense you've got about 21-and-a-half acres of C-3 commercial on the Isles of Capri. And if we use our normal 10,000-square-foot standard for commercial, there's no way that the islands in themselves with 600 homes can support 200,000-plus square feet of commercial. It just is not going to happen. So there's an overabundance of commercial zoning. Despite what some of the members say about -- or the residents say about keeping the C-3, there's too much C-3 commercial zoning on the island.

So let's talk a little bit about the residential, because I think that has a really very interesting history, because the RMF-16 that I pointed to you that's on the point, if you -- if you would, right here, just to the northeast of our property, those Tarpon condos were originally zoned a couple different things over the years. If you go back to the zoning maps that I've analyzed at Collier County, the historic maps -- and I know I've made arrangements with Mr. Bellows to check those again in the last couple of weeks, because that property was formerly zoned MF-3. It allowed 200-foot-tall buildings back in the 1970s on that same property. It also has allowed 21 units per acre, which is what the Tarpon condos are built at, 21 units an acre; they exceed the 16-unit-per-acre density that RMF-16 now allows.

So I think it's really important to understand that this was not the quaint fishing village. You don't associate 200-foot-tall buildings or 21-unit-per-acre density necessarily with a quaint fishing village.

So to my point, this has historically been a very intense part of the island. And for us to bring forward a mixed-use project that reduces a commercial component and adds a higher intensity residential use but still lowers the overall traffic impact is a compatible relationship with what's going on in the island.

And I'm going to take you through some other exhibits that talk about it, but first I just want to really orient you to what's going on around us, and I wanted to point out, too, before I get into --

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Wayne, I don't want to -- I think I want to stop you before you go further, because you're moving in -- you're still in compatibility. But complementary was the other.

MR. ARNOLD: And I will be addressing that.

COMMISSIONER FRY: You will be addressing that. Okay. Thank you.

MR. ARNOLD: Yes, sir. So just to set up what we're talking about, C-3, Rich read the first sentence of what your Land Development Code says C-3 is, but if you read on, it says, the types and variety of goods and services are those that provide an opportunity for comparison of shopping, have a trade area consisting of several neighborhoods, and are preferably located at the intersection of two arterial-level streets. And most activity centers meet these standards.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yeah. I guess I understand the points you're making, but at present we have -- you know, we have what we have there. And then you look -- you don't look to how it used to be zoned in the '70s. You look to -- you know, you look to what's there around it in surrounding areas. And the height seems to be the real issue. You have -- you're asking for, what, 170 feet, ultimately?

MR. ARNOLD: Hundred and sixty-eight and change.

COMMISSIONER KLUCIK: Okay. Well, that didn't really help you to make the

correction, but, yeah, 170 feet. I'll be consistent in saying 170 feet now because you tried to nit-pick it. So you have 170 feet versus 70 feet is the current?

MR. ARNOLD: The current zoning would support 50 feet zoned height, and that's measured --

COMMISSIONER KLUCIK: And roughly 20 feet on top of that for what -- as Mr. Yovanovich explained.

MR. ARNOLD: I think depending on FEMA. So it's 20 to 25 feet is probably appropriate.

COMMISSIONER KLUCIK: So you're asking for 100 additional feet in height to what the current zoning and any possible way you could consider the current zoning to allow, and 100 feet -- and I don't know, but I guess we'll hear evidence that -- I would like to hear evidence to confirm it, that the nearest tall buildings would be around 70, 75 feet.

MR. ARNOLD: I think you'll find they're closer to 100 feet, that are the 75-foot buildings zoned height on the island.

COMMISSIONER KLUCIK: So we're adding the 20 feet or whatever; we do that to those buildings as well?

MR. ARNOLD: (Nods head.) And I --

COMMISSIONER KLUCIK: And where are those located? If you can show me on the map, where are those located?

MR. ARNOLD: Can you just give me a moment to maybe walk through my presentation? Because I do have those in my presentation --

COMMISSIONER KLUCIK: Okay.

MR. ARNOLD: -- a little later.

COMMISSIONER KLUCIK: Okay, sure.

MR. ARNOLD: So I pointed out that --

COMMISSIONER KLUCIK: I'm just letting you know that's what I want to focus on. And so if you want me to be left hanging, I get it; that's your call. But that would make me really satisfied to know the answer to the question I just asked you.

MR. ARNOLD: And I will get your answer, I promise.

COMMISSIONER KLUCIK: Okay.

MR. ARNOLD: So, again, setting up, the C-3 zoning is inconsistent with your Growth Management Plan where it's supposed to be located. And I just want to show you what we have around us. We've looked at everything that's nearby us, and I'm going to walk you through what these are. You've got restaurants. This is an existing restaurant located to our south. You have a -- this is a motel building. It's zoned and operated as a motel in C-3. That's the one right next to our dry boat storage on the south side of Capri Boulevard.

COMMISSIONER FRY: None of these are changing, Wayne, under the plan, correct?

MR. ARNOLD: I'm just showing you what's existing around us.

COMMISSIONER FRY: None of these are -- none of these will be replaced as part of your --

MR. ARNOLD: Correct.

COMMISSIONER FRY: -- your plan?

MR. ARNOLD: These are all off site. These are immediately adjacent to us.

COMMISSIONER VERNON: Can you go back to one. I was doing something to his computer. Okay. Thank you.

MR. ARNOLD: That's Pelican Bend Restaurant, if you've been down there.

Another example, this is a marina and a restaurant building. Vacant commercial building. You know, John R. Wood real estate office and some other -- the community center is the blue building on the center bottom exhibit. This is -- it's called a Capri motor lodge under the Property Appraiser's Office. I'm not exactly sure how it's operated, but it's designated a motor lodge.

So to your point, Mr. Klucik, you know, we are looking at what's around us. We have a

distance exhibit that was set up, and this goes to the compatibility issue. You know, how far away are we from some of the other residential? And the answer is, across the Johnson Bay to the north, you know, we're around 340, 350-plus feet --

COMMISSIONER KLUCIK: Can you help me with orientation?

MR. ARNOLD: -- in this direction.

COMMISSIONER KLUCIK: So this is sideways. North is to the right?

MR. ARNOLD: North is just a little bit to the left.

COMMISSIONER KLUCIK: North is to the left.

MR. ARNOLD: Yeah, so across the Johnson Bay, we have about 350 feet.

COMMISSIONER KLUCIK: I'm sorry. I'm totally disoriented now, because this is not the same orientation, is it, or is it?

MR. ARNOLD: Yes, it is.

COMMISSIONER KLUCIK: Somehow this doesn't look like --

MR. ARNOLD: Oh, I'm sorry. You're right. The orientation -- this is Johnson Bay, so this is the 350 --

COMMISSIONER KLUCIK: Where's the -- oh, the marina -- the current marina is that gray building, okay. All right.

MR. ARNOLD: I'm sorry. Yes.

COMMISSIONER KLUCIK: So, I'm sorry, make your point, because I had no idea what your point was, because I was trying to get oriented.

MR. ARNOLD: Building No. 2 to the nearest house across the Johnson Bay, that's about 350-some-odd feet. So from the building over to the Tarpon residences over here, that is about 550 feet, and then if you look south across the bay to the nearest homes over here, you get to about almost 700 feet. So those will give you some spatial relationships to the residential component that's near the project.

And so looking at other examples for building height, we've got a lot of examples in Collier County, and I've picked a few. Some in master planned communities, some not. This, for instance, is Cove Towers. It's off of Wiggins Pass Road. It was developed back in the mid 1990s. These are tower buildings that are about 14 stories, pretty comparable to what we're proposing, and to single-family homes, you can see that we're about 275 feet away to 335 feet away from those. Those have been coexisting peacefully for the last 20-plus years. And as far as I know, nobody's property value has suffered from that relationship.

This is the Grand Venetian. It's at the Dunes.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: So if you go back to that, and for this slide as well. So do you know the order in which the -- these properties were developed?

MR. ARNOLD: The single-family homes that are 274 feet shown on that exhibit preexisted the towers that were constructed.

COMMISSIONER KLUCIK: And how about the other homes?

MR. ARNOLD: The villas that are to the north, I can't say exactly when. I think they were built prior to the tower as well.

COMMISSIONER KLUCIK: And what was the -- what was -- what did the -- what rights did the landowner have at the time the project was proposed? Because without all that information, this sort of doesn't mean much, I mean, in my mind.

MR. ARNOLD: Well, the rights were, they were allowed -- the property --

COMMISSIONER KLUCIK: The height, for the height.

MR. ARNOLD: The height, they were allowed to go to 14 stories, and that is what those towers --

COMMISSIONER KLUCIK: No, I mean -- right. So did they have to go ask permission to go 14 stories, or was that something that they had a right to do?

MR. ARNOLD: They have a PUD that gives them that right.

COMMISSIONER KLUCIK: I guess you're missing my point. I think my point is pretty obvious. Did they have to be granted permission from the government to go that high? And I'm sorry I'm being -- seeming that I'm upset. I'm just -- I'm frustrated that I guess I can't think that fast -- or that other people can't keep up with me. I'm not sure which it is. No.

COMMISSIONER VERNON: You were there --

COMMISSIONER KLUCIK: Do you understand my point, Rich?

MR. YOVANOVICH: I think I do. So let me -- and hopefully I won't frustrate you with my answer.

This project was approved in the context of the 14-story building and the single-family buildings peacefully coexisting. And those two uses -- what Wayne's trying to say is those two uses were both deemed compatible and comparable to each other, because people are --

COMMISSIONER KLUCIK: So am I right or wrong in thinking that there is land out there that could -- you could develop a 14-story property on right now where it actually has by right -- it doesn't have to come and ask for permission to go that high? Right now it can just go that high. Compatibility -- we don't -- we can't even weigh compatibility.

MR. YOVANOVICH: There are several -- and Wayne's going to go through some of them. There are several properties throughout Collier County where Zoning X would allow you to go much taller than the adjacent Zoning Y, which would be -- so I think that -- what we're trying to show you is that that -- and everything in your Growth Management Plan since 1989 has been required to be deemed -- in order for the zoning to be approved with single-family next to higher multifamily had to be determined to be comparable and compatible. So what we're trying to show you is multiple examples of taller buildings next to single-family to show you that they are compatible.

COMMISSIONER KLUCIK: So there was no preexisting right to go that high?

MR. YOVANOVICH: Right.

COMMISSIONER KLUCIK: And the government had to say we're looking at compatibility, and we find this compatible with --

MR. YOVANOVICH: Correct, with the --

COMMISSIONER KLUCIK: -- one-story homes next door?

MR. YOVANOVICH: Correct. In every one of these examples that's the case; the government determined that a single-family within that distance of a taller building was compatible and comparable.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: Okay? That's what we're trying to show you.

COMMISSIONER KLUCIK: Thank you.

MR. ARNOLD: Thank you. So --

COMMISSIONER KLUCIK: Mr. Arnold?

MR. ARNOLD: Yes, sir.

COMMISSIONER KLUCIK: I like you; don't worry.

MR. ARNOLD: Thank you.

COMMISSIONER KLUCIK: Sorry. I know I'm a little grumpy today.

MR. ARNOLD: Well, the point is, yes, this project was a Planned Unit Development. They did have to come in and ask for a certain height, and that's the case for many of these projects.

The next example was one, the Dunes. I'm sure many of you are familiar with that on Vanderbilt Drive just north of 111th. And you can see here those towers. Those were allowed to be, at the Dunes, 150 feet tall, zoned height. So those buildings are approaching 200 feet. And you can see that we have -- those are two-story villas 260 feet to the east across Vanderbilt Drive, 450 feet to single-family homes a little to the southeast. But, again, that one is also in a planned development, and they came in and made their case that they should have that type of height in that

proximity to the existing residences that were there.

Okay. Here's an example of conventional zoning in the Vanderbilt Yacht and Racquet Club. This is just south of Bluebill Avenue on Vanderbilt Drive, and those buildings are about 350 feet from the Connors Vanderbilt residential areas that are to the east. So you've got -- the Vanderbilt Yacht Club is 12 stories over one level of parking, and you've got one- and two-story single-family homes within 345 feet of those existing buildings, and that's conventional zoning. Those are not in a planned development.

The LaPlaya is probably one of the examples that's hard for people to imagine, but I think most of you are familiar with the La Playa hotel on the beach in the Vanderbilt area. That transitions from RT, Residential Tourist Zoning, that allowed, back in the day when that was built, to approach 200 feet in height. That building is somewhere well over 100 feet that's the hotel. It happens to be 35 feet from a single-family beach home, because you transition immediately from RT zoning, which allowed now 100-foot height, to single-family RSF-3 zoning.

Bay Colony, you know, part of Pelican Bay, very exclusive gated Enclave inside Pelican Bay, you have towers there that are 200 feet 20-story buildings that are within 115 feet of single-family homes, and those were done purposely in a planned manner but also deemed compatible and complementary.

Here's another example on the south part of Pelican Bay called the Grosvenor where their 20-story tower is approximately 130 feet from single-family villas that are located to the south. Both planned, they both worked together. As far as I know, nobody's complained about them. You can drive back there. Very well done. The landscaping's beautiful along Pelican Bay Boulevard. I'm sure you've all seen it and experienced it.

Aversana, Hammock Bay, as we move down Collier Boulevard, these are also tall buildings. They're 20 stories above two levels of parking, and those are attached villas, if you will, that are immediately to the east about 305 feet away from that tower.

Another example -- I didn't have a good color image, but I think this tells that -- this property is Pine Ridge just south of Vanderbilt Beach Road where that was formerly in an activity center, and you had RMF-16 zoning immediately adjacent to RS-1 zoning that's part of Pine Ridge. So you have the highest intensity residential zoning in the county adjacent to the lowest intensity zoning in Collier County, and these were platted and planned as conventional zoning.

So if I wanted to go there and rebuild the condominiums that have built in the RMF-16, those can become 75-foot-zoned-height-plus buildings adjacent to one- and two-story single-family low-density residential homes.

So we also looked at Marco Island. So on the south side of the island, you have the La Peninsula project that many of you are probably -- I'm sorry, Isles of Capri. Thank you, Rich. Isles of Capri. You have the Marco Island towers project. And this is a building that's been constructed. It's eight floors, and it's immediately next to single-family residence just a little over 100 feet away. And what this also shows you is that building, it doesn't have garage parking. It's got surface parking. So it's eight living floors, and it's immediately adjacent to single-family to the north and to the east. And, again, that building was eight floors. Presumably it was built at 75 foot zoned height. So it's probably approaching, I would guess, 95 feet as the actual height for that building.

Here's another angle looking back at that just to show you that what you see around that are all single-family residences immediately adjacent to it except to the south, which is the La Peninsula project. La Peninsula, you can see it in the foreground, it consists of other buildings, some lower scale than others, but what I've shown here -- this is part of the Twin Dolphins project. These projects were approved to be 75 feet in height, and those -- there is a planned building to occupy that that's going to be within 50 feet of single-family homes that are across the street from it. So those, again -- those 75-foot-zoned- buildings are probably going to approach 95 feet in actual height, and they will be adjacent to one- and two-family -- single-family homes. But as, you know, Rich mentioned -- and we've got examples if you'd like to see them -- the level of

construction that's occurring on the Isles of Capri is significant, and those homes that were built in the 19 -- late '60s and early '70s are being replaced by new homes that are at FEMA level and probably at least two living levels, so they occupy a lot more of the lot, and those structures are not small. They're not insignificant, and they're not old-style residential units.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Mr. Arnold, can you go back to the previous slide. So I'm just trying to figure out, you showed us this, and then you said it was 95 feet. I'm just -- like, that has nothing to do with what you're proposing, which is 70 feet more.

MR. ARNOLD: I understand that, but I'm trying to show you that these are the most intensive areas on the island today. They support a building that's going to approach 100 feet immediately adjacent to a single-family home. My towers that I'm proposing to build are not adjacent to any single-family residence. They're hundreds of feet away. I'm adjacent to all C-3 property. That's one of my points.

But in this one, and moving on, this is a different angle, and it outlines where that orange building that I depicted here would be built. This is a different angle looking from the air at its relationship, and you can see the single-family homes that will be on the other side of Pelican from the project.

So we also have had letters from people on Pago Pago Street, which is south of the boat barn. So this is looking north from their dock area, and you can see that our dry storage building is prominent in the image and that their view from their boat dock is not going to be diminished by putting buildings that we're proposing in that location.

So Rich -- you asked Rich before he stepped away to talk about complementary and what we were really bringing to the project. And, you know, we've all given some thought to what does complementary even mean and, you know, to me, in planning concepts --

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Are you done talking about height?

MR. ARNOLD: Yes.

COMMISSIONER KLUCIK: Okay. Because my specific question was: Where's the tallest building that's, you know, within, you know, 1,000 feet?

MR. ARNOLD: Within 1,000 feet of the project?

COMMISSIONER KLUCIK: Yeah.

MR. ARNOLD: The tallest building is probably the Tarpon condominiums, I'm guessing.

COMMISSIONER KLUCIK: Which is how tall?

MR. ARNOLD: They're -- I think they're two-story buildings. They're probably within 45-foot height.

COMMISSIONER KLUCIK: Okay. How about 2,000 feet? Okay. No. No. I'm going to do this right now. How about within 2,000 feet?

MR. YOVANOVICH: We don't know.

COMMISSIONER KLUCIK: Okay. All right. That's what I -- that would be helpful to me.

MR. YOVANOVICH: Okay.

COMMISSIONER KLUCIK: Because then I can see -- you know, because that is a factor. Do you agree that's a factor of compatibility is where -- where the nearest tall buildings are --

MR. YOVANOVICH: No.

COMMISSIONER KLUCIK: -- and how tall they are?

MR. YOVANOVICH: I don't.

COMMISSIONER KLUCIK: Not a factor?

MR. YOVANOVICH: (Shakes head.)

COMMISSIONER KLUCIK: Okay. Can you explain to me why you don't think it's a factor?

MR. YOVANOVICH: I will let him in a second, but can I, if I can, so I don't forget the other point about closest building. The RMF-16 that Wayne showed you is the closest building, because those are older condos. If I'm a betting man, somebody's going to buy them up, going to knock them down, and they're going to build 75-foot zoned structures.

COMMISSIONER KLUCIK: And where is that?

MR. YOVANOVICH: It's -- under the county's definition, adjacent to the property.

COMMISSIONER KLUCIK: Okay. Can you show me on the map?

MR. YOVANOVICH: Sure. Without making you get sick.

CHAIRMAN FRYER: While that's being looked for, let's talk about lunch. Ordinarily we'd break for lunch after noon. We need to have some kind of a break in a minute. It's now noon. Should we -- should we have a 10-minute break and come back and work until 1:00, or should we have a lunch break starting now?

COMMISSIONER VERNON: I'm deferential to what everybody else wants to do. But if Joe's leaving -- if Joe's leaving at 2:00, I do value his -- I do value him and being here. And so I just -- a 10-minute break, but if somehow we can get as much work done before 2:00, I think that would be great.

CHAIRMAN FRYER: Okay. I, for one, would not want to wait until 2:00 for lunch.

COMMISSIONER SCHMITT: No.

COMMISSIONER VERNON: That's fine. Whatever you want to do. But 10-minute break now, go until you say we stop.

COMMISSIONER SHEA: Do you need a 10-minute break?

CHAIRMAN FRYER: Well, yes.

COMMISSIONER FRY: Terri.

CHAIRMAN FRYER: Anybody object to that?

(No response.)

CHAIRMAN FRYER: We'll take a 10-minute break, then. All right. We're in recess for --

COMMISSIONER KLUCIK: Can I finish my point?

CHAIRMAN FRYER: I'm sorry. Sure.

COMMISSIONER KLUCIK: Yeah, thank you.

COMMISSIONER VERNON: It's like a dog with a bone.

COMMISSIONER KLUCIK: Well, I was in the middle of a discussion about something that is obviously important to me.

So you're saying that that would be 75 -- they have a right to do 75 there, and that's probably coming down the pike?

MR. YOVANOVICH: Zoned. And the reason we make that distinction is because in the county you do both things, and zoned --

COMMISSIONER KLUCIK: It's going to end up being around 95 or 100.

MR. YOVANOVICH: Ninety-five, 100 feet.

COMMISSIONER SCHMITT: It would be over 100.

MR. YOVANOVICH: Yeah.

COMMISSIONER KLUCIK: And they'll probably ask for more and negotiate to try to get more, whoever --

MR. YOVANOVICH: Well, under the current zoning is RMF-16. So it's a zoned height of 75 feet. There's no negotiation unless they come in and they ask to do a PUD.

COMMISSIONER KLUCIK: Right. Okay. And then, you know, I would like to hear -- and we can do this after the break -- your -- what's your argument that the nearby height is not a factor of compatibility. I certainly will grant there's a lot of factors, but I can't imagine that you could say that you just discount whether or not there are tall buildings near by, but you can answer that when we get back.

MR. YOVANOVICH: Okay.

CHAIRMAN FRYER: All right. We'll be in recess until -- well, for 10 minutes until 11 minutes after 12:00.

(A brief recess was had from 12:01 p.m. to 12:11 p.m.)

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

CHAIRMAN FRYER: Thank you. Let's reconvene, ladies and gentlemen.

Mr. Arnold?

MR. ARNOLD: Thank you. I'm going to conclude with some discussion on complementary, because that's part of your other criteria, and it was asked by a couple commission members about that.

So complementary, it's not defined in my code, but for me and my planning concepts that I work with, it's -- you know, it means emphasizing other qualities and, you know, complementing those. I mean, we use the term "complement" in many different ways but, you know, we complement each other different ways, and it doesn't mean we're the same. It doesn't mean things are the same. It doesn't mean that the buildings have to be the same. It doesn't mean they have to be the same height.

But we are doing some things because, you know, one of the things we heard from several of the restaurateurs on the island is they didn't really want a lot of competition. It's already hard enough to make a living in the restaurant business. But if this goes C-3, it's going to be an attractor commercial, which probably will have waterfront dining. It will have a busier marina component. It will probably have more tour activities.

So by adding a residential component you, one, bring more people to the island to live there to support some of those other restaurants and local businesses, and you take away the opportunity for us to have some of those competitive businesses, and I think that is a complement to the island.

We're providing another housing option. Your Comprehensive Plan talks about providing all kinds of housing. So we already have condominium housing on Isles of Capri. And we have some higher end of that, and we have some of the older stuff that doesn't command the same prices. But as you heard Mr. Yovanovich say, some of those older properties are probably going to be acquired and torn down and reconstructed in something that's new and modern. And I think we all know that these new modern units are going to be different. They're going to be a different style. They're going to have more modern ceiling heights. They're going to have different amenity packages than what people have been accustomed to.

But having said that, what we're proposing is a -- is a podium-level parking that supports three different tower elements. So in terms of the massing of the buildings, we're breaking the massing up by having those three tower elements that are separated. We have a transitioning with a parking deck that's two levels of parking with, you know, the rooftop amenities that you've seen in some of our images. So we're not impacting people's views, and I think we've shown that by having the heights that we're proposing.

We know that over the commercial option -- you're going to hear Mr. Banks talk after me -- that we are, in fact, reducing traffic significantly. You heard Rich mention it. We're going to show you the facts by showing you the trip generation because, as Rich mentioned, early on traffic was an issue associated with our mixed-use project, but it doesn't prove to be true, and I think the residents now realize that, that the commercial component in itself generates the traffic, not the residential.

So the other thing I would say to the complementary side is, you've got over 21 acres of C-3 commercial zoning on Isles of Capri. There's no way that the 600 residences, plus or minus, that are on the island can support 21 acres of commercial zoning. The 21 acres of commercial zoning will equate to a couple hundred thousand square feet of commercial if it's built out.

And people are going to maximize the use of their space. I believe that. Land is too valuable in Collier County. This is waterfront land. I think the historic pattern of waterfront development in Collier County is that it's high end, it commands the highest prices in our

community, and I think you're going to see that.

So the commercial to remain, you don't need as much as you have. Our removing 5.3 acres of straight C-3 commercial does not diminish the opportunity for the island still to have other forms of commercial.

And, as Rich mentioned, there are public benefits that we're talking about bringing to Isles of Capri that I think do complement the project, and that is upsizing the sewage so that if they want to take care of the long-term water-quality issues on the island, they can connect to the upsized sewer, and the flushing culverts that we're going to show you in more detail in a little bit, you know, those benefits are a few million dollars to the community, and it's not an insignificant cost, and they do provide some very good public benefits.

So we think we've shown through the height comparison throughout Collier County that compatibility isn't just about height, and it doesn't really matter whether you're 150 feet away or you're 2,000 feet away or a quarter of a mile away. You know, we have these elements where we have tall buildings in close association with lower buildings. They've been deemed to be compatible. They work together. I think we've all experienced them. We probably all know people who live in those tall buildings, and you drive through lower-scale communities in many cases to get there. They're not incompatible.

So we measure compatibility in a lot of things, but it's not just height. It goes to the quality of landscaping, the amount of landscaping, setbacks, and things like that.

We have a market demand analysis that supports that the residential units can be consumed in about six years with the inventory of other \$2 million-plus residences, what we think these are probably going to market for, and Mr. Weyer's analysis concluded that, and there's no disputing that.

So we urge you to support what we're proposing. We think it is compatible. We don't think height is the issue. And the density that we've requested is consistent with the historic density that's been allowed on this portion of Isles of Capri.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Wayne, just, I guess, clarifying and digging in a little bit to complementary, and you mentioned emphasizing the qualities of one another. And so what I did is I looked in the dictionary, and I think it bears out what you're saying. It says, combining in such a way as to enhance or emphasize the qualities of each other or another.

So I can certainly see how, for the residents of your development, the nature of Isles of Capri is complementary to their enjoyment and enhances their experience. I guess where I'm looking for clarification is, I understand the culverts, I understand the sewer as potentially benefiting them. But let's just say that -- we don't know what the public is going to say, but let's just say they come up and they say, we understand that C-3 would be more traffic, we understand that it will -- it will be a collector, it will be an attractor, it will bring more people onto the island. But even knowing that, we would prefer that, and we believe that's more complementary. Because I can see their viewpoint that that would attract some services that they would take advantage of, even though they would have people from outside coming in.

But let's just say they say clearly, we would prefer that over what you're proposing because we think that would be more complementary to our lifestyle. I guess I'm struggling for how do we interpret that? Are we to still approve it because they don't -- they just don't understand or they -- if they say that, they just don't understand what's best for them or -- I guess I'm trying to understand how -- you're saying this is complementary. How do we be sure that it actually is complementary to them?

MR. ARNOLD: Well, I think complementary, as I said, doesn't mean the same. Complementary doesn't mean I get what I wanted. Complementary means we're providing a project. It's a mixed-use project, which you encourage in Collier County. So we're providing a residential element and a commercial component that the commercial component largely becomes the marina, the private club, things of that nature that we've talked about, but those elements

themselves, I think, complement the entirety of the land.

I mean, we're focused on the residential element of it, but we still have a mixed-use project, and I think it is complementary because there will continue to be services available to the island residents, and then you also have our component of the residences what I do think, as I said, complements the rest of the island because it takes away some of the commercial element that's competition of the excess commercial they have. And the residential that we're proposing, it's well done, it's well designed, it's well landscaped, it's going to look better than most of what's around us. Because I think you saw from the photographs I've showed you, those are not necessarily well maintained and they're not newer properties, but they will be. Those properties are going to be redeveloped, there's no doubt in my mind. I don't know if that's next year.

We do know that the developer who was going to do the food park talked about doing something different. Maybe a residential project there makes more sense than commercial because he's looking at that as saying, maybe the commercial isn't so viable. And if the residents don't want all this traffic generated on the island, the only other alternative is residential.

So I think there is a complement here, Mr. Fry. I don't think it has to be seen as the same or do I get what I want. I mean, you know, does, you know, having a glass of wine with your dinner complement your dinner? Yeah. I mean, it's not the same, you know, but it is a complementary type of way of looking at things. You know, it's not the same.

COMMISSIONER FRY: C-3 is not the same as what they have now, so it's not -- that was not really part of what I was asking.

Just to clarify -- thank you for your comments. When you say the commercial services that will be available to the people on the island, you're talking about the existing boat storage and the marina would be open to them; however, the club restaurants and all those amenities are not open to the people on the island, only people that live there, correct?

MR. ARNOLD: Yeah. I'm going to let Rich answer that.

MR. YOVANOVICH: I was able to -- Mr. Fryer asked me to confirm two things: One, the club is open to everybody. If you want to join, you can without --

CHAIRMAN FRYER: Without --
(Simultaneous crosstalk.)

MR. YOVANOVICH: And that was my next sentence.

COMMISSIONER FRY: If you join.

MR. YOVANOVICH: Of course, yes. But there are other aspects of this property that are open to the public, I mean, which is the marina and the storage. Of course you're going to have to -- if you want to rent a slip, you're going to have to pay to rent the slip. If you want to come and eat at the restaurant, you're going to have to join first, yes. But you can join. I can join. The people in Isles of Capri can join. They can join.

CHAIRMAN FRYER: You've answered my question, which was there's no preference.

MR. YOVANOVICH: There's absolutely -- there's no preference. But I was trying to answer Mr. Fry's question. And if I can, since Wayne brought it up -- and I was going to say it later, but I'll just say it now. The food truck park piece that is -- that was -- I guess they decided either not to go forward with it or go through the right process, I don't know. That piece went to auction. And you know what they listed as one of the allowed or potential uses on that piece to be? High-rise condominium. That was the auction material for the piece immediately adjacent to us. And I didn't see anything in the *Coconut Tele* objecting to that potential in the auction.

So it's a little odd to me. And I don't know the answer to why it might be okay on that piece and it's not okay on our piece, but that's what was put out there for a potential use on the immediately adjacent piece, high-rise condominium. So at least the people at the island -- on the island, maybe they like that piece better for a high-rise condo. I don't know.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Okay. I'm trying to figure out the context in which -- what

document or what literature was it, and who was putting that out?

MR. YOVANOVICH: The person who lost the food truck park, which was right around here, went to auction.

COMMISSIONER KLUCIK: So after all was said and done --

(Simultaneous crosstalk.)

COMMISSIONER KLUCIK: After all was said and done, then they went to sell it, and when they listed it, they said it could --

MR. YOVANOVICH: That's a potential rezone it to high-rise condo, and that was actually included in the *Coconut Tele* as a potential use on the property. I didn't say --

COMMISSIONER KLUCIK: So you're saying that the -- when you say it was included in the *Coconut Tele*, like, the editorial position of the *Coconut Tele* was they wanted high-rises?

MR. YOVANOVICH: It was ironic that that was discussed as an item on their agenda right after "kill our project," "kill our project." It didn't say, oh, by the way, this piece of property's up for auction for the very same use; kill it, too.

COMMISSIONER KLUCIK: So there was a -- not a reaction?

MR. YOVANOVICH: Why didn't they say kill it, too?

COMMISSIONER KLUCIK: No. There was not a reaction back then because everyone got what they wanted, so to speak?

MR. YOVANOVICH: Yeah. And I -- and I never -- I've been -- I'm a little, I guess, jaded because I've been doing this for a while. I've heard positions change and arguments change, essentially, with the goal of live to fight the next development the next day. So just kill this one and say what you need to say to do that.

You could see through the correspondence the change in how they did not like traffic coming on this island for the food truck park, and when they realized that you can't make that argument, they had to say we want Tin City with the hope that Tin City will never show up.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: Rich, quick -- just a clarification. I know you and the Chairman have been talking about who can join. But I just want to make sure I understand. If I live on the island and I want to take my wife out for dinner on Friday night, I can't walk in there unless I'm a member and I pay some kind of membership?

MR. YOVANOVICH: Not to the Yacht Club, no.

COMMISSIONER SHEA: To any of the restaurants in the commercial area?

MR. YOVANOVICH: Well, the -- there are other already -- there are already restaurants on the island that were not part of our project.

COMMISSIONER SHEA: Yeah. But on your project, I can't take my wife to any of those?

MR. YOVANOVICH: There's only going to be the Yacht Club restaurant, and there is some discussion -- and we've discussed having a smaller restaurant.

COMMISSIONER SHEA: I thought I saw three or four on one of the pictures.

MR. YOVANOVICH: That was if we go to the commercial option. Those would all be open to the public.

COMMISSIONER SHEA: Okay.

MR. YOVANOVICH: But there was discussion about having a smaller restaurant open to the public, but the reaction we got, basically, from the businesses that are already there, that they would prefer we didn't, okay. So -- and I don't blame them. I mean, people do -- you know, I -- you want a little bit more of a captive audience, and they would like -- if I were a business owner who had a restaurant, I would love to have the residential there, because that's more people that are potentially going to eat at my existing business.

I'm happy to put in a smaller-venue restaurant as part of the project. We've discussed that. But we've also heard opposite feedback that maybe that's not something the local businesses might want.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: I guess if the -- if this project was not approved and you went ahead with the C-3 use, would the marina still be part of that? I don't know if that was something you had to --

MR. YOVANOVICH: The marina's there. The marina's going.

COMMISSIONER FRY: The marina's already there.

MR. YOVANOVICH: It's permitted and approved.

COMMISSIONER FRY: It's already -- so, basically, in terms of the residents of the Isles of Capri, if this goes through -- whether it goes through or not, they still have access to the boat storage and the marinas just as they will under -- if your project is approved?

MR. YOVANOVICH: Correct.

COMMISSIONER FRY: In effect, what they will gain is the ability to join the Yacht Club and then eat in the restaurant and enjoy some of the benefits of the Yacht Club. That's really the benefit that they gain from the facilities themselves, correct?

MR. YOVANOVICH: Right, and together with reduction in off-island traffic coming to the facility.

COMMISSIONER FRY: And the sewage and the --

MR. YOVANOVICH: Culverts.

COMMISSIONER FRY: The culverts, right, I got it.

MR. YOVANOVICH: All those things are --

COMMISSIONER FRY: You made one point, which I just have to say, have you ever changed your strategy because of trial and error, something didn't work or you didn't get the reaction you wanted, so you changed? I can't imagine you guys wanted to provide the culverts and the flushing.

So my point is, as coming from a neighborhood, I guess, I'm getting a little bit offended by a couple of aspects of this meeting, first of all, the pictures showing only the first two stories on something where you're saying that the human eye doesn't necessarily sense a 170-foot vertical wall to their side, okay. That offended me in One Naples. It offends me this time. I believe some rendering should show what it looks like at the street level showing the height of a building and what the impact is as you walk on the sidewalk. You're not staring at the grass in the street. You do notice 170-foot-tall building.

Number 2 is, the residents have a hard -- I come from a neighborhood. Several of us, we live in neighborhoods, right? They don't, by nature, understand how to conduct themselves or how to negotiate, how to fight these things. So by saying that they -- they didn't object to something that wasn't officially proposed and before them here -- they've obviously organized for this. This is real. This is coming. The other one was a conceptual. It could be this and that. So in my opinion, did they -- are we supposed to discount their points of view based on what's here today because of how they did not object to something that was not formally before us in the past?

MR. YOVANOVICH: Well, a couple things.

COMMISSIONER FRY: Please.

MR. YOVANOVICH: I apologize that you find our pictures to not be to your liking.

And --

COMMISSIONER FRY: I would say just not fully informative.

MR. YOVANOVICH: I think we -- I disagree. We can respectfully disagree. We showed the project in context. I don't think people walk on the street looking up. I don't.

COMMISSIONER FRY: Okay.

MR. YOVANOVICH: So next, have I ever changed my strategy? No. I always expect and look for things that will bring the community benefit through my project. It was brought to our attention that the culverts and the larger sewer was a benefit to the community.

CHAIRMAN FRYER: Who brought that to your attention?

MR. YOVANOVICH: We heard it in public meetings, and we heard it from staff, and we

heard it from commissioners and others that the culverts were a big issue, and we've heard from commissioners that septic tanks are really probably the not best thing for Isles of Capri in the long run. So those were opportunities to provide additional benefits through our project.

I always do that. I've never said on a particular piece of property, do X and then come back at the next meeting and say, do what I just told you not to do. Don't bring an attractor, but now bring an attractor. I've never done that on a piece of property. I think that's a bad strategy.

COMMISSIONER FRY: No, but you --

MR. YOVANOVICH: Another thing -- hang on a second. They've lawyered up. When they changed their strategy, it was based upon the advice of their lawyer to do that. So it's not --

CHAIRMAN FRYER: This is getting really speculative.

MR. YOVANOVICH: No, I know -- you want me to show -- I'll put the email in the record.

CHAIRMAN FRYER: I don't know that it matters, and it seems to me --

MR. YOVANOVICH: He asked me a question.

CHAIRMAN FRYER: Let me speak. It seems to me as though you are engaging in what should be rebuttal, and there will be a time for that.

MR. YOVANOVICH: He just asked me --

CHAIRMAN FRYER: This is not the time.

MR. YOVANOVICH: He just asked me the question. Mr. Fry asked me that question, and I thought I was responding to why -- why would the community change their tactic. And I was trying to explain why that was. And, you know, it would have been worth it in rebuttal as well, but I thought it was -- if it wasn't germane to what Mr. Fry was asking me as to why they may have changed their opinion, I apologize. I'll say it again in rebuttal.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes.

COMMISSIONER KLUCIK: I would just say that Mr. Fry's question was fair, and I think it's only fair that the applicant gets to answer it, and I think that's all he was doing --

MR. YOVANOVICH: I thought it was.

COMMISSIONER KLUCIK: -- in my view. So I don't -- I didn't find it objectionable to --

CHAIRMAN FRYER: Well, getting into communications between a client and -- or counsel and their client, I think, is inappropriate.

MR. YOVANOVICH: They published it to everybody who gets the *Coconut Tele*.

CHAIRMAN FRYER: Well, I don't know that it is appropriate to be made a part of these proceedings at this time.

MR. YOVANOVICH: I'm ready to bring up Mr. Banks if you're ready to hear from Mr. Banks.

CHAIRMAN FRYER: Yes, let's proceed.

MR. BANKS: Good afternoon. For the record, Jim Banks.

MR. YOVANOVICH: Sorry, Jim.

COMMISSIONER KLUCIK: Nice car.

MR. BANKS: I should have been paying attention which toggle switch he was hitting. Okay.

My firm prepared the traffic impact study for the Isles of Capri project. With me today is also Ted Treesh. He worked with me on this project. At the end of my testimony, if you have questions about the information that I present, Ted or I can answer your questions. So he did work with me on this project.

The traffic study was prepared pursuant to the criteria set forth by Collier County Government. Collier staff reviewed the traffic study and agreed with the reports, findings, and conclusions. The traffic study took into consideration what is existing there today, which is the marina, as well as the proposed land uses, which is obviously what we've been discussing, the 108

multifamily dwelling units, the 29 new additional wet slips for the marina, 7,000 square feet of retail and office space, as well as the restaurant, which is 10,000 square feet in size and 200 seats.

Based on the proposed land use, we utilized the Institute of Transportation Engineers Trip Generation Manual, the 11th edition, to estimate the number of trips. And for the benefit of those that are not familiar with that, it is a study that is based upon historical surveys, traffic data collected at similar land uses.

So when I say that we used this manual to estimate the trips, I want you to understand it's not my opinion about how much traffic a particular land use will generate, and it's not staff's opinion as to what it will generate. It's based on historical data that we use to estimate the number of trips.

So, again, it's not opinion. It's based on factual information, and it's a good estimation of how much traffic will be generated from various land uses.

But, anyhow, we did determine that based upon the proposed land uses and the existing marina, that the property, if developed as proposed, would generate 200 two-way peak-hour trips, 62 of those two-way p.m. peak-hour trips are generated by the existing marina, and so the net result is that there would be 138 new two-way p.m. peak-hour trips on the adjacent road network.

CHAIRMAN FRYER: Why was it necessary to estimate -- why -- did you -- did you do an actual count of the trips?

MR. BANKS: We did. We counted the traffic on the island. I'm sorry. I was anticipating your question and answered it wrongly. We counted traffic on the island, but we did not specifically count the traffic generated by the marina. We relied upon the ITE Trip Generation Manual to estimate that.

CHAIRMAN FRYER: Yeah. It seems to me that you could have had the actual count if you counted. I mean, it's easy to do.

MR. BANKS: The marina has a couple of different points of access, and some people actually park in other areas and walk to the marina. So it was going to be a little bit difficult. Plus, I would also submit that if we went and counted the site for one day versus relying upon the ITE Trip Generation Manual, which is based on numerous surveys, I suspect that we might have got an anomaly day. We could have gotten a day that something was different at that location. So we, again, relied upon ITE.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Jim, I think you said you counted the additional trips that the project would add above and beyond the existing marina traffic, correct?

MR. BANKS: As it's approved.

COMMISSIONER FRY: I heard that right?

MR. BANKS: As the site is -- per the Site Development Plan approval of the marina.

COMMISSIONER FRY: Oh, okay. So that doesn't include the parts of the marina that are already approved but haven't been built?

MR. BANKS: That's correct.

COMMISSIONER FRY: Oh, okay. So this is really the delta from the high-rise and the yacht club?

MR. BANKS: That's correct. It's basically 39 additional slips that -- but I do believe that they may have been permitted anyhow, but for the sake of the discussion, we have an additional -- I'm sorry -- 29 wet slips in our analysis that we're claiming would generate additional trips above and beyond the approved SDP. We're also looking at the additional trips associated with the 108 multifamily dwelling units, and the additional trips generated by the 7,000 square feet of retail and office space, and the restaurant. And those trips would be 138 two-way p.m. peak-hour trips would that be delta.

COMMISSIONER FRY: Okay. So I guess what I'm not quite sure I still understand is that 138 delta trips, that is based on what is already approved versus what you are proposing?

MR. BANKS: That's correct.

COMMISSIONER FRY: So it includes some marina slips that aren't in yet?

MR. BANKS: A few, yes. Whatever the number is, yes. I don't know what the exact number is.

COMMISSIONER FRY: Okay. Thank you. Okay. And then once we established what the traffic would be generated from the proposed land uses, we then did an assessment of how it would impact the adjacent road network. And, again, I'll remind you that staff reviewed this report, and they agreed with our findings and conclusions, which are that the proposed land uses will not negatively impact the surrounding road network or cause any roadways to operate below their adopted level-of-service standard.

Furthermore, all roadways within the project's area of significant impact currently have a surplus of capacity and can accommodate the traffic that will be generated by the proposed land use.

And I'd also like to remind the Board that Capri Boulevard, which is the road that services the island, has a direct access onto Collier Boulevard, which is a major arterial, and that access is a signalized intersection. So there is a safe means of ingress and egress off the island via that traffic signal.

We then evaluated the potential impacts that could be caused if the site was developed based upon its current entitlement, and as has been previously mentioned, 80,000 square feet of mixed retail and restaurant uses. These type of cluster developments where you have these boutiques shops and restaurants, they do become an entertainment center, an attractor, and that's just the way they function, and there's many here in South Florida that we can point to and say, where you've got these retail shops and these restaurants, how they attract people to them, because they become an entertainment center, and that is what we're looking at, something like a Tin City.

But -- and we also -- the expectation would be is that the marina would remain intact. So we would have the 80,000 commercial -- 80,000 square feet of commercial, plus the marina would remain intact. And if developed in such a manner, then we estimate, again, based upon ITE trip generation rates, that the -- that the entitled land use would generate a little bit more than 400 two-way p.m. peak-hour trips. So that's twice what the proposed land uses generate. So we concluded that, obviously, the commercial uses would generate substantially more traffic than what is being proposed.

Now, we did do an evaluation and did determine that if it is developed with the commercial uses, that, again, there is still adequate capacity on the adjacent road networks to support the traffic associated with a Tin City type development.

That concludes my testimony. Again, I can answer any questions, and also Ted Treesh is here if -- we're kind of a "beauty and a beast" type team here, so you decide who you want to ask a question of.

CHAIRMAN FRYER: No one is signaling at this point.

MR. BANKS: Okay.

COMMISSIONER FRY: Which one is the beauty?

MR. BANKS: Well, I've leave that up to your-all's discretion (indicating).

COMMISSIONER FRY: Did you point to yourself, Jim? You pointed to yourself?

MR. BANKS: No.

MR. YOVANOVICH: So I wanted to wrap it up with a little bit more detailed discussion about both the culverts and the sewer improvements, both of which you would get through this petition.

The utility improvements are roughly \$2 million, and the flushing culverts, which I'll show you in a second, are about a million two, for a total of \$3,200,000.

This is -- Commissioner Shea, this is where the force main would start at Collier Boulevard and go all the way, basically, to the furthest edge of our project, if you can see it right here.

So it would be, obviously, easy for these homes to be retrofitted with gravity and pump stations that connect in, and then the homes further on the island could also be connected into this

and avoid the expense of having to pay for those upgrades.

CHAIRMAN FRYER: Commissioner Vernon.

MR. YOVANOVICH: Do you want me to go back? I'm sorry.

COMMISSIONER VERNON: Yeah, go back a slide.

MR. YOVANOVICH: Which one? This one?

COMMISSIONER VERNON: No, go back one slide. There you go. So if you were not doing -- if you were not doing anything to -- I don't know if this is on. But if you were not doing anything to improve the community and just taking care of your development, what would you spend on these two items, utility improvements and flushing culverts?

MR. YOVANOVICH: We pay zero on flushing.

COMMISSIONER VERNON: Because you wouldn't do it.

MR. YOVANOVICH: Wouldn't do it. And I'll -- at the break, let me get a mathematical number for you as to how much we would spend to just get to the minimum for our commercial. And if we did -- if we did just what the island wanted us to do, which is mom and pop shop --

COMMISSIONER VERNON: No, no, no. I'm just saying, if we approved your project and we say you don't even worry about the community around you, what would you spend -- you wouldn't spend anything on the flushing culverts?

MR. YOVANOVICH: Correct.

COMMISSIONER VERNON: And then the question is, what would you spend on the utility improvements?

MR. YOVANOVICH: Regardless, yes. I've got to get you that number.

COMMISSIONER VERNON: And then the last question is, can you explain what a flushing culvert is? Anybody can -- whoever.

MR. YOVANOVICH: There they are. And I'm going to let -- I'm going to let Tim Hall come up here and explain how they work. I know what they do, but I don't know how the --

MR. HALL: Good afternoon. For the record, Tim Hall with Turrell, Hall & Associates.

What flushing culverts do is they allow for the passage of water through areas that would normally be blocked off by the causeways that were built when the islands were originally connected. Prior to the development, these were actually separate islands that were connected through these causeways. And so what that did is it changed the way water flowed through that area.

What the culverts would do would be to re-establish some of that flow, and by increasing the flow you have the ability to reduce the amount of dead spaces within some of the canals and bay systems. And the more the water flows, then the better water quality you get. And some of those dead areas where you may have turbid water, it brings cleaner water in from the gulf, allowing more light penetration. With increased flow, you generally have higher dissolved oxygen content, so you can get more filter-feeding type organisms that get started in the substrates there, and all of that, in conjunction, helps to improve the overall water quality throughout the whole system.

COMMISSIONER VERNON: Perfect, but -- one question. So as I understand it, it's a matter of water flow. It's just a cylinder. There's nothing inside the cylinder that somehow cleans or flushes.

MR. HALL: There's no -- there's -- in this case, no, there would be no kind of filter media or anything like that. It would be clear passage.

COMMISSIONER VERNON: For water flow?

MR. HALL: The design hasn't been exactly -- I mean, my preference would be to make them big enough to where you could also have -- like, kayakers and manatees would both be able to pass through them freely, which would allow for the -- from -- I'm a kayaker. So being able to kind of cut off having to go around the island and get to some of the higher-quality areas, you know, through shortcuts would be that, but also for the manatee use and all through there, it would allow them to pass through areas less congested, maybe, than the Marco River where you've got

higher traffic and all. It would allow them to pass through areas that would be less traffic congested, so safer for them as well.

COMMISSIONER VERNON: And then either one of you can answer this. But going back to the budget that I think was 1.2 million, does that contemplate the kind of culvert, flushing culverts that he's suggesting that he'd like?

MR. HALL: I think a lot of the cost associated with that is going to be permitting. The size of the pipe isn't going to be the big part of that expense. It's going to be the permitting and then the actual construction work to install them, the excavation and stabilization and so forth that would go in afterwards.

COMMISSIONER VERNON: And you guys have no objection to trying to put in the kind of culverts he wants?

MR. YOVANOVICH: Right now they're five by eight, so I don't know how full -- that should be enough, right?

MR. HALL: Right, yeah. The biggest issue is really where -- in terms of looking where the existing driveways are. If the top has to be elevated anyway -- any, then you get into potential conflict. So those are the kind of things that, as part of the permitting, would be kind of sorted out in the preliminary aspects of where we are right now. You know, we have our preference. The eight-foot width, I think, is mandatory. The height is what may be altered.

COMMISSIONER VERNON: Thank you.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Tim, this has to go, what, through 404 and 401 -- 404 wetland impacts or 401 water-quality certification?

MR. HALL: It would need to go through both ERP and state lands for the state, and then it would definitely go through 404 and most likely Section 10 as well because of the potential navigation and stuff.

COMMISSIONER SCHMITT: All right. Well, that's about a year or --

MR. HALL: At least.

COMMISSIONER SCHMITT: A year in permitting.

MR. HALL: At least.

COMMISSIONER SCHMITT: At least.

MR. HALL: Yeah.

COMMISSIONER SCHMITT: Okay. For those -- that's now through the state and then through -- would this go to the Corps because of the -- because of U.S. waters?

MR. HALL: This one would. This is still in the retained waters that the Corps did, so the Corps would process this.

COMMISSIONER SCHMITT: It would go through the Corps?

MR. HALL: Yes, sir.

COMMISSIONER SCHMITT: All right. Thanks.

MR. YOVANOVICH: And then we did a comparison as to ad valorem taxes generated from the site if they were developed as commercial versus developed with the 108 residential units that we were proposing. And as you can see, it's a pretty dramatic difference. Tin City currently is paying around 80,000 in taxes, and Venetian Village, another compatible, is paying about 270,000, and we're, if you were -- in today's dollars, today's millage, estimating at two-and-a-half million per unit, you're looking at 2,900,000 in revenue generated from this project.

I would venture to say that the level of services provided are far less than the amount of money generated from this site, which is an overall community benefit.

And with that, that concludes our presentation, and we're available to answer any questions.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Thank you, Mr. Chairman.

Mr. Yovanovich, could you weigh in on the complementarity? Well, we had a discussion

about --

MR. YOVANOVICH: No, no. I was just seeing if that's really a word.

COMMISSIONER KLUCIK: Well, whether it's complementary or complementarity, that's a variation of the word. It's a very related concept.

MR. YOVANOVICH: Okay.

COMMISSIONER KLUCIK: I'm -- yeah.

MR. YOVANOVICH: You mean in addition to what Wayne's already said?

COMMISSIONER KLUCIK: Yes. Well, because Wayne -- what Wayne said seemed kind of amorphous and not -- there wasn't much to chew on with what Wayne said. And I get it. There's no definition, so there's not much for Wayne to work with. And, Wayne -- I'm not trying to pick on you, Wayne. Sorry.

MR. YOVANOVICH: He's had worse days.

COMMISSIONER KLUCIK: Yes.

MR. YOVANOVICH: We all have.

COMMISSIONER KLUCIK: And I've been mean to you before, and I think this is -- this is pretty tame, so...

MR. ARNOLD: We're good.

MR. YOVANOVICH: I think you really have to look at how does this project really fit in with the island itself compared to what the existing zoning is. I think, frankly, that the existing zoning is neither compatible or complementary to the island. So what --

COMMISSIONER KLUCIK: Existing zoning, yeah.

MR. YOVANOVICH: The existing C-3 zoning.

COMMISSIONER KLUCIK: Right.

MR. YOVANOVICH: So if you -- I don't think they are, because -- and how do I know that? Because the Growth Management Plan says it shouldn't be there, and you should be able to convert.

So I think when you start with that premise, that that shouldn't be there in the first place -- so is residential complementary to residential? Absolutely. Is residential complementary to the existing businesses that are on the island that make their living from people coming and using their services? Absolutely, it's complementary.

Is it -- is it compatible? Absolutely. We are far away from -- 400-plus feet is quite a distance.

COMMISSIONER KLUCIK: Would you say the traffic issue alone is an example of complementary? I would say "of complementarity," but I don't want to throw you off when I use that word.

COMMISSIONER SCHMITT: That's okay. I should -- I probably lumped in the existing C-3 too generally. I think bringing an attractor to this island would be a bad result for the residents of Isles of Capri. If they truly do not want traffic, and they truly are worried about what happens if there's an accident, if they're truly worried about all those things, a Tin City attractor is bad for the island.

COMMISSIONER KLUCIK: No. I'm just going with what my colleague said. He brought out a good point that, you know, you could -- you could go to the people that live there to ask them their view of complementarity, and we know what they think.

MR. YOVANOVICH: Sure. I read the postcards.

COMMISSIONER KLUCIK: Well, you know what I'm saying. It goes beyond the post cards. They don't think it fits with their island life, the way it is now.

MR. YOVANOVICH: I don't think -- I think it is slightly -- it is consistent with Twin Dolphins, which is their island life. It is consistent with Marco Towers, which is -- Marco Towers is an older building, but it is -- there is multifamily at a higher level than RSF-3 and RSF-4.

COMMISSIONER KLUCIK: And I think I heard you say that -- or at least in -- intimate that they wouldn't be -- no matter what it was, they would be arguing against it. So they would

find -- they would find a reason that anything -- just about anything was not complementary. You know, residents in general. And that's -- it isn't anything about Isles of Capri. I've been in that position myself in my neighborhood with Mr. Yovanovich on the other side as a resident. And that's -- that was kind of my take. You know, I was -- I was against it because I wasn't, you know, familiar with it, and I was afraid of what it might become that was beyond, you know, what I could see now or what ball they're hiding, you know, because you're always worried they're hiding a ball, and I get all that.

My question, I guess, is that -- the height is what I think is -- you know, how is 170 feet -- can you accept that some people could say that offends the concept of complementarity and compatibility both?

MR. YOVANOVICH: I can respect that opinion.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: I don't agree with it, but I understand it.

COMMISSIONER KLUCIK: Right.

MR. YOVANOVICH: I understand that it is different. And I've -- I don't think 75 feet zoned and roughly 100 feet actual should be the measuring stick.

COMMISSIONER KLUCIK: And then my other question that I asked earlier, and I told you I would follow up with it was can you explain to me why nearby -- the height of nearby buildings or the lack of tall buildings near by, or however you -- because that's really what I'm -- you know, the implication, why that is not a factor that weighs into compatibility or complementarity?

MR. YOVANOVICH: I don't think height is the measure of what is -- what's around you. I think you look at this building. How close are we to other residential? How close -- are we in the context of other commercial? I think that's what you look at for --

COMMISSIONER KLUCIK: Yeah. But if you had a tall building, if you did have a tall building near by, that would weigh in favor of compatibility, correct? Because I've seen you make the argument that this is -- our tall building is compatible because there's a tall building just, you know, a block away --

MR. YOVANOVICH: I had --

COMMISSIONER KLUCIK: -- or, you know, 1,000 feet away we've got a tall building. I was here when you did it.

MR. YOVANOVICH: I know. And I will tell you in the context of that. That was when people said there's nothing else around us of that height. That's what they said. And I said no, no, no.

COMMISSIONER KLUCIK: So it could --
(Simultaneous crosstalk.)

MR. YOVANOVICH: Look at this building, look at this -- I was responding to "nothing else around us." I didn't say that's what made us compatible. I actually argued the other.

COMMISSIONER KLUCIK: I think you've kind of acknowledged that it can be a factor.

MR. YOVANOVICH: I think --

COMMISSIONER KLUCIK: And whether you want to say that or not, I'm convinced -- I heard what I need to hear. Thank you.

CHAIRMAN FRYER: Thank you.

Anything further, Mr. Yovanovich?

MR. YOVANOVICH: I think we're done with our presentation at this point, and we'll stand down and wait for staff, and --

CHAIRMAN FRYER: All right.

MR. YOVANOVICH: -- do what's next.

CHAIRMAN FRYER: All right. It's 12:55. I'd like to make lunch just 45 minutes, but I'm not going to lean too hard on that. Anybody want to be heard on how long we should go for lunch?

COMMISSIONER SHEA: The shorter the better.

CHAIRMAN FRYER: All right. Then without objection, let's go for 45 minutes. Forty-five and 55 is -- what is that? What does that bring us to?

MR. BOSI: 1:40.

CHAIRMAN FRYER: 1:40. All right. So we'll return here at 1:40, and we stand in recess.

(A luncheon recess was had from 12:55 p.m. to 1:40 p.m.)

(Mr. Schmitt and Ms. Lockhart are no longer present in the boardroom.)

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

Ladies and gentlemen, let's reconvene, please.

And I believe the applicant has rested, subject to rights of rebuttal and cross, of course.

And so at this point we will ask staff for its presentation. Mr. Bosi.

MR. BOSI: Mike Bosi, Zoning Director.

I'm going to provide for the analysis and perspective from Comprehensive Planning, and then after me Nancy Gundlach's going to come, and she has a PowerPoint presentation that's going to provide for the zoning perspective regarding the petition.

And I had a PowerPoint that I was going to run through, but based upon some of the comments and some of the assertions [sic] that were made by the applicant, I wanted to hit straight to the point of what the Density Rating System would apply and would not apply to the area and subdistrict.

And overall, we are not supporting the individual petition. What we've found is that in the past, any petition that asks for more density than what you were asked -- than what you are entitled to from the Growth Management Plan, it would be accompanied with an affordable housing allocation. There's been no affordable housing allocation; therefore, staff is still sticking to its position.

Now, what we're going to talk about is what -- the project is eligible by the Density Rating System.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: I just want to ask you, so you stated that as a policy matter; is that right? That if there's not -- you wouldn't go beyond the -- that density unless there was a --

MR. BOSI: The policy that we've established in the past two years, if you're asking for more density than what the Density Rating System, what the GMP is allotting for you, to increase that density there would be a provision for affordable housing.

COMMISSIONER KLUCIK: However, in this case the argument isn't that they're asking for more. The argument is that they actually have a conditional use -- a permitted use that they could go ahead and convert, and when they convert, it's -- you know, the bonus is there. It's not something that -- you know, and we've done that before.

MR. BOSI: No, correct. What they're arguing is they would be eligible for 69 units by the current GMP. What they're asking for is 108 units. So even if everyone agreed and I agreed with their argument that the GMP would allow them 69 units, they're still asking for 108, more than what the GMP is asking for.

COMMISSIONER KLUCIK: Sure. No, no, and I'm glad you pointed out the distinction. But do you agree that the 69 is there?

MR. BOSI: No, and that's my presentation.

COMMISSIONER KLUCIK: Okay. Okay. Thank you.

MR. BOSI: Yes.

COMMISSIONER KLUCIK: And where is this, what you're showing, compared to the slides that he showed? Because this is -- I was thinking that you were going to look at the same one, but this is a different portion. He had three different sections of the code. This is a different

one.

MR. BOSI: This is the Growth Management Plan. This is the Growth -- he showed various components of the Growth Management Plan. We are -- in all -- we're going to cover the same areas that Rich covered in his presentation --

COMMISSIONER KLUCIK: Okay.

MR. BOSI: -- and as I go through it, I'll point that -- I'll point that out.

COMMISSIONER KLUCIK: And as is typical, I apologize for making you chat with me to clarify, but it really helps, because now when you're speaking, it will make a lot more sense to me.

MR. BOSI: And it will provide clarity.

And this is the Density Rating System. And in our Growth Management Plan and in our Future Land Use Element, the Density Rating System allocates density to various parcels of land based upon where they sit within the subdistricts within the GMP. And it says, the Density Rating System is applicable to that portion of the Urban Coastal Fringe Subdistrict. And, remember, the Urban Coastal Fringe Subdistrict is where this property is located.

To the extent that residential density cap of four dwelling units per acre is not exceeded except the density bonus provisions for affordable housing and transfer of development rights are applicable. Those are the two provisions of the Density Rating System that are applicable to parcels that sit within the Urban Coastal Fringe Subdistricts. And that's -- that's a very specific point that I want to establish; that this language states that for the Urban Coastal Fringe Subdistrict, the only provisions of the Density Rating System is the affordable housing and the transfer of development rights.

Now, moving on specifically --

CHAIRMAN FRYER: Mr. Bosi, Commissioner Fry is signaling.

COMMISSIONER FRY: Sorry to interrupt, but I know Rich showed a very similar -- oh, maybe that is what he showed. Okay. Thank you.

CHAIRMAN FRYER: Commissioner Klucik. Commissioner Klucik.

COMMISSIONER KLUCIK: Yes, right. So you're going to go to it. And I guess, since the -- you know, the portion that was under -- that I underlined, "and except as allowed by certain FLUE policies under Objective 5," and then it -- I thought that he then went on to show Objective 5, which was the slide where he showed Policy 5.3. So you're going to explain why the "except as allowed by certain FLUE policies under Objective 5" doesn't apply?

MR. BOSI: Yes.

COMMISSIONER KLUCIK: Okay.

MR. BOSI: So going specifically to the Urban Coastal Fringe Subdistrict. So this is a subdistrict, and the specific regulations were crafted specifically for the area that lies -- that lies westward of the Coastal High Hazard Area is designated the Urban Coastal Fringe Subdistrict, and it says, no density shall -- and it's almost a repeat of what I just read you. Density shall not -- within the subdistrict shall not exceed a maximum of four dwelling units per acre except as allowed in the Density Rating System to exceed four units per acre through the provision of affordable housing and transfer of development rights.

The two provisions of the Density Rating Systems that are applicable to the Urban Coastal Fringe Subdistrict -- oh, but there's a couple other exceptions, as it says. Except as allowed by -- and here's a qualifier, and this is a very important qualifier: Certain -- so certain FLUE policies under Objective 5, and except as provided for in the Bayshore Triangle redevelopment area.

So he's claiming -- the applicant's assertion was Policy 5.3 gave them the right to do this. So if you go to Policy 5.3, it talks about rezoning, and it's consistent. And for -- these are talking about properties that are -- that are commercially deemed consistent by policy because they're not in our activity centers, and I think the applicant did a very good job of explaining those and how they relate to the GMP.

And it says, the foregoing notwithstanding such commercial properties may be approved for additional and residential uses in accordance with the Commercial Mixed-Use Subdistrict though an increase in overall intensities may result.

A zoning change of such commercial-zoned properties to a residentially zoned district is provided as provided for in the Density Rating System of the Future Land Use Element. So what he's saying is 5.3 applies. 5.3 trumps the specific restrictions and limitations that are contained in the urban coastal policy, and he's saying that this -- the provision that certain policies of 5 -- objective 5 would apply. He's saying 5.3 should apply even though it overwrites the limitations that are contained within the Urban Coastal Fringe Subdistrict.

Staff does not agree with that. Staff believes that the language of the Urban Coastal Fringe Subdistrict specifically called out affordable housing and the transfer of development rights as the only provisions in the Density Rating System that applied, and then certain provisions of Objective 5 can apply.

And if you go to Objective 5.3, which he's saying is his justification, he's saying that the entire universe in the Density Rating System should apply to this property because 5.3 allows it. But the policy in the Urban Coastal Fringe Subdistrict says only certain policies would apply.

So in that regard, I don't believe that it would qualify, and in my interpretation, that -- the conversion of commercial, it's applicable, but it only gets him to four. It only gets him to that four units per acre. To go beyond four in the Urban Coastal Fringe, there's two ways you can do it: Transfer of development rights or the affordable housing bonus.

Now, let's take it back just a second, and if you read the sentence again: The foregoing notwithstanding such commercial properties may be approved for additional residential uses. Now, this is a mixed-use product, so they're adding residential uses to an existing commercial project. So he says, if you want to -- if you want to do that, you can do that, and you can increase the overall intensity, but you've got to follow the Commercial Mixed-Use Subdistrict.

If you look at the Commercial Mixed-Use Subdistrict, residential density is calculated upon, you know, the gross commercial project acreage. For projects in the Urban Residential Fringe Subdistricts, density shall be limited by that subdistrict. For properties not within the Urban Residential Fringe Subdistrict but within the Coastal High Hazard Area, which this is, density shall be limited to four dwelling units per acre. Density in excess of three dwelling units per acre must be comprised of affordable housing as in accordance with Section 2.06.

So to satisfy that first part of 5.3, it clearly says, you need an affordable housing density bonus to go above four units per acre.

And then the provision where he was trying to say that it opens up the Density Rating System to that conversion of commercial to apply to the -- for the 16-unit conversion, a zoning change of such commercially zoned properties to a residential zoning district. This is a mixed-use PUD. It's not a residential zoning district. That's not applicable. It's not applicable towards what they're requesting. And I think that's specifically -- that specificity needs to be noted.

And a third thing that I would point out, that within the density bonus section of the -- of the Future Land Use Element, it specifically says, density bonuses are discretionary, not entitlements, and are dependent upon meeting the criteria for each bonus provision and compatibility with surrounding properties as well as the rezone criteria within the Land Development Code.

So what that says is the rezone criteria of the Land Development Code with compatibility criteria, that expands the universe of what you can say is appropriate or isn't appropriate. There's no entitlement associated with it.

So his claim that -- and I don't know if he used the word "entitlement," and I would not put that word -- so his claim that he is eligible for 69 units, I don't believe he is in the Urban Coastal Fringe Subdistrict with the specificity that it says that in the Density Rating System only two provisions can apply. You can't pick a provision that overrides the specificity of that individual subdistrict. I just don't -- I don't agree with that and -- because of that.

But at the end of the day, he's asking for a GMP amendment above the 69 units that he says that he -- he makes the assertion, and he's fine in that perspective. I don't agree with it, but he's asking for a GMP amendment that -- to get to 108 anyways, and there's no public benefit that we've established.

In the past two years, we've established if you're asking for more than what the GMP's going to allow, you're going to give that public benefit in terms of affordable housing, and based upon that staff is not supporting the petition as provided.

And with that, I could turn it -- you can ask questions that you may have.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Thank you, Mr. Chairman.

So, Mr. Bosi, obviously, you have looked at this and you know -- you've thoroughly looked at it. And I suppose you probably have had legal input, but I do want to hear -- I think we need, in order to do our jobs, we need a legal interpretation from our attorney. I don't know if everyone else agrees, but I would say that it's essential for us to be able to know --

COMMISSIONER VERNON: Yeah, I'll just jump in.

CHAIRMAN FRYER: Commissioner --

COMMISSIONER VERNON: That was my question: Have you had input from the legal department, and what does the legal department say about this?

CHAIRMAN FRYER: I have already primed Ms. Ashton to be prepared for this, and she is. And in addition to what she's going to say, I'm going to ask either her or Mr. Bosi to clarify a concept having to do with staff official interpretations and their level of being binding. It's a little different than you would imagine a relationship with a general counsel advising a client. And so I'd like to hear on both those things.

So, Ms. Ashton, you have the floor.

MS. ASHTON-CICKO: Okay. Your Land Development Code authorizes the Zoning Manager to be the official interpreter of the Growth Management Plan, which is Mr. Bosi, but I think I'm going to try to summarize what he said to make it a little simpler.

CHAIRMAN FRYER: Thank you.

MS. ASHTON-CICKO: But first I want to make sure that we're all on the same page as to the Growth Management Plan request today is for 20-plus units an acre, and I think what staff has told you is it's staff's opinion that they're only eligible for four units an acre unless they were to do affordable housing, and that's eligibility.

I mean, we're here regardless -- we're looking at a difference of four units or 16 units. We're here for a Growth Management Plan amendment to give them additional density, okay. And I don't think once you approve the Growth Management Plan that it is discretionary at that point. That is what they get, okay.

So what Mr. Yovanovich is saying and Mike is, it's just a matter of, like, how much density more are they asking for. But let me see if I can very simply restate what Mike said to make it a little bit clearer.

Can you see --

COMMISSIONER KLUCIK: Can I interrupt you --

MS. ASHTON-CICKO: Yes.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER KLUCIK: -- for clarification.

Can you give us the language that shows what you said at the beginning, which is the -- where the interpretation lies.

MS. ASHTON-CICKO: I'll have to pull that out of the Growth Management -- or out of the Land Development Code, and I can pull that section up and read it. Do you want me to pull it up right now, or do you want me to do this first?

COMMISSIONER KLUCIK: No. I just think -- you know, obviously, that's your basis for saying, you know, who we're to rely on for the interpretation, and it would be good to have that

in front of us.

MS. ASHTON-CICKO: Very good. To jump to the Growth Management Plan, this is a page out of your current Growth Management Plan that was taken off of the website. Mr. Bosi did put it on the visualizer. This is the section of the Density Rating System with the highlighted section that Mr. Bosi read that says the Density Rating System is applicable to that portion of the Urban Coastal Fringe Subdistrict. Now, this subject property, as stated in their staff report, is in the mixed-use district -- it's in the Urban Mixed-Use District, Urban Coastal Fringe Subdistrict to the extent that such residential -- to the extent that the residential density cap of four per acre is not exceeded, and then it provides an opening to allow density bonus provisions for affordable housing and transfer of development rights. And the Bayshore isn't applicable to this property.

So this is the main entry into the density bonus section, which gives you that overall caveat that those are the only two things that are available.

Then the second page is now Page 32 of the Growth Management Plan. This is the section that sets forth your urban area, your urban mixed-use area, and then the subdistricts that are applicable. And you've already seen this section before. It says the same thing as the FLUE except it opens the door for FLUE policies under Objective 5. And this is all for determining eligible density at the time of, you know, rezone, which once we do the GMP amendment, that all won't be applicable.

COMMISSIONER KLUCIK: So Section 5 is applicable?

MS. ASHTON-CICKO: In the subdistrict section when you're doing rezonings, yes, Subsection 5, but they're citing Subsection 5.3, and it says a zoning change of commercial --

COMMISSIONER KLUCIK: So just if we could back up. So the Section 5 that's referred to in what you just scrolled down from --

COMMISSIONER VERNON: Objective 5, I think.

COMMISSIONER KLUCIK: Objective 5, is that -- is Policy 5.3 part of Objective 5?

MS. ASHTON-CICKO: Correct. That's one of the policies.

COMMISSIONER KLUCIK: Okay. And so -- all right, so --

MS. ASHTON-CICKO: And I don't --

COMMISSIONER KLUCIK: Right. Your interpretation, then, is somehow that this doesn't apply.

MS. ASHTON-CICKO: No. I'm going to read it to you.

COMMISSIONER KLUCIK: Right.

MS. ASHTON-CICKO: Change to a residential zoning district is allowed as provided in the Density Rating System. It takes you back to the Density Rating System, and the Density Rating System that we already read said there are only two options. So it's kind of circular.

I don't know if that helps clear it or not. And then, Mr. Bosi, did you want to give the information on the Coconilla PUD as to what the subdistricts are that apply and the density and why that was different?

MR. BOSI: Thank you, Heidi.

Mike Bosi again, Zoning Director.

And to show you how long I've been around here, I was principal planner on that with Rich as the applicant, and it was Old Wiggins Pass Marina. That was in the Coastal High Hazard Area, but it was not in the Urban Coastal Fringe. The only reason why those 16 units, it's staff's position and interpretation of the Growth Management Plan, the reason why that 16-unit -- full 16-unit conversion doesn't provide the eligibility to this parcel is because of the Urban Coastal Fringe Subdistrict, and that's specifically why we've established that there's a much larger ask than the -- than the 39 units that -- they're claiming 69 to 108. We're saying that it -- there's only four units per acre that would be eligible for this project, which it gives them around 21. So they're asking for a much greater ask. But they're still asking for an increase in density no matter which interpretation that you may want to side with.

CHAIRMAN FRYER: Let me see if I can summarize what I think I'm hearing. That

since the property's in the Coastal Fringe, four is the limit, and if it weren't the limit, if they were looking to the 16 as the limit, that's not an entitlement. That would be discretionary with us and, ultimately, the Board of County Commissioners, correct?

MR. BOSI: It's most certainly not an entitlement. There are -- like you said, the Urban Coastal Fringe does allow for exception to get beyond the four units per acre.

CHAIRMAN FRYER: TDRs and affordable?

MR. BOSI: And affordable. Certain provisions of Objective 5 -- we don't believe that 5.3, as indicated by the applicant, that it is applicable. We don't believe that it is applicable and doesn't allow them to get to that 16 units per acre.

CHAIRMAN FRYER: Right.

And, Ms. Ashton, you're going to find that provision in the LDC about the official interpretation of the Zoning Director?

MS. ASHTON-CICKO: Mr. Perry kindly pulled it up, and he's going to read it for you now.

CHAIRMAN FRYER: Thank you.

MR. PERRY: Commission, LDC Section 1.06.01, responsibility for interpretations, Subsection A states, quote, the County Manager or designee shall have the authority to make all interpretations of the text of this LDC, the boundaries of zoning districts on the official zoning atlas, and to make all interpretations of the text of the GMP and the boundaries of land-use districts on the Future Land Use Map.

CHAIRMAN FRYER: Thank you. And I assume that the -- that the County Manager has designated that authority to the Director of Zoning.

MR. PERRY: Since at least when Jim Mudd was County Administrator.

CHAIRMAN FRYER: Thank you.

Mr. Bosi.

MR. BOSI: So from a Comprehensive Planning standpoint, we -- like I said, we're not requesting the increase in density. We think the eligibility is at 21, not to 69, as asserted by the applicant. Regardless, they are asking for additional density beyond what is provided for within the Future Land Use Element, within the Density Rating System, and because no -- because it's not associated with an associated affordable housing commitment, staff is recommending denial of the GMP application.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Can you just go to the bottom of this. There was one thing in there. I either missed you talking about it -- and it mentions -- I just saw the number 16.

CHAIRMAN FRYER: Commissioner, could you get to mic, please?

COMMISSIONER VERNON: Yeah. Sorry about that.

CHAIRMAN FRYER: Thank you.

COMMISSIONER VERNON: Did you hear what I asked? Yeah, scroll down. The last highlighted section, I think it's the last one.

MR. BOSI: Maybe it's from my Word document.

COMMISSIONER VERNON: It was the last one, yeah, right there. I didn't know whether you covered that. You highlighted half a sentence there, and it may be added for every one. And right before that it said 16 dwelling units. And I apologize if you already covered that and I missed it. But if you could just explain how that, if at all, is relevant to this.

MR. BOSI: It is relevant in the sense that they are converting commercial to a residential land use, and because they are in the Coastal High Hazard Area as well as the Urban Coastal Fringe Subdistrict, they're not entitled to a base of four. They're entitled to a base of three. But because it doesn't -- it does allow you to utilize the Density Rating System because it's under four units per acre that's being -- that's being requested, they get a bonus of one for their commercial conversion.

Now, I would say that any other place -- any other district, zoning district other than Urban Coastal Fringe, would have 16 units per acre eligibility. This -- in this case there's only one

additional unit per acre that's eligible, and that's -- and the conversion of commercial is all about converting the number of commercial acres that are converted to get to residential, and each acre is entitled to 16 except for in the Urban Coastal Fringe.

COMMISSIONER VERNON: But this section doesn't affect your analysis?

MR. BOSI: No, no. It is part of our analysis, meaning that it took you from a base of three to a base of four, and we say they're eligible for a base of four.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Heidi, did we hear from you that the official -- your official legal opinion supports staff's decision on this, that the density of 16 or 20 units per acre is not supported by the GMP and the LDC?

MS. ASHTON-CICKO: Yes, I agree with staff that it's four.

COMMISSIONER FRY: Thank you.

MR. BOSI: And just to provide a further clarification, I think the more appropriate question would be, do you agree that the LDC gives the Zoning Director the authority to be the official interpreter of the GMP and the LDC?

COMMISSIONER FRY: I'd officially like to ask that question also, Heidi.

MS. ASHTON-CICKO: I'm sorry. What was the question; as to whether I agree that he's the interpreter of the Growth Management Plan?

COMMISSIONER FRY: Yes.

MR. BOSI: Yes, per Policy 1. -- or for LDC 1.06 that Derek read.

MS. ASHTON-CICKO: Yes, I agree that he's the interpreter. I mean, you know, you're sitting as the Planning Commission. You can review all this and determine that you don't agree with the opinion of the Zoning Director but, you know, he is the official interpreter.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Mr. Klucik.

COMMISSIONER KLUCIK: So as to the portions that are at issue for this matter, which the applicant has raised and now Mr. Bosi has raised on behalf of our staff, as to all of those provisions, not only do you agree with Mr. Bosi's interpretation, you also agree he has the right -- his -- his interpretation is definitive and authoritative?

MS. ASHTON-CICKO: Yes, but we are -- he does -- Mr. Yovanovich's client has proposed a Growth Management Plan amendment, which he can do, to ask for more density than what's allowed. That's why we're here, so...

COMMISSIONER KLUCIK: No, but he's arguing -- he's arguing that without that amendment there's this density -- this higher -- much higher density to get to 69, and what you're saying --

MS. ASHTON-CICKO: Correct.

COMMISSIONER KLUCIK: -- is what Mr. Bosi is saying, no, it's much lower than that, and you're saying you agree with his interpretation as well as he actually is the one to make that authoritative interpretation without other action by any other -- by legislative action?

MS. ASHTON-CICKO: Yes.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Commissioner Fry, you're lit up, sir.

COMMISSIONER FRY: I already spoke.

CHAIRMAN FRYER: Oh, okay. Thank you.

Mr. Bosi.

MR. BOSI: Nothing from me other than any further questions from the Commission. Then we can go to Nancy's presentation, if you'd like, relating to the zoning compliance.

CHAIRMAN FRYER: Anybody else want to weigh in or ask questions about the GMPA?

(No response.)

CHAIRMAN FRYER: Okay. Then we'll go to the LDC and the PUDZ.

MS. GUNDLACH: Good afternoon, Commissioners. For the record, I'm Nancy Gundlach, principal planner in the Zoning division.

And I have a presentation to share with you this afternoon. Okay. We're here to talk about the request for the Isles of Capri Mixed-Use Planned Unit Development, and staff, we're constrained from recommending approval because we cannot recommend approval of the companion GMPA; however, if we could recommend approval, we do have some conditions of approval.

And we're recommending a -- for the residential mixed-use building height, that it shall be a maximum of 75 feet, and we're also recommending for that same building that it should have a front yard setback of 37-and-a-half feet from the Capri Boulevard right-of-way.

And Condition No. 3, should the existing marina be redeveloped, a 15-foot-wide Type B landscape buffer shall be provided along the eastern boundary of the south parcel -- and when we get into the presentation, I'll show you more about what I'm talking about with these conditions -- shall be provided.

And just one other thing. We noticed as we were preparing this presentation that the landscape buffer along Isles of Capri Boulevard should be the same as to the north side because the proposed PUD does allow for redevelopment of the south parcel.

CHAIRMAN FRYER: Thank you.

MS. GUNDLACH: And it would be the same standards as what's on the north side of Isles of Capri, which is where the towers are located.

CHAIRMAN FRYER: Thank you.

MS. GUNDLACH: Okay. And then the fourth condition of approval is commercial retail uses shall be provided that are accessible, open to the public.

And fifth condition is wastewater capacity shall be coordinated with the City of Marco Island Utilities.

And the last condition of approval is we noticed on the master plan was mixed use was not defined. So we're just asking for a little cleanup item there, that it be defined on the master plan. Okay.

COMMISSIONER SHEA: So when you say wastewater capacity, you're talking about capacity for the applicant's project or the entire Isles of Capri including the residents?

MS. GUNDLACH: That is a great question. If you'd like, we have subject-matter experts here.

COMMISSIONER SHEA: No. I'm just -- you have a qualification. I'm just wondering, well, what it's based on --

MS. GUNDLACH: We can ask.

COMMISSIONER SHEA: -- the entire capacity of the island or just the petitioner?

MS. GUNDLACH: Actually, I would have to ask my subject-matter expert what it's based upon. Would you like for him to answer questions now, or do you want to hold them till the end of the presentation?

COMMISSIONER SHEA: I can hold.

MS. GUNDLACH: You can hold, okay.

COMMISSIONER SHEA: I might forget it.

MS. GUNDLACH: We won't let you forget. Right, Matt?

Okay. All right. Well, as -- we've talked about this, but the island in blue, No. 2, is what we've -- we've considered to be the business island. And you've seen the subject site. We've got the marina on the south, and then we've got the towers on the north side.

And this is a picture looking back towards where the towers would be. Now, in the background -- let's see. Oh, cool. I don't know if you can see my little arrow, but that's the marina building back here, and there's the clock tower. And all this area where this vegetation is, that's the area -- there on back is where it would be redeveloped with the proposed parking garage and towers. Oh, cool.

Okay, great. So if you didn't see it, there's the marina tower and the marina building, and this whole area in here is what's going to be redeveloped.

Okay. And these are the homes that are located south of the marina, so they will be looking back over the marina, past the marina towards the towers. And these are the homes that are north of the subject site, and they're only, like, 300 feet away from those proposed 178 [sic] feet actual height buildings.

Okay. Subject site again. I also wanted to mention to you we talked a little bit about that RMF-16 site. This shows the maximum heights currently on the island, and everywhere on the island it currently is 50 feet. It's all zoned C-3 except for that little RMF-16 parcel, which would be allowed to go to 75-foot height.

So you can begin to see the contrast between 168 feet versus 50 feet, 75 feet. And, currently, most of the island consists of one- and two-story buildings. This is the RMF-16, the two-story buildings that currently exist on that site.

And then this is the marina, a shot of the marina that currently exists, and when we were there, they were dredging and redeveloping the wet slips.

And I show you the heights in this comparison chart. So you can graphically see what 35 feet looks like. That's most of your single-family residences on the island. And then most of the C-3 island, could go to 50 feet, with the exception of that RMF-16 building, which can go to 75. So you see the comparison between 50 and 75 that currently exists and the proposed height of 146 zoned and 168 actual.

And then we compare some of the setbacks and dwelling units per acre on the island as well. And we already talked about the differences in the zoned height.

Front setback is kind of interesting, too, because in the code, once you get past -- once you get into taller buildings, the height increases. For example, like, C-3, it's currently a 25-foot setback, front yard setback -- I'm sorry if I said height. I'm meant to say front yard setback increases.

And so if you apply that principle of 50 percent of the building height, not less than 25 feet, you can see where it becomes appropriate to increase the front yard setback of what we're proposing for a 75-foot-tall building, which is 37-and-a-half feet for that front yard setback.

And I think we talked about dwelling units per acre enough with Comp Planning, so we'll move on from there.

Okay. So here's our recommendations. Again, building height of 75 feet. And I also wanted to -- oh, here's a really -- a good graphic of what 50-foot setback looks like. I'm sorry, 25-foot front yard setback, 25 feet from the right-of-way to the building. And this is a 50-foot-tall building right here. You don't see the clock tower in the background. So, I mean, can you imagine a 25-foot setback like this on a building that's 168 feet tall? It just becomes really out of scale.

Okay. And then we already talked about front yard setback of 37-and-a-half feet from the Capri right-of-way. And also we've heard that the residents would prefer more commercial uses that are public and open to them for free. And then if the GMP could be found consistent -- okay, we're still talking if it could be found consistent with the GMP -- we'd like to see those commercial restaurants/coffee shops open to the public.

Okay. And also that site to the south, if it's redeveloped -- currently, it's the marina site. If it's redeveloped, give it the same buffers that you have on the proposed landscape buffers to the northern parcel, which is where the towers are located, the 15-foot Type B along Isles of Capri Boulevard and adjacent to the side yard commercial properties.

And here's what I'm talking about. We've got a 10-foot Type A buffer here and a 10-foot-wide Type D buffer here, and you can dress that with a 15-foot-wide Type B buffer along Isles of Capri here and along the side yards that are abutting the C-3 commercial zoning.

And we talked about the cleanup items. Here's our little reminder that the wastewater capacity shall be coordinated with the City of Marco Island Utilities and that we

should -- mixed-use shall be defined on Page 2 of the master plan.

And that concludes my presentation.

CHAIRMAN FRYER: All right. No one is signaling at this point. I'll begin with a question. The concept of canyonization, doesn't that have to do with the relationship of height and setback and perhaps other factors; is that a fair statement?

MS. GUNDLACH: That's fair.

CHAIRMAN FRYER: Would you say that what's being proposed would be an example of canyonization?

MR. BOSI: Mike Bosi, Zoning Director.

I don't believe that what's being proposed would be a canyonization. I think that what would be proposed would be an anomaly within the built environment within the local area. But a canyonization -- and that was a term that was used along Gulf Shore Boulevard just north of Vanderbilt Drive. We had a height limitation, and we had a moratorium on development and specific heights because the concern from the residents was enough tall structures on both sides of the street in close proximity with a relatively short setback would create that canyon look within the driveway. Because there are no other tall structures in this location other than the existing marinas that are out there, I don't think you would have a canyonization, but I do think it's an exception to what the built environment provides for currently.

CHAIRMAN FRYER: Okay. But would it be fair to say that this would be the first step of what would become canyonization if there were more buildings of this height --

MR. BOSI: I think what you would see is --

CHAIRMAN FRYER: -- in the vicinity?

MR. BOSI: In relationship to the applicant's presentation earlier when they were saying from compatibility of single-story buildings to larger buildings, the majority of those were done within the same individual PUD, so there was contemplation of that relationship, so it can be established. But what -- what was failed to mention was there's a number -- within that North Naples community, there is a number of tall structures within local proximity to most locations. There are very few buildings that are 170 feet or 150 feet or 130 feet that are within close proximity to this location.

So what would happen -- and if you -- if you remember the photo -- the aerial photo of the empty lots where the food truck was going to go, those areas -- and even the existing condominium buildings, this comes in at 170 feet. You've set the precedent. And it is -- it is then the argument, how would you deny 140 feet or 130 feet when you have 170 feet right here? Even though that's the only building that's the anomaly of that height. And that's the concern of the scale that staff is -- and one of the reasons why we've reached this recommendation of denial, because the scale of this building compared to the built environment, not the zoned environment, the built environment, is out of scale with the rest of the built environment.

CHAIRMAN FRYER: So if this door were opened for this applicant, there would be an argument of precedence that the next one that could come along would be just one more step toward canyonization, and the one after that and the one after that. Pretty soon it looks like Marco Island?

MR. BOSI: I think it helps establish -- it helps establish that the environment is changing and that taller structures are accepted within the area.

I don't disagree that the built environment does not reflect the current -- the current height allowances by the zoning. A 75-foot-tall building within the RMF zoning district is not -- would not be that hard of a stretch to imagine at some point in time. We just think 170 feet is the wrong level to set within this built environment.

CHAIRMAN FRYER: Thank you.

Anyone else wish to inquire of staff?

COMMISSIONER SHEA: Yeah.

CHAIRMAN FRYER: I'm not showing you. Did you push your button?

COMMISSIONER SHEA: It's lit.

CHAIRMAN FRYER: Okay. I'm going to ask Mr. Troy Miller if he would come in. My deliberator is not working.

(Simultaneous crosstalk.)

COMMISSIONER SHEA: Here's what I'm worried -- on the coordination. I think the applicant is saying they're going to put in a bigger force main that would handle the capacity if, ultimately, the rest of the isles wants to tie in. But we're talking about wastewater capacity with Marco Island. Somebody's got to talk to them to see, do you have capacity just for petitioner's wastewater or for the entire isles; otherwise, it's moot.

MS. GUNDLACH: Matt can speak to that for you.

MR. BOSI: And I've had some conversation with our Utility Department who had -- from peer-to-peer discussions with Marco Island, the wastewater provider, they have upgraded their wastewater treatment plant to have the capacity to handle the island. What they don't have is the force main extension to the island.

So -- and here's -- and I have not been involved in the conversation between the applicant and Marco Island, but what I do know is state statute and proportionate share. Even if the facilities that are being provided for are larger than what they need for their project, they're only obligated to pay their proportionate share.

Now, the City of Marco may ask for an advance beyond to be able to help cover any budgetary gaps, but they're obligated only to pay their proportionate share of how much capacity that their project is going to demand from that extension.

So in regards to them saying -- and I have not been involved in the conversation, so I don't want to mischaracterize this. But for them to say that they're expanding it beyond their capacity to hold for the entire -- the capacity of the island, that's being required by the City of Marco Island. They're required to pay their proportionate share and pay for their proportionate share.

I think the ultimate size of the capacity is agreed upon, what Marco Island feels is necessary to eventually provide for wastewater to at least that commercial area, the capacity that they've allocated for the -- you know, for the island itself.

CHAIRMAN FRYER: Thank you. I'm without my signaling device, so does anyone else have a question or comment at this time of staff?

(No response.)

CHAIRMAN FRYER: Anything further from staff?

MR. BOSI: Not at this moment.

CHAIRMAN FRYER: Thank you very much.

MR. YOVANOVICH: Now I get to go?

CHAIRMAN FRYER: Yes, you may.

MR. YOVANOVICH: I don't know how to correct something that Mr. Bosi just said with a question, but Mr. Bosi is not correct. Marco Island didn't mandate that we oversize the pipes to accommodate the entire island. You've not been involved in those conversations, Mike. I just want you to know that's not the case.

MR. BOSI: Okay.

MR. YOVANOVICH: A couple of questions. I'm not going to debate whether Mr. Bosi has the right to interpret the Land Development Code and GMP; he does. It doesn't mean I have to agree with it. And I'm not going to debate again with him as to how you can ignore the reference to 5.3 in the code. We'll deal with that at the next level. And you heard our arguments. I don't think you're allowed to ignore words that are in the Growth Management Plan and simply say you can go to .1.

I do want to ask you a couple of questions related to the Growth Management Plan amendment and then get into zoning.

So I just want to -- from a Growth Management Plan standpoint, Mr. Bosi, is the only reason you're not supporting the request for increased density is we're not -- we're not asking for

affordable housing -- we're not agreeing to provide affordable housing?

MR. BOSI: The position of Comprehensive Planning is if you're asking for more density than the GMP allows for, the practice that has been applied for the last two years has been some commitment for affordable housing within the project. So yes.

MR. YOVANOVICH: So that's the sole basis for your denial of the request to increase the density?

MR. BOSI: That's the basis for the increased density not related to the --

MR. YOVANOVICH: Whatever the number is, whatever the increased number is, you're saying in order to go above whatever the increased number is, the only way to get staff's support is to agree to provide affordable housing?

MR. BOSI: That is the position that we have established, yes.

MR. YOVANOVICH: Okay. So you're not -- you have not made a determination as to whether or not 21 units per acre is compatible with the 21 units per acre that exists at the RMF-16 site.

MR. BOSI: The compatibility issue is something that's deferred to Zoning staff, but from a professional standpoint, do I think 20 units per acre next to 16 units per acre is compatible, yes.

MR. YOVANOVICH: Okay.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Mr. Yovanovich, so I guess I'm just trying to figure out -- you know, I was inclined to adopt your position. We talked about it, and you gave the slides that you showed yesterday. And I guess I, you know, want to give you a chance, you know, to rebut --

MR. YOVANOVICH: Mr. Klucik?

COMMISSIONER KLUCIK: -- the analysis.

MR. YOVANOVICH: If you don't mind, I'd like to do that in my rebuttal, not --

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: I will.

COMMISSIONER KLUCIK: Okay.

MR. YOVANOVICH: I'm not going to do it at this point.

COMMISSIONER KLUCIK: Because at this point I think -- I think, you know, staff, Mr. Bosi, has me not ready to adopt your position just because it's -- it seems as though, you know, we have -- you know, they've made some good points that -- you know, that undercut, you know, my original --

MR. YOVANOVICH: I understand.

COMMISSIONER KLUCIK: -- inclination, you know, to agree with you. And it's like anything else, there's so many parts that can feed into an interpretation.

MR. YOVANOVICH: Right.

COMMISSIONER KLUCIK: And I guess I didn't have all the information available.

MR. YOVANOVICH: And I'll be happy to do that in my rebuttal. I'd rather not do it at this point.

COMMISSIONER KLUCIK: Thank you.

MR. YOVANOVICH: Still staying on the Comp Plan. So Growth Management -- the Growth Management section defers to planning for determining compatibility with regard to density; is that correct?

MR. BOSI: No. Density is -- it's not a -- it's not an evaluation of what's appropriate in terms of the density. It's what you're eligible -- but with this RMF-16 adjacent to your parcel of land, 20 units per acre is not an unreasonable ask related to that.

MR. YOVANOVICH: And, again, the only reason you're not going to support that is because I didn't include affordable housing, correct?

MR. BOSI: Correct.

MR. YOVANOVICH: Now, with regard to height, is it your position that the height has

to be the same as the adjacent parcel, 75-foot zoned, whatever 100 -- whatever it had be actual is -- compatibility doesn't mean "the same," correct?

MR. BOSI: No. I would say comparable.

MR. YOVANOVICH: So there's some number between the 75 and the 170 we're requesting that could be determined to be compatible?

MR. BOSI: I would agree with that.

MR. YOVANOVICH: Okay.

CHAIRMAN FRYER: Mr. Bosi, is there -- if affordable housing were being offered, would that under the -- under the current ordinances, be a right conferred upon the developer, or is it -- is it eligibility that we and the Board of County Commissioners would have discretion on?

MR. BOSI: You still have discretion on eligibility, but if it was entered into an affordable housing density bonus, there is -- you would make an evaluation as to whether that project was right for the location that it was proposing.

CHAIRMAN FRYER: And that would be an exercise of discretion on our part?

MR. BOSI: Yes.

CHAIRMAN FRYER: I see.

MR. YOVANOVICH: In just fairness to me --

CHAIRMAN FRYER: I'm sorry?

MR. YOVANOVICH: In fairness to me, would it be okay if I ask my questions, finish my cross, and if you have questions to follow up, we can wait until I'm complete? I mean, otherwise, it's kind of -- I don't think that that's necessary.

CHAIRMAN FRYER: We're going to continue the way we ordinarily do this, and when commissioners have questions, they're going to be able to ask them.

MR. YOVANOVICH: Okay. When doing your review of the Growth Management Plan amendment, did you do any analysis as to whether or not a Tin City type of development would be compatible with the island?

MR. BOSI: No, I didn't -- I didn't evaluate a universe of alternatives, but, no, I did not.

MR. YOVANOVICH: You would agree, then, under the existing Growth Management Plan this C-3 zoning would be inconsistent with the Growth Management Plan but for the determination that it was consistent by policy?

MR. BOSI: It's clear. I mean, if it's consistent by policy it means it's not in alignment with the current allocation of where commercial locations would be at.

MR. YOVANOVICH: And you would agree that the Growth Management Plan had a provision to encourage rezoning inconsistent commercial to a residential use? And we can argue over the amount of density, but you would agree, correct?

MR. BOSI: No. It's a conversion of commercial to residential. It's a policy of the GMP.

MR. YOVANOVICH: And that's the preferred use on this property would be a residential use, correct, under the Growth Management Plan?

MR. BOSI: The Growth Management Plan, because this is not an activity center, would allocate residential use to this area.

MR. YOVANOVICH: Okay.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: But what you're doing is mixed-use, correct?

MR. YOVANOVICH: We're actually adding residential, and the policy allows for us to convert in this case it would be 4.2 acres, or 4.3, whatever the math is, to residential versus the entire 5.3.

COMMISSIONER KLUCIK: And the only mixed-use piece is the boat slip?

MR. YOVANOVICH: Well, you have the marina.

COMMISSIONER KLUCIK: Right. That's what I mean, the marina.

MR. YOVANOVICH: The marina and the marina-related --

COMMISSIONER KLUCIK: Which is already there as a commercial use?

MR. YOVANOVICH: Correct. And then we would add the ability for the private club as would be a nonresidential use.

COMMISSIONER KLUCIK: Just out of curiosity, if that were to just be a private club just for the residents, would that still be -- would that be considered mixed-use?

MR. YOVANOVICH: No. At that point it would just be an accessory use to their -- if it was exclusively to the use for the condo units, it would just be an accessory use.

COMMISSIONER KLUCIK: Got it.

MR. BOSI: And one use that I think we've forgotten that is included, there is a 6,000-square-foot allocation requested within the PUD for office use as well, and that's clearly another use that would establish this as a mixed-use.

MR. YOVANOVICH: Correct, correct.

And I'm assuming what we do is we figure out that square footage, and we would subtract that from the 5.3-something acres, and then we would calculate the density, or whatever the number is. The Board ultimately decides what they want to do.

That's all I had for Mr. Bosi. I do have a lot of questions for Ms. Gundlach, though.

CHAIRMAN FRYER: All right.

MR. YOVANOVICH: Ms. Gundlach, would you agree with Mr. Bosi that a request of density of 21 units per acre is compatible with the adjacent RMF-16 use?

MS. GUNDLACH: Is that what you said?

MR. BOSI: Yes.

MS. GUNDLACH: Then yes.

MR. YOVANOVICH: Would you agree with Mr. Bosi that a height greater than 75 feet but not quite to the 148, let's just use zoned to zoned, would also be compatible?

MS. GUNDLACH: Yes.

MR. YOVANOVICH: In your staff report you made a comment about converting commercial or getting rid of commercial, if you will, and the potential impact on the island. You said -- let me -- actually, let me get the real -- the actual words because I don't want to mis-summarize.

MS. GUNDLACH: What page are you on?

MR. YOVANOVICH: Page 13 of 22.

MS. GUNDLACH: Okay.

MR. YOVANOVICH: If you go to the paragraph that says the current C-3 zoning -- and if you-all want to read along, it's Page 791 in your stuff. You with me?

MS. GUNDLACH: Yes.

MR. YOVANOVICH: You say -- you make a statement -- and I'll read the last sentence. You say, general commercial uses such as retail merchandise, healthcare offices, banks, religious, and other comparable uses are permitted.

I agree that they're permitted, but do you have any professional opinion as to whether or not any of those uses would actually be built on this C-3 property?

MS. GUNDLACH: I don't have a professional opinion as to whether or not somebody's going to build them or not.

MR. YOVANOVICH: So when your argument was we should keep the commercial because you would be making residents drive further to these types of uses, you have no professional opinion as to whether or not those actual uses will be built on this property, correct?

MS. GUNDLACH: Could you restate the question, please.

MR. YOVANOVICH: In your report, you say one of the reasons to deny the request is because these C-3 uses will possibly provide these types of uses and, therefore, people will have to drive further if these uses aren't provided on the island, correct?

MS. GUNDLACH: Can you show me where it says that in the report?

MR. YOVANOVICH: Yes. You can read it. It's right there in that paragraph.

MS. GUNDLACH: Well, that paragraph is the definition of C-3 zoning from our Land Development Code.

MR. YOVANOVICH: And you state in your report that you are concerned that if these uses aren't provided on the island, they would have to drive -- people on the island would have to drive further to obtain those uses, correct?

MS. GUNDLACH: I don't recall saying that.

MR. YOVANOVICH: Oh, it's in the GMP. Sorry. I will go -- is that -- was that in your report, Mike?

MR. BOSI: That was in my report. And one of the things that staff is not required to do is do a market analysis on existing zoning. What we do recognize is that C-3 zoning provides for opportunities for goods and services that serve the needs of the individual households within the Isles of Capri, and if you take those opportunities away, then you're forcing those households to drive further for goods and services.

And I would say -- and I think this is relevant to the discussion that we're having in relationship to the amount of commercial that is being requested to be converted and the amount of commercial that is still there, and it's a -- it's -- pardon me one second. I've got to go back into the folder. And I do believe this may strengthen some of the arguments from the applicant. That's not my intention, but my intention is just to put a fact out there.

CHAIRMAN FRYER: That's all we're asking.

MR. BOSI: Because that's what we -- that's what staff deals with, and I know that's what the Planning Commission wants.

We talked with David Weeks, who we contract with to continue to do our population -- our population analysis. We asked him, what's the population, what's the dwelling units on Isles of Capri? And the permanent population right now is 936 people. The seasonal population, if you utilize our AUIR 20 percent increase, is 1,123. There's 825 dwelling units on Isles of Capri. Forty-two of them are held for seasonal or occasional use.

The one thing I will say, there's probably more commercial than what can be supported by that population. And the more commercial that is developed, you start to attract individuals from off the island to the island. So there's some merits in some of the points that are made by the applicant. I just -- just for complete transparency, I wanted to put this up so you guys would know what -- the population we're talking about, and a population of 1,000 people to support 10 to 12 acres of commercial is -- is a challenge. We understand that.

But we also understand that as -- because of that challenge, and because this has been commercial for at least 35 years and the market hasn't responded to the majority of this because these are undeveloped parcels, that if we establish 170 feet in this area, all of those commercial parcels are going to be requested to transition to that 170 feet. And, therefore, that's why we really have this concern that the scale that's being proposed is not -- doesn't exist in the built environment, and if we start to establish that as acceptable at 170 feet, I think we'll have more to follow, and I just wanted to put that on the record.

CHAIRMAN FRYER: Thank you. And the facts that you have brought forth, they don't change your staff's official recommendation, do they?

MR. BOSI: No.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: Mike, while you're there, do you have the ability to pull the aerial up?

MR. BOSI: I believe it's in your PowerPoint.

MR. YOVANOVICH: It is, but I didn't know -- I just want to talk about that statement about the likelihood that every acre is going to convert to 170 feet in height.

There you go, thank you. Could I go over there, Mike? Would it offend you if I'm that close to you?

MR. BOSI: No.

MR. YOVANOVICH: So if we can -- I'll try to do this. So first of all, this entire area is roughly 20 acres; am I right, Wayne?

MR. ARNOLD: Around 21.

MR. YOVANOVICH: About 21 acres. So this piece right here is a marina as part of the project, correct?

MR. BOSI: Yep.

MR. YOVANOVICH: So that's already in the number. Now, this is from -- here to here are -- is a relatively narrow parcel of property, correct?

MR. BOSI: (Nods head.)

MR. YOVANOVICH: Do you have any basis to believe that someone could come in on those narrow pieces of property and develop 170-foot-tall building?

CHAIRMAN FRYER: Vice Chair Homiak would like to make a comment.

COMMISSIONER HOMIAK: I want to just -- I looked up the owners of all those properties on the Property Appraiser, and just in the past two years, all those -- two other investment groups have assembled all of those properties.

So Fiddler's Creek and the Buoy 1, LLC, and the 900 Collier -- North Collier Boulevard, LLC, own all those properties except for the motel and maybe one other one.

MR. YOVANOVICH: I agree.

COMMISSIONER HOMIAK: So I assume they're putting them together for a reason. They're not going to develop the little slivers.

MR. YOVANOVICH: No. What I'm -- my question is -- I don't disagree.

COMMISSIONER HOMIAK: They're doing the same thing you're going to -- you're doing.

MR. YOVANOVICH: Well, I don't disagree that perhaps -- and I don't think -- because we've tried to do the fit -- this piece right here will get above 75 feet, because there's enough width and depth. I agree they've assembled it to do something with it.

But my question to Mike was, based upon this width, do you have any -- have you done any fit studies to say that these properties are going to now become 170-foot-tall buildings?

MR. BOSI: I have done no fit studies, but if you notice, the -- and this is a little apples to oranges. But if you've noticed some of the trends within skyscrapers, very narrow and thin skyscrapers are architecturally now possible. So from an engineering perspective, if you have the resources to hire the right engineering firm, I think that those most certainly could accommodate 170-foot buildings.

COMMISSIONER KLUCIK: Mr. Chairman.

MR. BOSI: Now, I haven't site planned it. I think -- but from a probability, could it be done? I think you'd have to agree that it could be done.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. I would just say that if you're going to -- you know, if you're going to have us entertain notion, then you should have data, and right now we're looking at a picture saying, ooh, that looks narrow, and I think your strip looks pretty narrow. I just -- I mean, you've got to give us something to hang our hat on.

MR. YOVANOVICH: And I will -- I will.

COMMISSIONER KLUCIK: If you have an argument -- just -- if you have an argument, give us everything we need to adopt your argument if we were inclined. And what you've given us now is a picture that I don't think supports that you're saying.

MR. YOVANOVICH: I'm going to have a rebuttal. I'm trying to understand the basis for his statement that every piece of C-3 property on the island is now going to be developed with 170-foot-tall buildings, because that's what he --

MR. BOSI: I never said that.

CHAIRMAN FRYER: That's not what he said.

MR. YOVANOVICH: Okay. What did you say?

MR. BOSI: I said, the likelihood that the other C-3 parcels would follow are highly likely.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I just -- you know, since I've been on the Board, I, frankly, have never been a fan of cross-examination. And I don't really -- given we're quasi-judicial, I'm just not a big fan of it. But we've always followed that procedure, and this lawyer is cross-examining somebody, and I think he's doing it in an appropriate way.

So I think -- and I think we should be able to interrupt and ask our own questions; I agree with the chairman. But I do think what he's doing right now is cross-examination, and cross-examination is basically picking apart what's been said or he believes has been said, and I think that's appropriate.

CHAIRMAN FRYER: Well, it's not only appropriate; it's highly precedential. Cross-examination is always provided for in rezones and GMPAs.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir.

COMMISSIONER KLUCIK: Just while you're on that point, for the property in the corner there with the multifamily -- you know which one I'm talking about?

MR. YOVANOVICH: I do.

COMMISSIONER KLUCIK: You said that that was probably going to be turned into something really tall, didn't you?

MR. YOVANOVICH: I said that -- 75 feet, because that's a zoned height.

COMMISSIONER KLUCIK: Yeah.

MR. YOVANOVICH: Zoned height. Not really tall. The exact -- the existing zoned height.

COMMISSIONER KLUCIK: Okay. Much taller than what's there?

MR. YOVANOVICH: Correct, and really, 75-foot zoned height is probably closer to 100 feet actual height, as Mr. Arnold has testified to.

And I think staff would agree that there's going to be -- it's more than 75 feet actual height.

COMMISSIONER KLUCIK: And so, when you pointed that out, your reason for pointing it out was that there's going to be much taller buildings on the island probably or --

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: -- in this -- in Isles of Capri, sooner rather than later?

MR. YOVANOVICH: This one island that staff is saying, you know, doesn't have any tall buildings or won't have any tall buildings has already an RMF-16 piece that can go to 75 feet zoned, close to 100 feet actual. That's all I'm saying. And Mr. Bosi -- and correct me if I'm wrong -- said that he believes that there's a number above 75-foot zoned and above 100-foot actual that can be done today and below what we've requested that staff would say is compatible, correct?

MR. BOSI: Correct.

MR. YOVANOVICH: Okay. Does staff have an opinion as to how many acres of commercial needs to remain on Isles of Capri to satisfy the needs of the residents of Isles of Capri?

MR. BOSI: Staff has not performed an analysis. What I could tell you is within the Collier Interactive Growth Model for a neighborhood commercial shopping center, which is normally a 10-acre site or less, you need about 10,000 people. With only 1,000 people, you could infer that two to three acres of commercial would more than satisfy daily needs if it was allocated in terms of a goods and services type of a standpoint.

MR. YOVANOVICH: Just going through my list. I'm almost done.

CHAIRMAN FRYER: We're going to come up on 3:00, and we'll have a 10-minute break at that time.

MR. YOVANOVICH: Do you, as the planner who reviewed the rezone, have any basis to disagree that commercial is a significantly higher traffic generator than residential as we're proposing it?

MS. GUNDLACH: Well, according to our traffic analysis -- and I can refer you to our subject-matter expert that's here today, Mike Sawyer, but the staff report does say --

MR. YOvanovich: Didn't Transportation staff recommend approval?

MS. GUNDLACH: Yes, they did.

MR. YOvanovich: Didn't your environmental staff recommend approval?

MS. GUNDLACH: Yes, they did.

MR. YOvanovich: Your -- I think your emergency staff also had no objections to the project, correct?

MS. GUNDLACH: Correct.

MR. YOvanovich: Was there any professional on your staff other than planning that recommended denial of this project?

CHAIRMAN FRYER: If you know.

MS. GUNDLACH: Just Planning.

MR. YOvanovich: And that was on the basis of us not providing affordable housing to justify the increase in density, one, correct?

MR. BOSI: Yes.

MS. GUNDLACH: Yes.

MR. YOvanovich: Okay. And the height being at -- too far above 75 feet for staff to accept approval.

MS. GUNDLACH: Correct.

MR. YOvanovich: That's all I have.

CHAIRMAN FRYER: Thank you. Let's see. Anything from the Planning Commission at this time?

(No response.)

CHAIRMAN FRYER: Anything further from staff?

(No response.)

CHAIRMAN FRYER: If not -- well, it's 2:48. Let's take a 10-minute break right now and come back, and we'll start public comment. Be back here at 2:58.

(A brief recess was had from 2:48 p.m. to 2:58 p.m.)

CHAIRMAN FRYER: Ladies and gentlemen, please come back in session. Thank you.

And we're now into the public comment portion, and the Chair recognizes Mr. Brookes, who is counsel and will identify his client, please, as well as state your name, sir.

MR. BROOKES: Good afternoon. My name is Attorney Ralf Brookes. Today I represent SaveCapri.org. My address is on file with the -- with the sheet.

I have with me today an expert planner, Daryl Max Forgey. I'll give a few brief remarks on the legal standards that are applicable to today's hearing, I'll give a brief introduction of Max Forgey's background, and then he'll come up, and he'll have a short PowerPoint slide that walks you through some findings of fact.

CHAIRMAN FRYER: Thank you. Could you give us an approximate idea, not holding you to it, how many members there are of your client's organization?

MR. BROOKES: I'll have to have John Mueller tell you, but I know --

CHAIRMAN FRYER: All I want is ballpark. I don't need --

MR. BROOKES: A couple hundred.

CHAIRMAN FRYER: Okay. Thank you. Thank you. Please proceed.

MR. BROOKES: For questions about the organization and their activities, I'll defer those to John Mueller, as he has been the point person, and he is the president of the organization, and he is here today.

CHAIRMAN FRYER: Thank you.

MR. BROOKES: So today is interesting. As you have seen this sometimes before, you have a plan amendment, which is legislative, and you have a zoning, which is quasi-judicial.

Now, prior to 2011, the legislative plan amendment would have come first. You would

have decided the Comp Plan application. And, again, this is an application from one single property owner to change a Comp Plan that was adopted by all of Collier County. So you have Collier County and your community-based planning efforts, which include the Evaluation and Appraisal Report, the EAR report, that's done every seven years, and those are done with community workshops and participation that far exceed an applicant-generated plan amendment to change their one parcel and depart from the rest of Collier County's well thought-out and vetted Comprehensive Plan.

The small-scale nature of this plan amendment means it won't get any review at the State of Florida. Typically, you'll have a transmittal hearing, and you'll get an ORC report, objections, recommendations, and comments, and then they'll have an adoption hearing. You act as the local planning agency. You'll have one hearing, and the board will have one hearing, and they can adopt it, and then they'll send it up to Tallahassee, but it won't have the ORC review that a normal plan amendment would get.

And I point this out to you because it's important because this is legislative. When you adopted the Comp Plan, you were setting the rules of the road for the future, for the planning horizon of 30 years. Now one applicant is asking you to change those rules, change that plan, change what you had set out to do for the next 30 years because they want to do something that increases the value on their property that would unlock additional development potential that isn't currently there. In this case, height.

So when we set up the Comprehensive Plan, we looked at the Coastal Fringe area, we looked at the Coastal High Hazard Area. The state looks at those and says, you're not supposed to increase the residential density in the Coastal High Hazard Area particularly in these very low-lying exposed places like the Isles of Capri, Rookery Bay, parts of Marco Island. Those are the farthest to evacuate, the most vulnerable to Category 1, 2, 3 storms, not just Category 5.

So they're asking you to put people in harm's way by increasing the residential density in the Coastal High Hazard Area in the Coastal Fringe where your original plan was, well, we're not going to let you go more than four dwelling units an acre in this area because of these concerns, and that was your legislative obligation under the state statute is to not increase residential density until you have a level of service for hurricane evacuation. That's, like, 16 hours. I think you've heard from prior hearings, even in Naples One, which is much further up on the Vanderbilt Beach area, where there already are tons of high-rises. You know, there's many high-rises from the Ritz all the way up.

Isles of Capri is unique. It's not Marco Island, even. Marco Island has high-rises that line the beach. I've stayed in them myself with my family.

Isles of Capri is a low-rise community. It's a completely wholly different type of area than Marco Island. It's completely different than Vanderbilt Beach, than most all of Collier County. The examples that were shown to you were from other areas.

If you live on the Isles of Capri, you know it's low-rise. You know it's two, three stories. You don't expect to see a Marco Island condo tower put in the middle of your island.

So that's what makes this different. So as a legislative determination in the Comp Plan -- and all Comp Plan amendments are legislative since 1997. There was a case, *Martin County versus Yusem*, and they said it didn't matter whether it was small scale or big scale, large scale. All plan amendments are legislative. And you can approve them or deny them. You don't have the same quasi-judicial criteria for competent substantial evidence.

A legislative action like a plan amendment can be denied for any reason, any rational basis. You don't have to approve a Comp Plan amendment. Once you approve a Comp Plan amendment, it becomes another story for the rezoning, and I'll tell you that in a minute.

CHAIRMAN FRYER: Before you move on, Mr. Brookes, a question just to be sure I understand the point you're making.

MR. BROOKES: Sure.

CHAIRMAN FRYER: It has to do with the high hazards of being on the coast. And I

think common sense would indicate that people near the water are going to need to evacuate, and the more people you have needing to evacuate, the more potential there is for bottlenecks. Would that be a fair statement?

MR. BROOKES: That's correct.

CHAIRMAN FRYER: And is it also a fair statement that commercial uses, generally speaking, are not 24 hours a day and so, perhaps, for half the day you don't have anybody there at all, and if a hurricane were to hit, your density would be much lower than it would be if it hit during the daytime. So is that a fair statement?

MR. BROOKES: That's a fair statement. It's also that a residential -- a dwelling unit, people live there, they have to evacuate. If you're shopping at the 7-Eleven, it matters where you go home to. And when you go home to that, that's where you're evacuating from. And hotels are like a commercial use, pretty similar, but they have some things that are similar to the residential dwelling unit. The people are staying in them for a short period of time. They evacuate first, so they get the notice. The evacuation warnings come, and they say, please evacuate, and you might get 48 hours. But if your hurricane evacuation time is at 80 or 90 hours, that's going to be too late to get everybody out in time.

CHAIRMAN FRYER: So regulating density, restricting density in Coastal High Hazard Areas, is a public safety issue; would you agree?

MR. BROOKES: Yes, yes. That's why you have that four dwelling units per acre in your Coastal Fringe area and your Coastal High Hazard Area.

CHAIRMAN FRYER: Thank you.

MR. BROOKES: That's why the state has 163.31, I think it's --

CHAIRMAN FRYER: Seventy-seven.

MR. BROOKES: -- 87.

CHAIRMAN FRYER: Seventy-seven.

MR. BROOKES: There's one that's specific to the Coastal High Hazard Area, and it's 3178, I think it's 8A, and it says you're supposed to maintain your level of service for hurricane evacuation in Coastal High Hazard Area.

CHAIRMAN FRYER: Thank you.

MR. BROOKES: So you can say no to a plan amendment, and you can keep the existing designation. You can -- it's also strange in this one that they're asking to be treated specially. They want to have their own special Comp Plan district designation. That would be unlike anyone anywhere else in the county. They want it written just for them. And when we're doing a Comprehensive Plan, it should be just that, comprehensive. It should apply to the whole county. It shouldn't be done piecemeal. Piecemeal stuff is what you do when you're doing zoning, when you're looking at individual landowner applications. But if you're going to set the rules, set the rules for everybody, and set them so that they can be met.

So, again, a plan amendment, you're formulating the policy, and then the Land Development Code -- when you write the Land Development Code, it has to be consistent with the plan. That's also legislative if you're amending the code. If you're applying for a rezoning, then the Florida Supreme Court has set up another test under the case called *Snyder*. *Snyder -- Brevard County versus Snyder*. And that says, when you're considering the second thing that's coming before you today -- and it's unfortunate they're all mixed in and mashed together.

First, you have to see, is that rezoning application consistent with the Comp Plan and all the other requirements that are in your Land Development Code? And if it's not, if it's inconsistent with the Comp Plan, it must be denied. And that's what the Zoning staff has told you. Without a plan amendment, you cannot approve this project. Because it will be inconsistent, it must be denied.

But *Snyder* went further and it said, even if it is consistent with the Comp Plan, you can deny a rezoning if there's a legitimate public purpose for keeping the existing zoning on the property. You don't have to rezone property just because someone asks you. They could even

say it meets all the criteria in the code. You can still say, even though it's consistent, even though it meets all the criteria in the code, there's a legitimate public purpose to keep the existing zoning on the property, and you can deny it. And you can deny it for any legitimate public purpose. The Florida Supreme Court didn't say what that was, but it means something related to zoning, planning. It can't be for some clearly unconstitutional, discriminatory basis.

So what is competent substantial evidence? And that's what a zoning would look --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: So what would you suggest are the reasons to just say, hey, we're sitting legislatively, so we can say no for -- you know, we don't have to just do the analysis like you would for the -- to see if it -- you know, if it meets the compatibility or whatever. We can just say no for our own reasons for the GMP portion. So what is -- what are the legitimate reasons that you think exist?

MR. BROOKES: Our expert planner in his PowerPoint presentation will give you 10 findings of fact. Any one of those is sufficient to deny the plan amendment.

Where you want to deny this application, if you are going to deny it, is at the plan amendment stage. There is no Bert Harris Claim for a denial of a plan amendment. There's no reasonable investment-backed expectations that you are going to amend your plan, and you have the legislative authority to just say no.

If you start saying yes to the plan amendment, then you are going to have more trouble with the rezoning. It will be harder to say no to the rezoning. But you still can say no to the rezoning for a legitimate public purpose, which, again, might be some of those 10 that we're going to present to you today.

CHAIRMAN FRYER: For the benefit of the Planning Commission, my deliberator's working again, so please use your signaling devices.

MR. BROOKES: So what is competent substantial evidence? The Florida Supreme Court has written on that. In 1957, *DeGroot versus Sheffield*, they said, the evidence -- to be competent substantial evidence, it must be sufficiently relevant and material, something relevant and material, that a reasonable mind, which are all your minds there, would accept as adequate to support the conclusion reached. So anything that's relevant and material, adequate to support your denial or approval is competent substantial evidence.

Now, can a layperson, the people that are on Zoom, the people that will be coming up after us who are not experts, can their testimony count? As long as it's fact-based observations, then it can. Fact witness -- fact witness observation testimony from laypersons can include relevant facts and documentary evidence, photographs, aerials, zoning maps. All those can be considered their expectations when they purchase their property, what they see living on Capri, the tallness of the buildings, how they utilize their Isles of Capri. All these things you'll hear about.

I personally don't live there, so I would not give you any fact-based testimony on that. It's going to come from the people who do, and you are allowed to consider that. That's in the *Blumenthal* Case, Section 11 case. There's a number of cases that say lay person testimony can be used and upheld denials based on that.

Today you will also hear from an expert, Daryl Max Forgey. He will give you these 10 findings and explain his expert planning opinions. Now, Max is an AICP planner, American Institute of Certified Planners, which you've heard about. He's a former planner with the Southwest Florida Regional Planning Council, which doesn't do that much anymore, but when he was there in the '90s, they did a whole lot. So they reviewed all the plan amendments that came from all the counties in the Southwest Florida Region.

He was the Community Development director for Charlotte County sitting there guiding the Charlotte County Commission, the Charlotte County Planning Commission and the Board of County Commissioners. He was the deputy planning director for the City of Cape Coral. He's also served as -- in his capacity as a planner, senior planner, planning coordinator, planning

director for Lake County and then Clay County and Osceola County in his career, and he went to the Indiana University and has a master's in urban regional planning in Bloomington, Indiana, which is a renowned school for urban planning.

Max will go through his points. On the Comp Plan, if you look at the staff reports, we agree with the staff report recommendation for denial of the plan amendment for those reasons that are in the staff report. Max will explain. We also agree with the rezoning findings that are there, and Max will walk through some of those zoning criteria.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Is Max the one that's going to give those 10 reasons?

MR. BROOKES: Yes, and I'll hand them out to you in paper now, too.

COMMISSIONER KLUCIK: Great. And then I also had a question, if you could address it.

MR. BROOKES: Sure.

COMMISSIONER KLUCIK: Staff has said -- you've heard them say that with affordable housing, it would approve a much higher density, and it would approve around 100 feet build -- actual build height.

What -- you know, what's your response to that? Because I understand your point is you think that's -- for policy reasons and otherwise, you don't -- you and your parties, the residents there, don't want -- don't want that and would like us to disapprove it. But we have staff already basically saying -- I mean, you know, it's coming. There's going to be something offered at some point if things keep going the way they're going. There's going to be something offered by the petitioner, most likely, that's tall and dense, much taller and denser than, you know, you're saying you want. You want us to just flatly say no and keep it -- you know, keep it at three, I think is -- three or four density?

So I guess I would like you to address that.

MR. BROOKES: Sure. So there are some issues that arise from that. One is, you are here on the rezoning as quasi-judicial. You can't approve it. Staff says it can't be approved unless you amend the Comp Plan, which is legislative. The legislative proposal's not presented by staff. Staff is not saying you should amend your Comp Plan. They're saying you shouldn't, and you should say no.

So the application that's in front of you, if we're going to consider those two applications, it's for the applicant. They've prepared these, and they've submitted them. I think it's interesting that their attorney has said, their project is evolving, and then they call us and say we're changing strategy. I'm not here to barter --

COMMISSIONER KLUCIK: No, if you -- if you could, please, I have a very specific question.

MR. BROOKES: So 100 feet is still too tall.

COMMISSIONER KLUCIK: Right.

MR. BROOKES: And then there is -- and I must, with all candor, disclose this to you, that there is -- it says not only affordable housing; affordable housing or transferable development rights.

Now, transferable development rights are interesting because you can only transfer them in the Coastal High Hazard Area from other parcels in the Coastal High Hazard Area. You can't go borrow them inland and put them on the coast, so that's another key.

Affordable housing, by no means does this project, \$2 million starting, be affordable. Is it parcel that's available for affordable housing? Certainly in a commercial mixed-use environment, it's possible to put affordable housing there. So we're not going to put affordable housing in the middle of a rich island. Well, you know, we're in a rich area in Naples, and we're putting affordable housing in. And affordable housing is something we all want.

So I've seen no offer, and the applicant has not made you an offer for affordable housing. That's not really on the table --

COMMISSIONER KLUCIK: Well, I guess what I would point out to you is that it was the applicant in rebuttal that asked for and teased out of the staff that discussion. So I guess what I'm saying is -- and I think you're an observer of what happens in our chamber here, you know, over time. That, to me, is the most likely thing that I see coming out of this is we're going to have some modification of the current application, and he's already -- he's already pointed in the direction he has the staff that we -- you know, we as a board here, we respect, you know, the staff's opinion very highly -- let me finish -- and we see what's coming.

I think you should be -- you know, and I understand, you know, I'm asking you -- this is very recent, and maybe -- you know, you can't formulate some sort of an answer, but I don't know as you have -- you're going to have much time. I want to give you the time now to answer that, because I have a feeling that we're going to see something like that coming down the pike, and it's already on -- it's already an issue because it's already been on the table as a part of the discussion. So I just -- I mean, if you don't want to go into -- you know, address it directly, but I get it, but...

MR. BROOKES: I'll talk to you.

First of all, from a legal perspective, you do not have to give everything that the applicant is asking for in the plan amendment or the rezoning. You can approve a lower height, and you can approve a lesser number. That is within your recommendation ability, and it's within the County Commission's ability as a legislative and quasi-judicial.

CHAIRMAN FRYER: And, furthermore, I believe, that TDRs and affordable housing create an eligibility, but it is still discretionary with us and if, for public safety reasons, having to do with the location and the need for evacuation and the potential for traffic bottlenecks, we wouldn't need to grant it even if there were affordable housing. We might, but we wouldn't need to.

MR. BROOKES: Yeah. And what they're asking for is actually very, very drastic. They're allowed 16 dwelling units per acre base -- or, excuse me, four. So that would give them 16 dwelling units on this property according to the staff report, Page 7.

CHAIRMAN FRYER: Mr. Brookes, I'm going to ask Commissioner Fry and then Commissioner Vernon to make comments or questions.

COMMISSIONER FRY: Mr. Brookes, I just would like to know, would it be safe to say that the residents that are here that are part of the organization that you're representing should know that the property is zoned C-3 and that it might turn into commercial development? Do they understand that that might generate more traffic and attract people from outside than the project that's being proposed by the applicant? Should they reasonably understand that?

MR. BROOKES: Yes. I think they all do reasonably understand that, and that's been explained to them, and they understand that. Typically, there are some things that happen in these hearings that Max and I see, because we go -- have done these before. One is -- one is what we call the parade of horrors. If you deny this project, you're going to get something worse as of right. But this parcel has sat here vacant for a long time. The market is beginning to come around. I think something would happen on this property. But it really is a parade of horrors. We're going to parade all the horrible things that could come in front of you.

The other one is black box, black box technique. We're going to ask for this mixed-use approval, but we're not going to really show you a site plan. If you look at the master site plan in this case, you should see the little dotted lines that show you a buffer and no buildings. Then you see in the architectural rendering that shows three, four buildings. It doesn't say how many buildings there are going to be. It doesn't say where the buildings are going to be located.

They're asking you to approve a black box at the Planning Commission and then later, sometime down the road, they kick the can down the road, they'll come up with an actual site plan. But we're not going to be able to see where those buildings exactly are placed on the property. Sure, they say one's here with the two-story with the swimming pool, and they show a rendering that's showing three or four buildings, but show me in your ordinance and the attachments and the master site plan where any of that is shown. It's not shown.

COMMISSIONER FRY: One more question. Staff has said they could support the plan if it had lower density and lower heights. Was there any discussion within your organization about whether the residents would accept that and, if so, why was there no negotiation with the applicant?

MR. BROOKES: Yes. The main problems that my clients have with this property is too tall and too dense. Too tall -- drastically too tall. The nearest building, I think, is 50 feet, and they're talking to go 170. Fifty feet, maybe 20. So we're looking at, like, 70 feet near by. Too dense. We're looking at densities that far exceed the surrounding uses, and it just doesn't fit in.

So if they are going to put a residential project, we would like to see the height dramatically reduced. Not one-story, not two-story, but dramatically reduced back down to 70 feet or so, and we would like to see the densities kept in line.

It's hard to tell how many units they're going to have and how many buildings or whether they're going to have one massive building, which they could have, because there's nothing that says they have to have these separated into different buildings. It could be one linear structure. There's no footprint shown here, just the number of units and the height and then the 15-foot buffers. And normally they would -- if they go this high, they have to -- 50 percent, and they have -- have to meet that larger buffer distance requirement, as it was explained by staff, normally. So they're asking to part from that.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Yeah. Super quick question. I just noticed in cross-examination of Mr. Bosi, TDRs didn't come up, and I think you gave me the answer. I didn't want to disrupt that, but TDRs just don't apply here.

MR. BROOKES: So for a TDR program to work -- and I've implemented some in Monroe County and other places -- they actually have to be used. So you have to require people to use the TDRs, or no one's going to go buy them and create a market. We're actually using them.

So if you're going to give extra density here and you still want to have a TDR program, you should make them buy TDRs from the Coastal High Hazard Area and then utilize them to increase the density.

And if you keep giving people waivers and Comp Plan amendments and letting them have density that exceeds why the Comp Plan was set up -- the Comp Plan was set up to limit the density at four dwelling units per acre. And if you wanted more, you either did affordable housing or you got TDRs. But if you're not going to make them go get the TDRs, then they're not -- you're not creating a market for those TDRs, and no one's going to go use them.

So you have to -- you have to adopt a Comp Plan, and then you have to stick with the plan; otherwise, the scheme that's in your Comp Plan is going to fall apart. You can't just adopt a Comp Plan and then just change it every time an applicant says, well, that's too strict, we'd rather not do the Comp Plan, we want to do something different.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Mr. Brookes, the applicant has pointed out and staff has shown that this property is zoned by policy, so it's deemed compatible -- consistent by policy, and that, actually, they are correcting an error or I'll just say a situation where it really should be residential. This is what they're saying, and staff said there -- this has happened within the county where it really was -- is better to be residential. But it's consistent by policy, so they're actually doing a positive for the county by converting it to residential. Why does that argument not hold merit with you and your organization?

MR. BROOKES: Well, I think my organization is not opposed to residential here. This three towers stick out like a sore thumb in the middle of a low-rise community. It's just not right. Everyone knows that. That's why there's no one here that's a resident that's supporting it and why there's such community outrage. I mean, this is a very -- not only controversial. It's a hugely unpopular project because it's just too tall and too dense.

So it needs to be brought down, and we look to you to do that. You're the planning

commissioners. You're appointed for making recommendations on that. We would like to ask you to bring it back down to size.

The part about converting from commercial to residential, they can do that. The way the Comp Plan's set up right now, the problem is they only get one extra unit. So even though they're four, they're down to three, because they're in a Coastal High Hazard Area, and if they do the conversion because they were consistent by policy to take some of the commercial, go to residential, they just get one more unit per acre, so they're back up to the four units per acre, which gives them 16 -- 16 base units here.

And then without the affordable and without the TDRs, they don't get much more. I mean, they're -- with using what you're talking about, the consistent by policy commercial to residential, they get 21 dwelling units. So we're not opposed to using that policy and giving them 21 dwelling units. That would be fine. You could put 21 dwelling units within the 50-, 70-foot range. You wouldn't have to have four towers that are 170 feet apiece.

And, yeah, the condo effect is, I think, an interesting point the Chair brought up because, again, they don't show whether this is -- they didn't limit this to three buildings or one building or two buildings, and they don't show on the site plan how they will be configured and whether there will be any wind tunnels or canyons in the middle of those or how those buildings will be aligned, and some of them will shade many of the residential homes or will shade some portion of land. I don't know how many homes or what it's going to shade, but you can't tell unless you see how those buildings are put exactly down in the ground when their footprints aren't shown. That's the black box.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Are you saying that you think it would be better to have -- aesthetically, to have one big, large box than to have several towers?

MR. BROOKES: What I'm saying is --

COMMISSIONER KLUCIK: Assuming they're all the same height, do you think it would -- it's a very specific question, and it's, like, a yes or no answer.

MR. BROOKES: Yeah.

COMMISSIONER KLUCIK: Are you saying that you think it would be preferable for them to say we're going to have a big, long building, just one, versus having four buildings like they've shown, or --

MR. BROOKES: You're misunderstanding me. I am saying --

COMMISSIONER KLUCIK: Well, you were talking about canyonization. No, no, no, no, no. No, don't interrupt me, please.

MR. BROOKES: Okay.

COMMISSIONER KLUCIK: You talked about canyonization expressly. That was your specific point.

MR. BROOKES: Okay.

COMMISSIONER KLUCIK: And you made it seem like when you have several buildings, then you have canyonization, which I understand, that was kind of the point.

On this same small parcel, you could either have one long building, or you could have several small buildings. I happen to think that several -- several smaller buildings is more aesthetically pleasing.

But what you're saying is -- what you actually said is -- no, but what you said is, you mentioned canyonization, and then you talked about a lot of buildings. That's what you said, as if that would then be de facto canyonization. I think that's not a legitimate point, and I just wanted to stop you because that point doesn't make any sense.

Canyonization is when you have -- you have the growth of these tall buildings where then it creeps up and the whole road, then, is all tall buildings. So that's fine, you can answer the question.

MR. BROOKES: If I might ask staff, how many buildings are required under the

rezoning?

MR. BOSI: There are no specific requirements for any number of buildings. The PUD rezoning specifically has buffers. It has number of units allocated. It will have a height limitation. It does not have and we do not require a specific site plan that shows or limits the number of buildings. We only --

COMMISSIONER KLUCIK: So your point is they could do whatever -- whatever they want, and they could do one, just, large ugly building?

MR. BROOKES: They could do whatever they want. I can't answer your question because they won't say how many they're going to have.

COMMISSIONER KLUCIK: Okay.

MR. BROOKES: But as a lawyer for a local government, I would say -- have them tell you or put a condition on there that there must be -- if you want more buildings, say there must be at least three buildings rather than one large, long building. And that's a planning thing, not for a lawyer. So that would be up to the planners to decide what's a better approach.

Thank you so much. I'm going to stick around. Max is going to come up next.

CHAIRMAN FRYER: Thank you.

MR. FORGEY: Good afternoon.

CHAIRMAN FRYER: Mr. Brookes covered your credentials. So, without objection from the Planning Commission, I don't think we need to delve any further into that.

MR. FORGEY: Oh, I'll show you a slide for two seconds.

CHAIRMAN FRYER: Okay.

MR. FORGEY: My name is Max Forgey, doing business as Forgey Planning, LLC, 236 Southwest 45th Street, Cape Coral, Florida, 33904.

I am -- I'm here on behalf of the client group SaveCapri.org. It's a 501(c)3 corporation. John Mueller is the president; Ralf Brookes is the attorney. I want to say that I have found the clients there to be clear-eyed realists. I have not heard them get lachrymose over the quaint fishing village that they once lived in. I haven't heard that from them. I think they're pretty realistic.

I will briefly -- well, I'll -- I am going to concentrate on the Isles of Capri GMPA, which is the legislative action. I will spend relatively little time on the quasi-judicial in part because the clients will be addressing many facts of the case that they are better acquainted with than I am.

And I do want to add that Ralf and I have co-taught a unit on legislative and quasi-judicial land-use decision-making for professionals, both attorneys and planners. And regarding my qualifications, I will just say that I am a member in good standing of the American Institute of Certified Planners since 1993.

I will present 12 recommended findings, which I hope will guide your deliberations. In the matter of Case 9.A.1, the GMPA application is a request to amend the text of the Collier County Comprehensive Plan. The Planning Commission, acting in its capacity as Collier County's local planning agency, is under no obligation to amend the county's Comprehensive Plan. That's what Ralf told you. It is a legislative process.

Recommended Finding No. 2: Comprehensive plans and their amendments are legislative actions and must be supported by data and analysis just as Comprehensive Plans for the jurisdictions, such as Collier County, must be supported by data and analysis for the entire community. You have a Comprehensive Plan that specifically has a Future Land Use Map. I know you all know that.

The Planning Commission, planning board, acting in its capacity as the local planning agency, should recommend denial of Case 9.A.1 on the grounds that the application and its documentation contain insufficient persuasive data and analysis to justify an amendment to the county's Comprehensive Plan.

COMMISSIONER KLUCIK: Sir?

MR. FORGEY: Yes.

COMMISSIONER KLUCIK: On Items 1 and 2, then both of those, would you agree, are subjective determinations?

MR. FORGEY: In what way?

COMMISSIONER KLUCIK: Well, no obligation to amend, meaning that -- okay, fine, but subjectively, I can -- you know, we can choose to amend or not. It's our subjective determination.

MR. FORGEY: I am saying, Commissioner, that you are -- you are being presented with data and analysis. It is your job to weigh it, and I'm hoping that you will agree that we are presenting, as your staff has already, sufficient data and analysis to deny this application.

COMMISSIONER KLUCIK: Right. But they also have come out on record saying that they would approve something that was much denser than your team has -- desires and also is taller than your team desires. And all I'm saying -- so then it's -- it is somewhat subjective whether or not the data is persuasive.

MR. FORGEY: I --

COMMISSIONER KLUCIK: Persuasive in itself, yeah, is a subjective term.

MR. FORGEY: Persuasive is objective. You have to make a judgment, and that's your job, not ours.

COMMISSIONER KLUCIK: Well, whether or not -- but whether or not I make -- what judgment I make -- to say it's insufficient -- you're saying that -- I'm just -- I'm just -- you know, I think the point is made. It's -- you're saying that it's insufficient, and I'm just saying that that's a subjective determination. We can each make that determination. We look at the data. We look at it. We analyze it. We look at the analysis. We chew on it, and we decide. It's not an objective, you have to come down one way or the other; would you agree?

MR. BROOKES: Under the state statute, you have to react appropriately to the data and analysis is what the state statutory term is in 163.3177. That plan -- or a plan amendment is supported by data and analysis and that the local government reacted appropriately to that data and analysis, and that is subjective.

COMMISSIONER KLUCIK: It is your -- okay. That is subjective, okay.

MR. BROOKES: It's relatively subjective.

COMMISSIONER KLUCIK: Okay. Great. Thank you.

MR. FORGEY: Sorry for all the parsing.

Finding 3, according to Page 41 of the staff report, the applicant proposes to create a new subdistrict for the future land-use map to allow residential use on a large portion of Island No. 2, which is also sometimes called the business island. The application, therefore, proposes a use that is facially inconsistent with the Collier County Comprehensive Plan, which designates the subject property as commercial.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes. Go ahead, sir.

COMMISSIONER KLUCIK: Okay. Now, you're saying that, but then we've, you know, heard over and over again, and it seems to be that even staff agrees, that this ability to change it from commercial to residential is not facially inconsistent. That actually is anticipated and even encouraged.

MR. FORGEY: I'm in no way questioning the right of Collier County to amend their Comprehensive Plan based upon appropriate data and analysis.

COMMISSIONER KLUCIK: Okay. I'm trying to take each one of these seriously, and I'm probably going to do the same on each of them.

MR. FORGEY: Respectfully, I appreciate that.

COMMISSIONER KLUCIK: Yeah.

MR. FORGEY: Recommended Finding No. 4, the purpose of the Urban Coastal Fringe Subdistrict is to provide transitional densities between the conservation designated area and the remainder of the urban designated area. The proposed amendment would work contrary to the

intent of the UCF subdistrict by imposing high-density residential development in a location where none has been contemplated by the Collier County Comprehensive Plan and should be denied outright for that reason.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, sir.

COMMISSIONER KLUCIK: And I guess I would say, that last part of that sentence, "where none has been contemplated," I think my previous point says the opposite, that that has been contemplated. I do understand that there is an issue regarding densities, and our chairman has already pointed out -- I think, would go along with this point, that the high density causes, certainly something to be considered, which is the evacuation, and, you know, the impact on the area. But I would say I think it has been contemplated, and that would be where I would disagree.

MR. FORGEY: I will -- I understand that. Thank you.

Finding No. 5, as revealed in the staff report, the introduction of a gated development within a long-standing ungated existing neighborhood, such as Isles of Capri, might constitute an inconvenience to residents who would be required to travel farther for services and should be denied for that reason.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, sir.

COMMISSIONER KLUCIK: Okay. So here it's really a question, because I really would rather pose questions than assert my views. And I apologize if it seems like I'm doing that. Sometimes the questions kind of give away what my current view is.

But -- okay. So you have the inconvenience to residents. Is that because there wouldn't be commercial available there, or what is -- because what I see, the route of travel is -- right now you can't go on that land. So having it gated doesn't really change that, you know what I mean? The road -- the road doesn't -- the road pattern that people are going to follow isn't going to change. Is it that there's not going to be commercial available there, which is the source of the inconvenience?

MR. FORGEY: Well, certainly, it has something to do with the availability to use those facilities, which was a matter discussed earlier. This is a -- the proposal is to impose a gated community where none existed before in a well-established community. That's kind of the whole point there.

COMMISSIONER KLUCIK: And what is the land used for now or what has it been used for over the last 20 years?

MR. FORGEY: I believe it has been used for vacant -- used as vacant.

COMMISSIONER KLUCIK: Okay. So it's not really not -- yeah, so it's not really available to the community. It's private land that people can't use.

MR. FORGEY: There's a loss of potential commercial land which has been raised.

COMMISSIONER KLUCIK: Okay. And I certainly understand that, that that could provide goods and services to the people on the island which won't be there if it converts to residential.

MR. FORGEY: If I can interject, I actually do appreciate the questioning, because sometimes we don't get asked at all when we're trying to do this.

So, No. 6, the introduction of a private club which might offer commercial services to the exclusion of neighboring residents would constitute an incompatibility of use as defined in Florida Statutes Section 163.3164(9). And I'd like to read this definition even though I think you've already heard it in today's hearing. Compatibility means a condition in which land uses or conditions can coexist in relative proximity to each other in a stable fashion over time such that no use or condition is unduly negatively impacted directly or indirectly by another use or condition.

And we heard it said that we have to -- Mr. Arnold, in fact, said that we have to listen to the history of the island, but I think we also need to listen to the present, how this island exists now, what their economy is, what the residential neighborhood is. And I suggest that it is -- what they

are proposing is incompatible. I think this is -- the greater incompatibility is the building height. But this is an incompatibility as well.

I'm going now to Finding 7. As revealed in the staff report for Case 9.A.1, the existing commercial zoning does not allow new residential development and would allow as many as 16 units if rezoned to mixed-use. There's insufficient data and analysis to justify the proposed residential development on the subject property, and the application should be denied.

Finding No. 8, the subject property has a well-established commercial entitlement with an exceptionally broad palette of allowable uses. The use proposed will exacerbate traffic, especially during times of evacuation, and would provide no public benefits as articulated in the Comprehensive Plan or contained in the staff analysis. I take note that there was -- two public benefits have been proffered. And for these reasons, the application for FLUM amendment should be denied outright.

COMMISSIONER KLUCIK: Mr. Chair?

CHAIRMAN FRYER: Go ahead, sir.

COMMISSIONER KLUCIK: Just to the point of traffic. At all times, except when there's an emergency that requires evacuation, it will lower traffic. I mean, so this is partially true, but there's actually an important flip side that's absent here, which is, in fact, another benefit, it seems, compared to the use that the applicant, you know, has explained to us they could do, which seems like a --

MR. FORGEY: I won't stipulate that that is a benefit, but I will stipulate that ordinarily when you're talking about traffic, you're talking about peak morning, peak afternoon, and the like, but the deepest concern that my clients have expressed is their concern with evacuation, and I think for good reason, considering where they live.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: I would just point out that we don't necessarily know what might be developed there if it goes commercial. It won't necessarily be to the full extent as presented by the applicant. So the traffic counts may not be that radically different as have been proposed. Meaning, if they're saying this number of trips for the project they've got and they develop three-quarters or half of the commercial that could be there, the traffic counts -- we do not know that they are double based on their presentation because that is not based on anything that actually is known to be capable of being built there.

MR. FORGEY: Outstanding point.

Finding No. 9 -- and this goes to what Ms. Gundlach spoke of being out of scale and particularly relates to the Coastal High Hazard Area.

The staff report correctly identifies that the Urban Coastal Fringe Subdistrict is a subdistrict in the Urban Mixed-Use District; however, as noted above, the base density is four dwelling units per acre. The proposed 108 multifamily high-rise dwellings are not compatible with the mix of uses that currently are approved, end quote. The 108 proposed multifamily units are incompatible in density with the neighboring uses as defined by Section 163.3164(9) and should be denied outright.

Finding No. 10, Mr. Bosi used the term "anomaly." I would use the term "egregious." The staff report correctly stated that, quote, the proposed height of 168 feet is higher than the existing surrounding buildings and that the highest buildings in the Isles of Capri is approximately 75 feet and is located at the southern end of Island 4 in La Peninsula. This is a profound incompatibility with neighboring uses and should be denied outright for that reason.

The -- I'll -- that's No. 10. I have two more.

Number 11, in addition to density and building height, the staff report identified other incompatibilities. Quote, the project site neither contains existing nor planned public facilities concentrated in the project area that would help to support higher density, closed quote. Based upon the lack of existing and planned public facilities concentrated in the project area, the application for amendment to the Comprehensive Plan should be denied outright.

Now we come to my last --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER KLUCIK: I guess I'm just -- I'm trying to figure out -- I mean, I don't deny the staff report said that. I'm just trying to figure out the import as a basis to -- you know, to say no to the project. What -- why -- if there's no planned public facilities concentrated in a project area that supports higher density, why is that a basis in and of itself to say we're going to say no?

MR. FORGEY: You would have a justification for saying no if you were to find that the lack of anticipated services would inure to the harm of the existing residents or to the future residents.

COMMISSIONER KLUCIK: Okay.

MR. FORGEY: My last finding: Number 12, based upon the preponderance of data and analysis presented to the local agency, including the staff report, and the data and analysis introduced by SaveCapri.org and -- which you will hear from my clients and their neighbors, we ask that you recommend to the Board of County Commissioners the denial of Isles of Capri, Case 9.A --

CHAIRMAN FRYER: One.

MR. FORGEY: -- 1. You will hear more about the Coastal High Hazard Area, evacuation, traffic, the importance of continuing existing and, you know, future commercial activity, and the impact of height on the view shed and the enjoyment and use of these good people's properties from them.

This is a spot Future Land Use Element. It is a spot zone because it is such an egregious difference in use from what is around them and an egregious difference in intensity and density of use. It is the wrong plan, the wrong density and intensity. Your staff has provided you with sufficient data and analysis to deny, and I urge you to do so.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: I guess what I would say at this point, I find Points 7, 8 and 9 and 10 somewhat persuasive for the unedited plan as proposed. Obviously, we wait until we hear all the evidence and we hear the rebuttal, and then we do our deliberation.

And I thank you for making the points, but I also, you know, know that, you know, we're probably talking about something that might get amended, but, you know, as proposed, I think 7, 8, 9 and 10, some of the contents within those I find persuasive to the argument you're making.

MR. FORGEY: Thank you. It's that dialectic that makes this process worthwhile.

CHAIRMAN FRYER: Thank you.

MR. FORGEY: Thank you.

CHAIRMAN FRYER: Next registered speaker, please?

MR. YOVANOVICH: Whoa, whoa, whoa.

CHAIRMAN FRYER: You want to cross now?

MR. YOVANOVICH: Yes, I do.

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: Just a couple of points, Mr. Forgey.

MR. FORGEY: Yes.

MR. YOVANOVICH: I did read all of your conclusions. I didn't really see any testimony regarding how you reached those conclusions, so I really can't -- I can't really ask in-depth questions.

But I do want to -- I do want to talk a little bit about the PUD amendment process and one of the statements that the lawyer made regarding PUD -- I'm sorry -- GMP amendments are to be countywide. You would agree with me that there is a statutory process to do Small-Scale Growth Management Plan amendments, correct?

MR. FORGEY: I will agree, but I wish to extend.

MR. YOVANOVICH: Well, your lawyer can come up and ask you. But you would agree that there is a process to do a Small-Scale Growth Management Plan amendment?

MR. FORGEY: Yes.

MR. YOVANOVICH: And you will agree that a Small-Scale Growth Management Plan amendment is limited to a maximum size of 50 acres, correct?

MR. FORGEY: I don't think so. I thought it's 100.

CHAIRMAN FRYER: It's 50.

MR. FORGEY: Is it?

CHAIRMAN FRYER: Yep.

MR. FORGEY: Okay.

MR. YOVANOVICH: Okay. Now you would agree with me that Collier County is larger than 50 acres, correct?

MR. FORGEY: Yes.

MR. YOVANOVICH: So you would agree with me that it's not possible to do a Small-Scale Growth Management Plan amendment that applies countywide, correct?

MR. FORGEY: Yes. Yes.

MR. YOVANOVICH: Okay. Now, you made some statements like "this is a gated community." Did you hear the earlier testimony that this is not a gated community?

MR. FORGEY: I did not.

MR. YOVANOVICH: Okay. Did you review or look at any of the site plan materials we presented during our case in chief?

MR. FORGEY: I did.

MR. YOVANOVICH: And did you see that there are no gates at either entrance of the project as the road loops around?

MR. FORGEY: I don't remember taking note.

MR. YOVANOVICH: Well, I can put the master plan back up if you need me to.

MR. FORGEY: I don't need it.

MR. YOVANOVICH: Now, you are not an expert in hurricane evacuation, are you?

MR. FORGEY: I am not.

MR. YOVANOVICH: Now, did you see Dan -- do you know who Dan Summers is?

MR. FORGEY: Dan Summers?

MR. YOVANOVICH: Yes.

MR. FORGEY: I don't know Dan Summers.

MR. YOVANOVICH: Dan Summers is our emergency management, I think, director or -- for Collier County.

MR. FORGEY: I'm sure we'll meet some day.

MR. YOVANOVICH: Would you agree that Mr. Summers is the more appropriate person to determine whether or not there are evacuation issues related to our proposed project?

MR. FORGEY: I don't have an opinion on that.

MR. YOVANOVICH: You don't have an opinion. Do you have an opinion to believe that he's not competent to make those recommendations?

MR. FORGEY: I do not assume because a person has a title that they have knowledge commensurate with that assumption. I also do not assume otherwise.

MR. YOVANOVICH: Did you read the staff report and the PUD that addressed emergency management provisions related to the increase in residential density?

MR. FORGEY: Yes.

MR. YOVANOVICH: Do you have any reason to believe that Mr. Summers did not properly address the increase in density requested within the Coastal High Hazard Area?

MR. FORGEY: No reason either way.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Mr. Yovanovich, can you just remind me what exactly was that finding?

MR. YOYANOVICH: If you recall, Ms. Gundlach said that Emergency Management Department did recommend approval of our proposed project, and within the PUD we are to provide a one-time developer's contribution of one 45-kilowatt minimum towable generator per Emergency Management specifications to be delivered to the county at the first CO. That's Page 811 of your packet.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: And the -- just to ask you, Rich, as you represent, that emergency analysis included an evacuation analysis?

MR. YOYANOVICH: Yes. We are required to coordinate with Mr. Summers and seek his guidance in what is appropriate mitigation, and we did that.

COMMISSIONER VERNON: But the emergency analysis Summers did in conjunction with you addressed evacuation procedures?

MR. YOYANOVICH: Yes, and he determined that a generator is what is necessary.

Mr. Forgey, are you aware of the state statute Mr. Brookes referenced, 163.3178, entitled "Coastal Management"?

MR. FORGEY: I've read it, yes.

MR. YOYANOVICH: Are you aware that it actually says you can, in fact, amend the Growth Management Plan to increase density as long as you provide appropriate mitigation?

MR. FORGEY: Yes.

MR. YOYANOVICH: Okay. And, therefore, your testimony about increasing density as being inconsistent with the Growth Management Plan is factually incorrect since Mr. Summers said the appropriate mitigation was to provide the generator?

MR. FORGEY: I don't know where to start there. It does not mean that -- I'm just not -- I don't know what to say about that. Why don't you -- please ask the question.

MR. YOYANOVICH: Let's go back to your original -- I asked you the question, are you actually an expert in emergency management evacuation, and you said no, correct?

MR. FORGEY: No.

MR. YOYANOVICH: I'll just leave it at that.

MR. FORGEY: Okay.

MR. YOYANOVICH: Do you have any reason to believe that [sic] Mr. Bosi's testimony that our requested density is, in fact, compatible with the density on that portion of Isles of Capri?

MR. FORGEY: I defer to staff.

MR. YOYANOVICH: Do you have any reason to dispute Mr. Bosi's testimony that there is a height greater than 100 feet zoned [sic] and less than 168 feet zoned that would be compatible with the Isles of Capri?

MR. FORGEY: I defer to staff on that. This is more than a couple of questions, Counselor.

MR. YOYANOVICH: Do you need a break? I mean, I've just got a few more. I mean, if you're --

MR. FORGEY: A few more.

MR. YOYANOVICH: I mean, we can take a break. Mr. Chairman, if he needs a break, I don't want to --

CHAIRMAN FRYER: Let's continue.

COMMISSIONER FRY: Rich, I just want to clarify. I'm sorry. I thought Mr. Bosi said somewhere above the zoned height of 75.

MR. YOYANOVICH: And we talked about the actual height really --

COMMISSIONER FRY: But you said zoned height of 100.

MR. YOYANOVICH: No, I said actual height. If you thought I said "zoned," I said

"actual."

COMMISSIONER FRY: You said "zoned."

COMMISSIONER KLUCIK: No, you just said "zoned."

MR. YOVANOVICH: I apologize. I meant actual.

COMMISSIONER FRY: That's correct.

MR. YOVANOVICH: My head said "actual." If the words were "zoned," I apologize.
And it was 75 feet zoned, about 100 feet actual.

CHAIRMAN FRYER: Let's try to speak one at a time, please.

MR. YOVANOVICH: I apologize.

I'm trying to quickly go through his recommendations, because these are the first time I'm seeing these.

I'll deal with the rest through rebuttal.

CHAIRMAN FRYER: Thank you.

MR. BROOKES: A couple questions.

MR. FORGEY: Of course.

MR. BROOKES: Max, is it your understanding that the current hurricane evacuation time for Collier County out of county and to shelter is over 80 hours?

MR. FORGEY: It's my understanding, yes.

MR. BROOKES: How does providing a generator reduce that evacuation level of service time out of county?

MR. FORGEY: That's what I was thinking. I don't -- I'm not sure what a generator does to accelerate evacuation.

MR. BROOKES: No further questions.

MR. FORGEY: And that's often something that planners talk about.

MR. BROOKES: No further questions.

MR. YOVANOVICH: Just one follow-up.

Mr. Forgey? Mr. Forgey? Isn't the test whether or not the generator mitigates for the increase in density requested?

MR. FORGEY: Yes.

MR. YOVANOVICH: Thank you.

MR. FORGEY: But they have to decide whether that is sufficient.

MR. YOVANOVICH: And that was Mr. Summers' job, correct?

MR. FORGEY: At this point it's theirs (indicating).

MR. FORGEY: Okay.

CHAIRMAN FRYER: All right. I think we're ready for our next registered speaker, Mr. Youngblood.

MR. YOUNGBLOOD: Mr. Chairman, before we get to that, Commissioner Schmitt has joined us via telephone. Do we need to have a vote to allow him to participate remotely?

CHAIRMAN FRYER: We do, and my recommendation would be that we allow it, because this is an extraordinary circumstance. He's --

COMMISSIONER FRY: So moved.

COMMISSIONER VERNON: Second.

COMMISSIONER KLUCIK: Second.

CHAIRMAN FRYER: Further discussion?

(No response.)

CHAIRMAN FRYER: All those in favor, say aye?

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Welcome back, Mr. Schmitt.

COMMISSIONER SCHMITT: Yeah, Mr. Chairman. I've been listening for quite a while. Thank you, Mr. Youngblood, for allowing me to unmute and at least have any questions. Thanks.

(Mr. Schmitt is now present via telephone.)

CHAIRMAN FRYER: Thank you.

MR. YOUNGBLOOD: All right. Our next speaker is going to be Mike Cox. Mr. Cox has been ceded time by five other speakers. If you could, please, if you're in the room, just please raise your hand. Let us know you're here.

Tracy Carmignani?

CHAIRMAN FRYER: Raise your hand, please.

MR. YOUNGBLOOD: Joan Coyne?

(Raises hand.)

MR. YOUNGBLOOD: All righty.

(Raises hand.)

MR. YOUNGBLOOD: Did Tracy raise her hand?

CHAIRMAN FRYER: I didn't see the first hand. May I see it again?

MR. YOUNGBLOOD: Tracy Carmignani? Am I pronouncing that right?

(No response.)

MR. YOUNGBLOOD: I don't see Tracy.

CHAIRMAN FRYER: I don't see a hand there.

MR. YOUNGBLOOD: Jeffrey Oh.

(Raises hand.)

MR. YOUNGBLOOD: Lori Champ -- I'm going to butcher this one. Champelovier?

CHAIRMAN FRYER: Hand, please.

MR. YOUNGBLOOD: Lori?

(No response.)

MR. YOUNGBLOOD: Okay.

UNIDENTIFIED FEMALE VOICE: She's not here.

MR. YOUNGBLOOD: Gary Goetzelman?

(Raises hand.)

MR. YOUNGBLOOD: All right. That's -- those are all the folks that have ceded time to Mr. Cox.

CHAIRMAN FRYER: Okay. That's an additional 15 minutes on top of your five.

MR. COX: It should be fine.

CHAIRMAN FRYER: Okay.

MR. COX: This is going to take a little longer than I -- a little longer than I originally thought.

COMMISSIONER SCHMITT: Mr. Chairman?

CHAIRMAN FRYER: Yes. Go ahead, Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. I do have a question in regards to Mr. Yovanovich in a follow-up to the issues about hurricane evacuation. Considering the -- this product and the likelihood of what is the estimated occupancy for this type of product typical in Collier County of high-end homes, typically second homes, what is the occupancy during hurricane season, and is it an issue that Mr. Summers was worried about?

MR. YOVANOVICH: I came in too late.

COMMISSIONER VERNON: Go ahead. Answer the question, Rich.

MR. YOVANOVICH: Was is for me?

CHAIRMAN FRYER: Commissioner Schmitt, please repeat the question because Mr. Yovanovich was indisposed.

COMMISSIONER SCHMITT: Yeah. I was just asking Mr. Yovanovich, if he had -- or his team had done any evaluation of what is typical of the occupancy rate during hurricane season of this type of product considered -- it's a high-end product typically would market the second home. So what is the occupancy rate, and was Mr. Summers concerned or did he address any concern about if it's 50 or 40 percent occupancy rate? Was there any real concern about the evacuation?

MR. YOVANOVICH: When we met with Mr. Summers, because it's basically second, third, fourth homes for these people and they're not here in the summer, that his belief was there will be minimal people in the residence during the -- during the hurricane season, and that is why his thought was -- and if you noticed, it was a mobile generator, because that was going to help for other areas of Collier County where people did remain during hurricane season.

CHAIRMAN FRYER: Anything further, Commissioner Schmitt?

COMMISSIONER SCHMITT: Yeah. And, typically, the mobile -- no. And, typically, the mobile generators are to power lift stations in case the power goes out.

But, thank you, Rich. I appreciate it. Thanks.

CHAIRMAN FRYER: Mr. Bosi.

MR. BOSI: And I just wanted to add, the slide I put on earlier about population, this does have a -- Isles of Capri has a 42 percent vacancy rate within all structures currently within the isles. So I imagine this would be somewhat in alignment with that 42 percent, if not higher, from a vacancy standpoint.

CHAIRMAN FRYER: Thank you.

All right. Sir, go right ahead. You have 20 minutes.

MR. COX: Well, good afternoon, Collier County Planning Commissioners. My name is Mike Cox. I'm here to represent SaveCapri.org and all of Isles of Capri.

I'm not a professional. I'm not an attorney, so in laymen terms I'm going to try to field a few things that have come up so far. The first thing that was talked about was the food truck park. And in talking with many, many, many residents on Isles of Capri about this issue, it was kind of divided. It was almost, like, half of the people wanted the food truck park and the other half, of course, did not. The ones closer to it were the ones that objected the most. And it wasn't about traffic. It was about noise. It was their -- their thoughts and my thoughts as well, they're going to have a big band out there, they're going to be playing music all night long.

The way it started and the way it ended up was totally different.

And Mr. Yovanovich, thank you for helping us with that issue.

MR. YOVANOVICH: I used to be his friend.

MR. COX: I think the underlying initiative there was that if they can get this thing to go through, they're going to buy that property and put up seven more high-rise condos.

Next comment is the traffic study. We talked about that quite a bit already. The traffic study was done -- that I saw was on May the 19th of 2022. That is totally out of season. I mean, people start leaving in March. Everybody's gone by Easter. Easter was practically a month before they did this traffic study, so we're talking about totally out of the season traffic study.

The two culverts that they talked about to open up our bays, definitely those are needed. We have a culvert committee on Isles of Capri. They are in touch with different grant monies that are available for this. So we feel pretty confident that we're going to get our culverts without any help from FCC.

As far as the sewer line goes, what we were told by the Marco Sewer Department was that not only them, but no utility company would put in a line that would just handle what they see in front of them at that time. They're always going to go -- we know we're going to have to eventually go to sewer system, so they would not let them put in a line any smaller than one large enough to do all of Isles of Capri.

Okay. Foliage up to 15 feet. That's what they showed on one of their slides.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: So your point there is it's not magnanimity. It still benefits the community, but it's not because they're being generous?

MR. COX: That's right.

COMMISSIONER KLUCIK: Okay. But it still -- it still benefits the community, great benefit to the community?

MR. COX: Absolutely.

COMMISSIONER KLUCIK: Thank you.

MR. COX: Yep. Foliage up to 15 feet is about 10 percent of the building that you're going to cover with foliage. And to think that you don't see those 170-foot buildings because you're looking down at the ground, I don't -- I don't believe that at all. I think that your peripheral vision is always going to see those tall buildings.

From where my house is, it's -- a lot of it's glass on the back side that faces the water. We're directly across from Fiddler's boat barn, so I'm going to be looking -- if this thing goes through, I'll be looking at those all the time, all the time.

In the afternoon, I'm going to be in the shade of those, okay. The Tarpon Marina right now, Fiddler's Creek's boat barn, I've never kept my boat there. I've had several people tell me that if you're not a resident of Fiddler's Creek's that, yes, they have an availability; you can put your boat in there. When it started, they said no; it had to be Fiddler's Creek's only. They went about a year like that, and then they opened it up to everybody, because they didn't have near enough people in there to support it.

So it starts filling up. It's filled up to capacity. Very seldom is there an extra slip available or an extra storage space in the barn available. What I've been told is that if you're not a resident of Fiddler's Creek, when your lease expires, that you do not have the opportunity to renew it if they have a Fiddler's Creek resident that wants that slot.

Talk about tallest buildings within 1,000 feet or 2,000 feet. It's the boat barn. There's nothing else that's even close to that height. Fifty feet-plus, you know, that's the permitted. The actual is about 85 feet on that building when you count the clock tower, and it is huge. It's like an elephant in the room compared to everything else around it.

This little piece of property they found that's across the street -- I can point to it when we get to another slide -- they said that was zoned for 75 feet, I believe. For the last 60 years, I guarantee you there has not been a building on that property that's more than 25 feet. We've never seen anything above 25 feet anywhere within a quarter mile of this property. Actually, I do -- I do remember one three-story house that's 35 feet that's within a quarter mile.

But that kind of goes back to lot size. Our lots are typically 60 or 70 foot wide, 100 foot long. So you almost have to build a two-story house now in order to have a garage. The garage becomes the first floor. You need a second floor -- if you have a 70-by-100, you could probably get three bedrooms in on the second floor plus your kitchen and living area. If you have a 60-by-90, you're probably going to have to put on the third story in order to get extra bedrooms in if you want a three-bedroom home. So lot size kind of dictates that.

What's the cost to join the club? I asked that in the first NIMs meeting. Got no answer. So, Rick [sic], what's it cost to join this club?

CHAIRMAN FRYER: Sir, you have to address your comments to us.

MR. COX: Oh, I'm sorry.

CHAIRMAN FRYER: That's all right.

MR. COX: So do you -- does anybody on the committee, does anybody know what it costs to join the club?

CHAIRMAN FRYER: That's a rhetorical question. We're not going to answer your question, sir. It's not our role.

MR. COX: Okay. Talked about the auction for the property, the adjoining property. It was announced in the *Tele* that there was going to be an auction. I can't tell you for sure if that

auction ever really happened. I've heard so many different stories about this auction thing. We had no idea that that auction was -- that that land could be auctioned off as high-density residential. No idea. I don't know of anybody that knew that.

Okay. The biggest objection from the residents on Isles of Capri is the height of the buildings. We were asked at one point, what would you like to see there? Well, of course, I think the first answer for anybody would be, let's build Backwater Nick's back in there and a marina and open it up to everybody.

What's more feasible for the developer would be if he did what he told his residents of Fiddler's Creek he was going to do, and that's build this thing pretty much like it is right now without the towers.

CHAIRMAN FRYER: Mr. Cox, just to alert you, you've got 10 more minutes.

MR. COX: Okay, that's good.

All right. Let's get into the presentation. This is the way people see -- people see this applicant's proposal is like this. That's not the way they like to show it. The first rendering we had of three buildings was three buildings lined up where you could only see one of them. Since then we've seen a little better but not that much. This is the way I see this project. They actually have three acres to squeeze in all of this stuff, and it just doesn't fit. I mean, staff said you need 10 acres for this project, and they're trying to do it in three, so...

Here's just a short history of Isles of Capri. Some of this has already been covered. Six hundred acres in 1956. This is four of the 10,000 acres. They were bridged together with dredging. This 1959 picture -- and in 1959, by the way, this island, this second island, as you come in, had no number on it. It's called, on the 1959 maps, the business island.

So the first island is called Business 3, the business island, Island 2, Island 1 is the one that's on the Marco River.

So this is the house my parents had built in 1982 directly across the bay from the boat barn. Right next to it you'll see a yellow structure. That's the house that I built in 2017. So I was lucky enough to be on a 70-foot-wide lot, so I only needed two stories to get in a three-bedroom house there.

This is -- we talked about the boat barn and the 1.2 acres that it took up over on the other side of Capri Boulevard. Along with that, in this red area you will see their parking lot for the boat barn. You have to provide parking. They had 48 slips, probably more than they needed, but 48 slips of parking, and then the retention pond that goes along with that.

So when you take those and you put those together, you know, that leaves you about three acres. You're trying to squeeze this thing into three acres. It's like trying to put 15 pounds of nails into a five-pound bag.

The yellow area -- yellow arrow out here represents where -- our condominiums that are over 25 feet on Isles of Capri. It's clear out on the southwest corner. That's where Twin Dolphins is. Actual height, about 95 feet; Marco Towers, actual height about 75 feet; La Peninsula is out there, a little less in height.

The reason I put this slide in, actually, the red arrow is where the petitioner plans to build these towers. Our biggest fear is that if he were to get a permit to do this, that, okay, he puts up three towers. Well, 4, 5, 6, 7, 8 will fit right down there. If he wants to scrape the boat barn, there's 12. He could buy a couple of lots over here and do 13. And then -- that's just on the business island. There's a couple of empty lots out here. You could buy a house on each side. I mean, what -- kind of what we're seeing is that it only takes an acre to put up one of these huge condominiums. If that's the case, you can put up a whole lot of them.

Okay. So staff says not in harmony with the neighborhood. I agree 100 percent. Interferes with the rights of the owners or other surrounding properties. There is nothing surrounding this property other than their boat barn that's above 30 feet. I mean, most of it is, like, 15 feet.

They talked about Tarpon Village. Tarpon Village is a two-story condominium complex

with a peaked roof, 8-foot ceilings. So you're talking 25 feet. That's the total height, actual height of that building, 25 feet, and that's one of the taller ones.

There's a couple of more in the shadow of this thing that are two-story condominiums, and they're 20 feet, because they have flat roofs. They don't have a peaked roof.

Okay. The buffer zone, I think it actually goes out a little further than this because I think that the dock area on the boat barn should be counted as their property, so that would push me 500 feet further south with this.

COMMISSIONER KLUCIK: What is it that you want to include?

MR. COX: Pardon?

COMMISSIONER KLUCIK: What is it that you want to include?

MR. COX: I think that this circle could go a little further south.

COMMISSIONER KLUCIK: What circle? Oh, this --

MR. COX: Well, it's not really a circle. This octagon, or whatever it turned out to be, could go a little further south, because you see the boat docks here --

COMMISSIONER KLUCIK: I can see --

CHAIRMAN FRYER: You need to be on mic, too, sir.

MR. COX: -- boat docks that are south of the marina I think is their property. It's a little thing. We don't really need to talk about this, I don't think.

But what we have within the buffer zone here, as it's shown here, is -- whoops. That's a number I didn't fill in. I forgot to put that number in there. I handed off my thumbnail [sic] a little too early.

But there's a good number of one-story and two-story structures in there. There's four one-story restaurants. There's a fruit stand, real estate office, fire station, church, a few other things.

This one, our biggest fear here is that if this gets approved or anything similar to this, that this whole business island is going to go condo, and then we're looking at something that we really don't want.

So this is the first time we've got a real overhead view of this project was with their landscape plan. You'll see Building 1 is only half the size of 2 and 3. So is it really three buildings, or is it five? I guess it doesn't make much difference, but we're still trying to put an awful lot of buildings into a very small area.

CHAIRMAN FRYER: Two minutes, sir.

MR. COX: Yes.

CHAIRMAN FRYER: Two minutes.

MR. COX: Okay. So we know about their private members only. We know about Tin City or anything else that could be built in there.

So here's our condos out on the southwest corner. Three of those, as I mentioned before, Marco Towers, Twin Dolphins. So has the developer ever considered building out there? That was -- we talk about planned land use. That's where it was planned to have condominiums over two stories was in this -- this area right there.

So the fact is that 368 condo towers [sic] do not fit in this area and would most certainly change the character of our neighborhood. Three becomes nine. That's our fear that if these three are offered in whatever scale they're offered, that that's just going to start duplicating like rabbits on the rest of this property that's available for sale right now.

So I'm going to skip the story about Alligator Alley and the manatees.

So we need the help of Collier County to protect our neighborhood, our marine life, and wildlife. Please say no to dredging and rezoning.

CHAIRMAN FRYER: Thank you. Commissioner Fry.

COMMISSIONER FRY: Mr. Cox.

MR. COX: Yes.

COMMISSIONER FRY: Thank you for your presentation. I thought you presented a lot

of useful information there. I appreciate it.

Speaking as a resident -- and I'm only -- I'm really asking you on the sake of your -- on behalf of your own interests. You know, this is zoned now for C-3, and as the applicant presented, it could be up to 80,000 square feet of commercial. They mentioned a likeness like to a Tin City. If this was not approved, the applicant has stated that would force them to move in that direction.

MR. COX: Yes.

COMMISSIONER FRY: In your opinion, is that a better -- would you accept that alternative as a superior alternative to what they are proposing?

MR. COX: Much, much better.

COMMISSIONER FRY: Even though it would -- if built out fully, like they said, it might create double the traffic and have a lot of people visiting your island that are not currently?

MR. COX: I'd like to see some real proof on commercial versus residential, especially when it's on a two-mile two-lane asphalt road that's the only road in and out of the area. I don't -- I don't buy into all this -- I mean, if they build this thing, there's, like, 250 cars right there. We'll never have 250 cars that come from the outside of the island.

COMMISSIONER FRY: I think the salient point here is that they could build under the C-3 designation without coming before us. So they wouldn't have to come -- they'd have to get their --

MR. COX: Right.

COMMISSIONER FRY: -- you know, their PUD approved, but they wouldn't have to come to us.

MR. COX: Right.

COMMISSIONER FRY: So this is our opportunity to review and weigh in on it. So I just -- so you -- even though you may not believe the traffic is exactly what they're saying, you would prefer the C-3 commercial alternative to what they're proposing?

MR. COX: Absolutely.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you. Thank you very much, sir.

MR. COX: Okay. Thank you.

(Applause.)

CHAIRMAN FRYER: Next?

MR. YOUNGBLOOD: Our next speaker is John Boerner followed by Claudia Smith.

CHAIRMAN FRYER: Thank you.

MR. BOERNER: I'll cede my time -- it's already been covered -- to Willard Giansanti or someone else.

CHAIRMAN FRYER: Okay. Are you ceding it to anyone in particular?

MR. BOERNER: Willard Giansanti. He should be on your list.

MR. YOUNGBLOOD: All right. Our next speaker is going to be Claudia Smith followed by Jeffrey Allen Smith.

MS. SMITH: I'd like to cede my time to Jeff Smith, please.

CHAIRMAN FRYER: All right. Jeff Smith.

MR. YOUNGBLOOD: Our next speaker is going to be Jeff Smith.

CHAIRMAN FRYER: Now, let's calculate how much -- how many -- Mr. Youngblood, help me. How many people ceded their time to this gentleman?

MR. SMITH: Just one.

CHAIRMAN FRYER: One, okay. You have 10 minutes, sir.

MR. SMITH: Thank you. It won't take that much time.

Before I start, I'd like to thank the Board here for allowing me to speak and all the Capri residents that have showed up on behalf of our beautiful community.

I'd like to start out telling you a little bit about myself. I'm going to make this kind of brief. I'm a sixth-generation Floridian, grew up in Central Florida. I started coming to Marco

Island in the late 1960s when there was nothing here. And I have seen the change in this state since an early age, as I'm sure a lot of people here have.

To start out with, Fiddler's Creek, Aubrey, had agreed initially to develop that property as a restaurant and marina, and he went back on his word in that. Now he wants to develop it as a big commercial unit. And it's not what's really needed on the Isles of Capri. It's not what it was intended for. And I don't think Doc Loach developed the Isles of Capri with a vision of that happening, and I don't think a lot of people here envisioned that happening to the Isles of Capri.

I've seen this entire state get decimated by development. I know it's hard to stop development. It's hard to stop big money. That's why Aubrey's paying Mr. Yovanovich big money to be here.

After Wilma destroyed what was Backwater Nick's and their docks, that area sat untouched for many years, and it was pretty much an eyesore to the Isles of Capri community. Now all of a sudden Aubrey got some backing, and he wants to build this big development. So he kind of, in essence, really lied to everybody about what he was going to do initially with that property. It's kind of a shame.

COMMISSIONER KLUCIK: Are you saying that the property in question has been an eyesore?

MR. SMITH: I'm saying that the property that was damaged by Wilma, the docks and the surrounding area was never touched until recently when they wanted to start developing this project.

COMMISSIONER KLUCIK: But is that the same property?

MR. SMITH: Same property.

COMMISSIONER KLUCIK: Okay, thank you.

MR. SMITH: Yeah.

In reference to the environmental impact on this, I work for Collier County. I work for Collier County Public Utilities, have for 22 years. I ran Marco Island's wastewater plant for 10 years, and I've been running Collier County's for the past 22. I've got a Class A State of Florida wastewater treatment plant operator's license, and I have a 50-ton master license for a captain's license.

So I've got a little bit to speak of on the public utilities part of this. They talk about tying into Marco Island from a wastewater standpoint and if Marco Island's utility can handle their flow. I find that kind of hard to believe. And being that we're Capri residents and we're governed by you guys from a water-drinking standpoint -- because we depend upon you for our drinking water -- why don't we get service by Collier County from a public utilities standpoint across the board, both water and wastewater? Why are we even having a discussion having to go to Marco Island for our wastewater and public utilities?

And as far as the culverts go, it's like Mike was saying, we can get grants, and we can do that on our own. So their offer of a culvert system is really kind of a moot point.

I think what it all boils down to is you've got a lot of people here that are against this project from a height standpoint, from an environmental standpoint, and I just don't think it's cohesive for our community. And you've got to look at the surrounding areas and what's happening. How much of it do you want to have and how far forward do you want this to go? And that's all I've got to say. Thank you.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Mr. -- sorry, Jeff.

MR. SMITH: Yeah.

COMMISSIONER FRY: So same question, really, is if this was developed as it's currently zoned in the plan as a C-3, something like Tin City -- I've thrown that out. I don't know if it would turn out that way -- is that a superior alternative to what they've proposed?

MR. SMITH: They don't want a C-3 development. They're not going to make any money there. Yeah, I'd love to see it stay C-3 and commercial. I absolutely would love that, but

the developer knows he's not going to make any money doing that.

COMMISSIONER FRY: Okay.

MR. SMITH: People aren't going to drive and come to additional restaurants that are already there. We have restaurants that can accommodate the amount of people that are coming in now.

So, yeah, does he want to put a restaurant and a couple shops in there? I don't think so. I don't think that's going to -- that's not going to be his objective. And, I mean, if it came down to it, we'd certainly want that as opposed to 170-foot-tall condominiums on the Isles of Capri.

CHAIRMAN FRYER: Thank you.

MR. SMYKOWSKI: Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next.

(Applause.)

CHAIRMAN FRYER: Ladies and gentlemen, I'm going to ask you, respectfully, to refrain from applause.

Next speaker.

MR. YOUNGBLOOD: Next speaker is going to be Patty Fowle followed by Paul Westberry.

CHAIRMAN FRYER: Thank you.

MS. FOWLE: Good afternoon. Thank you. I'm Patty Fowle. I'm a 40-year resident of Collier County, and our family has owned a small business here in Collier County for over 30 years, and I am a resident of Isles of Capri.

I had lots of notes and scribbles that are, like, all gone now after listening to a lot of the conversation that's been going on.

But one thing that I'm really interested in in the Isles of Capri is the history of Isles of Capri. And I've been going through some of our old documents that we have, which have been very interesting, and one of the things that I found was Doc Loach's original handwritten notes with his restrictions that he put in in 1956 for the Isles of Capri business section.

So an -- there's a whole bunch of things on here, and you guys are all welcome to look at it. But the interesting thing, when he intended the business isles for Isles of Capri, his maximum height that he wanted to see there was 35 feet, which we've done a good job of to this point.

So another little interesting tidbit unrelated to this, but I don't know if you know, prior to 1850, Isles of Capri flew under four different country flags at one time. So there's a lot of history down there. This was a little jewel of Collier County that's been unrecognized for a very long time.

We have to give him a lot of credit. He took a vision out of his own money. He filled it with sand and shells. He made sure there was drinking water for the island. He made sure the children of the island got to go to school. I guess the whole point for that, the difference in the developer initially of Isles of Capri and what we're seeing now from Aubrey is he cared about the community. He cared about Isles of Capri. He had a vision, and he wanted to make sure that it sat there for a very long time.

When FCC purchased this property over 15 years ago, they came, they brought beautiful exhibits in their sales office at Fiddler's Creek. For the last 15 years, there's been a beautiful little rendition of what they were going to do on that property. They came to Isles of Capri. People were totally in support of that annex that they were going to do. And then all of a sudden the economy changed here, and now we're getting three high-rise towers that don't fit in there.

You know, all your pictures did show from the road. What I didn't see, I didn't see a rendition from the water of 168 feet up in the air. And I would invite each and every one of you that hasn't been down there, that hasn't driven on our little two-lane roads that twist and turn through the mangroves with lots of little bumps and stuff, come down. Drive down that road and picture turning around the corner and, boom, what do I see? I see three high-rises. Does it make

a big difference? Does it fit in with the community? Not in the least bit.

When you go in the water on your boat and you look that way, that's all you're going to see. When you go out at night and you walk your dog, are you going to be able to see the sky? Are you going to be able to see through those buildings? Is the quality of your air going to be affected by those high-rises that are packed into that little tiny spot? Because it looks big on his slides. You go down there and look, it's not a big piece of property. It's a very small piece of property.

So it doesn't conform. It will give us limited access to commercial properties. We have to go off island now. Do we need to go off island for everything? When you get to Isles of Capri -- I tell you what, I didn't believe this when I first moved there, you resent it when you have to leave the isles, because it is a special piece. It is a special place. It has a magic.

CHAIRMAN FRYER: One minute, please.

MS. FOWLE: Okay, thank you.

We are already a tourist destination. They keep talking about that. In the season, we can't get into our restaurants. We are a destination already. We are a tourist destination. Give us a Tin City. It's the same as what we already have. People come on the island, and then they leave. It's kind of like going to the Keys. You see the same thing. When every -- when the tourist leaves, everybody goes, "Ahh, it's ours again."

So thank you for your time. I would ask that you deny this petition and realize that this is a little piece of Collier County that you guys have the power to leave for generations to come. And we'd ask you to do that. Thank you.

CHAIRMAN FRYER: Thank you. Next speaker, please.

MR. YOUNGBLOOD: Our next speaker's going to be Paul Westberry followed by Don Jones.

CHAIRMAN FRYER: Thank you.

MR. WESTBERRY: Good afternoon. I appreciate the opportunity to speak to you folks today.

You know, in the beginning of the presentation, our good folks over here representing this, I caught a sense of condensation -- or condescension whenever they said -- referred to us as a fishing village. I can promise you, none of us who live there have ever spoken of our place as a fishing village. That's not who we are. I think he might have us convinced [sic], you know, with some of these other places, you know, Everglades City or some other thing like that.

However, the biggest thing that I would like for you to know is the fact that we, unlike most of you who live in apartments, who live in a condo, who live in a gated community of development, you don't have the sense of community that we have. We are not just a neighborhood like most neighborhoods are. We are a community which is organized as a community and, I might say, that we're locally world famous for the fact that we've -- in the past we've hosted an island-wide garage sale. Ever seen any of that? You know, it happens right after Super Bowl, and it's a huge, huge event, at least it was before this little pandemic thing that we had a while back.

However, the fact that we are this community, we have organized such that we have a board, we have community officers, and then through that we have so many events in which, historically, we've been able to use this vacant land which someone has claimed is not of any use. As a matter fact, we have -- the church has an Easter sunrise service there. A massive tent is put in the vacant lot. People come in from all the community for the Easter service. We have community-wide barbecues and other kind of picnic events in that vacant land, and we've enjoyed that kind of amenity.

And so that's one of the reasons, the fact that we feel like we are such a tight community. We -- frankly, we resent this kind of intrusion of these massive towers. So we think that -- I believe that staff has given you valid reasons for denying this application, and I would urge you to heed the well-reasoned examples and thoughts that your staff has given you. Pay attention to

them. That's what we pay them for, too.

Thank you for your attention.

CHAIRMAN FRYER: Thank you, sir.

MR. YOUNGBLOOD: Our next speaker is Don Jones, followed by Jeanette Atkinson.

Don Jones is not here. We're going to Jeanette Atkinson, followed by John Mueller.

MS. ATKINSON: Hi. I'm Jeanette Atkinson. I've lived on Isles of Capri for the last 28 years. I've never heard us talk about ourselves as a quaint fishing village. In fact, my husband and I looked at Goodland. We like Goodland. We think Goodland is charming, but we chose Isles of Capri.

I was not opposed to the food truck but, unfortunately, I didn't speak up in favor of it, so my opinion didn't count.

I'm definitely completely opposed to the current rezoning request from C-3 to PUD. The development as been presented here and as I understand it would be grossly out of proportion and out of scale with the rest of the community. It's not an addition to our community. It's more like an invasion and an occupation.

I don't see a lot of public benefit, precisely because the amenities are going to be private. We don't have much public access to waterfront left in this county because it's so expensive.

My question is, when we drive in, are we even going to be able to look at it anymore, or will it become completely blocked by this development?

To the best of my knowledge, it was zoned C-3 when the people bought it. Keeping the zoning doesn't infringe on their property rights. It doesn't take away something that they thought they had when they bought it. I think it should stay C-3.

I think that -- in contradiction to what some of the people said, I think we are already a tourist destination, and I think the proper planning and the proper mix could make a profitable development in that area that would be a benefit both to the tourism and the people who live on Capri. We could be a place -- it could be a hub. It could be a place we could enjoy, not some sort of private enclave that we can only look at.

I'm not saying that zoning should never be changed under any circumstances, but if zoning's going to have any meaning and not just going to be some kind of farce, we can't rezone every time some buyer buys a piece of property under one category and then later decides he wants to do something else.

I have to get my second page here.

Just as an aside, I'm only a fifth generation Floridian, not sixth. I grew up in Estero. I know what development can do to a community.

Approving the applicant's application, this would set a damaging precedent not just for Isles of Capri but for the rest of Collier County. If this goes through, what argument would be available to argue against similar requests in the future anywhere in the county?

Isles of Capri is one of Collier's older established neighborhoods. It's unique in its laid-back atmosphere, its friendliness, its cohesiveness, its sense of place. We may squabble among ourselves from time to time, but we all identify as Capriers.

I've seen changes over the years. Some of the smaller houses are giving way to the larger and grander dwellings. My perfectly unscientific impression is that we're getting more young families moving in. But one thing hasn't changed, and that's our shared lifestyle and our shared appreciation for what we have.

Isles of Capri is more than a spot on the map. It's a way of life that isn't often found and is very much in danger in Florida. Please help us preserve it not just for ourselves but for generations to come.

Thank you for your consideration and your time.

CHAIRMAN FRYER: Thank you.

MR. YOUNGBLOOD: Our next speaker is going to be John Mueller followed by Willard Giansanti.

CHAIRMAN FRYER: Was that Commissioner Schmitt?

COMMISSIONER SCHMITT: Mr. Chairman?

CHAIRMAN FRYER: Yes. Go ahead, Commissioner.

COMMISSIONER SCHMITT: Yes. Just for the record, I know -- it was not a condescending comment about a little fishing village. Just for the record and for the others in the audience, many of the documents we received and the letters we received referred to it as "don't destroy our little fishing village." And that's -- most of that was prompted by the correspondence we received, and I just want to make sure that was on the record. Thank you.

CHAIRMAN FRYER: Thank you, sir.

Mr. Mueller.

MR. MUELLER: Commissioners, thank you for your time on this matter.

SaveCapri.org was formed exclusively to protect Isles of Capri from overdevelopment on our small islands, especially the business island.

We are not opposed to development. We see it going on every day. We see homes being built. We've seen empty lots having homes put on all the time, but we are opposed to any change in the variance of C-3 or away from C-3. We don't want high-rise towers in the middle of our island because, as the other speakers have said, once this goes through, it's a domino effect, and that whole series of open space will become high-rise towers.

We agree with the Collier County Planning staff that this proposal is not compatible with the surrounding neighborhood and should not be allowed. We also feel this proposal's not compatible with the High Hazard Coastal Area and that this valued portion of Southwest Florida coastline needs to be protected.

One thing I haven't heard from anyone is that we value our location in the Rookery Bay National Estuarine Research/Preserve. It's one of only 17 locations in the country. Our citizens rescue birds, sea animals, land animals on a routine basis. We protect and value our manatees, our dolphin, our fish population, and our numerous waters, and we're good stewards of the land.

This proposed high-rise towers will be an affront to our entire community and will scar the skyline and be detrimental to all the animal and aquatic life in this pristine coastal environment. Hardly a person's view who lives on Isles of Capri will not be affected by these unsightly towers and obtrusive buildings and the height of those buildings.

To that end, the community rallied against this development. Since the community would learn of Fiddler's plan, it was vehemently -- and we were vehemently against it. And the citizens came together and canvassed the neighborhood with a petition in hand against overdevelopment.

And I would like to present to the Planning Commission over a -- almost 1,000 signatures from Capriers and other residents of the area that are opposed to these unsightly towers. We're not in agreement with spot zoning and spot planning, and we'd ask you to please reject this proposal.

Thank you.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Mr. Mueller, you're the president of the SaveCapri.org; is that correct?

MR. MUELLER: Yes, I am.

COMMISSIONER FRY: So just a quick question. You have a thousand signatures. So you've talked with a variety of residents and had people show up to your meetings. How many people would you say have shown up and expressed a position of support for the project?

MR. MUELLER: I have not heard other than a few comments from Commissioner LoCastro that he said he's getting calls of people. And I said to him, I'll show you mine if you show me yours.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Commissioner Vernon.

MR. MUELLER: Thank you for your time. Question?

COMMISSIONER VERNON: Yes, sir. When was SaveCapri.org created?

MR. MUELLER: Back in April.

COMMISSIONER VERNON: Oh.

MR. MUELLER: Yeah. We're a 501(c)(3) and an LLC.

COMMISSIONER VERNON: Primarily for the purpose of opposing this?

MR. MUELLER: Exactly.

CHAIRMAN FRYER: Thank you, sir.

Anything else? Thank you.

MR. YOUNGBLOOD: Our next speaker is Willard Giansanti. He has been ceded time by John Boerner, and he will be followed by Kathleen Demerit (phonetic).

CHAIRMAN FRYER: May we see the hand of the person who ceded the time?

MR. BOERNER: (Raised hand.)

CHAIRMAN FRYER: Thank you very much.

MR. GIANSANTI: My name is Will Giansanti. I live on the Isles of Capri. Bought a lot in 1996 and built a house in 2000, and literally built a house. I, since then, became a builder. Got my certification. I'm a certified residential builder, and now I'm a realtor, neither one of which I'm doing. I'm now retired. But I've been there and seen a lot of changes take place.

As far as being threatened of having to become a Tin City, right up the road they had this little bunch of stores -- if you first come on Collier County [sic] on the left there, they can't even rent them out. Nobody wants to even go there. They used to have the Coach store there, all the shoe stores. Nobody's shopping there.

You think they're going to drive to the Isles of Capri to a Tin City? It's not going to happen. Tin City is a landmark of its own. We're not going to create a Tin City on Isles of Capri. That's just a threat from Mr. Yovanovich that he's brought up over and over and over.

I feel bad for you people sitting up here. It feels like you're being threatened rather than in control. All the comments are faced to you. You're, like, questioned over and over with different things.

Mr. Yovanovich brought up some things about the buildings will enhance this island. It's going to be unbelievable, but yet you want to plant them all out. Why would you want to plant out something that's going to be enhancing? So right off the bat it's contradictory.

It's just -- I find it hard to believe that anybody that's not from the Isles of Capri would be the only people in favor of this. The people on Isles of Capri, I haven't heard anybody say they're in favor of it. Nobody, me included.

When I moved here, I told everybody I'm going to die here, and I probably will. This meeting might put me under. It's just not believable, all the little things that have happened here.

As far as -- Fiddler's Creek has some property right near the entrances, a big land there. I think there's going to be some shopping, maybe a Publix going in. That's commercial. Throw it up there. Put it as high as you want to go. It's right off Collier County's boulevard. Great spot for it. I think it would be better than here.

As far as the culverts go, I agree with what they said. We can get backing on the culverts. I've got too many notes here.

CHAIRMAN FRYER: Three minutes, sir.

MR. GIANSANTI: Okay. Three minutes is more than I need, I think.

Again and again it said that the island right now will not support any more restaurants and other things that are going on. Well, if it's not going to support that, how's it going to support what they're proposing as commercial property, throwing up a Tin City? That's just a threat. Don't be scared by a threat.

Our island is a residential island, and it's not -- yes, it used to be a fishing community years and years ago. It also used to be the access to Marco Island. When you went down to the end of it, they took barges to Marco before it really became an island, if you really want to go back; before my time, obviously.

I think this meeting is getting to be too intense for the people up here, and I appreciate you

people spending your time and what you do for the community, and you shouldn't be threatened. You should take your job as you're in control. You're in control of what happens in this county, not the people that are here trying to change what's happening. You're the people that make the decisions, and you shouldn't have to -- have to feel like you're interrogated when you come out with a question to somebody when you're the people that are going to make the decision.

I beg you, do not pass this. My answer is no, 100 percent no. I live here. I'm staying here. I'm not moving. And it's not going to really affect me. Where I'm located is when you first come on the island before you turn.

And as far as the sewer system goes, yes, it's going to help everybody, and I want to connect to a sewer myself. But it's only a third of the island that's going to be from this point. You've got all the rest of the island going all the way down that still has to be connected, and that's going to tear the heck out of this whole place. And sooner or later it's going to happen, and I agree we need it.

And you can't have a gravity sewer on the island. You want water, dig down three feet, you're going to hit water. So how do you have gravity in three feet of soil? It's going to have to be a pumping station. It's either a vacuum or a pumping station. And that's what's going to happen in the future.

Again, I just plead, please do not pass this. And if there's anything else I could do on my own, I would. I'm just a nobody. I came here with a little bit of black hair. I think it's turned white since I've been sitting here.

CHAIRMAN FRYER: Commissioner Shea, can this wait until after the break, or do you need --

COMMISSIONER SHEA: It's just a comment, just to put you at ease. There is nobody on this commission that feels intimidated by anything that the petitioner or anybody says, and we do take our job very seriously.

CHAIRMAN FRYER: Thank you. We're going to take a break now, but before we do, I want to alert everyone that when we come back, we're going to talk about how we structure the rest of our day.

So we'll stand in recess now until five minutes after 5:00.

(A brief recess was had from 4:55 p.m. to 5:05 p.m.)

(Ms. Lockhart is present in the boardroom.)

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

CHAIRMAN FRYER: Thank you. Let's come to order, please.

My first question is going to be to Mr. Youngblood. I want to gather facts before we have our conversation up here about what we want to do with the rest of our day.

Mr. Youngblood, how many more registered speakers in the room and how many people on the phone?

MR. YOUNGBLOOD: Mr. Chairman, I have 12 speakers in the room, and I have about 20 online.

CHAIRMAN FRYER: Okay. Thank you. That's what we needed to know. You have 12 more in the room.

COMMISSIONER KLUCIK: Mr. Chair?

CHAIRMAN FRYER: Yes.

COMMISSIONER KLUCIK: Just for the interest of the people who are planning to speak -- and maybe I'm speaking out of turn. But the goal -- we would like to go ahead and resolve this today, I think, although it seems like there's too many people to do that if everyone speaks.

CHAIRMAN FRYER: Well, we can -- we can set times for people who are wanting to speak on the telephone.

COMMISSIONER KLUCIK: And while I don't want to discourage anyone from speaking, I just want everyone to know that if everyone speaks, that's another hour or more,

probably, and then the likelihood that we might not resolve this today and pass it on to the Planning Commission [sic] is higher.

CHAIRMAN FRYER: Board of County Commissioners, yeah.

COMMISSIONER SHEA: I agree with that.

COMMISSIONER KLUCIK: And so I'm just saying, if I were you, I'd want it resolved but at the same time I'd also want to speak, so I don't know.

CHAIRMAN FRYER: Another question, Mr. Youngblood, how many people do we have registered and/or on the telephone for marijuana?

MR. YOUNGBLOOD: For the next session, I have two registered speakers online, and I'm being told we have a stack of in-person registered speakers.

CHAIRMAN FRYER: A stack. Can you give me an estimate?

COMMISSIONER SHEA: They're walking in now.

MR. YOUNGBLOOD: One moment, please.

CHAIRMAN FRYER: Okay.

MR. YOUNGBLOOD: Fifteen in-person speakers for the next meeting.

CHAIRMAN FRYER: Fifteen, okay.

Before I open it up for Planning Commission to make a decision, I'm going to want to hear from Mr. Yovanovich and Mr. Brookes.

MR. YOVANOVICH: What would you like to hear?

CHAIRMAN FRYER: Well, we do not -- we're not obligated to hear the marijuana matter today at all if we don't want to. If it's our desire to try to wrap this up, we can do so. I'd like to know what your preference is, if you want us to take account of what your preference might be. You don't have to.

MR. YOVANOVICH: I would like to see if it's possible to get the public speakers done tonight but, if not, that's fine, too. But what I don't want to have happen is we go and we continue and then they bring in another 60 speakers so that instead of the 32 that we have right now -- and I don't want to discourage them. If they can't come back in two weeks, then let's hear from them.

But I don't -- what I don't want is to -- is for 32 to become 60, and then, you know, instead of another -- and I counted 32 times three is 96. That's 96 minutes. That an hour and a half more of just public comment on this item.

I don't -- I don't -- I would prefer not to do another hour and a half and then do my rebuttal, because I think that's not going to be quick. I'd rather come back and do that at the beginning of the next meeting.

CHAIRMAN FRYER: Okay. Thank you.

Mr. Brookes.

MR. BROOKES: Yes, I've talked to my folks, and they will try to keep their comments short. They would like to try to get the whole hearing done tonight so they don't have to all come back, and you won't have to come back and hear this.

CHAIRMAN FRYER: Okay. Recognize, though, that we don't -- we up here can't control -- I mean, within wide parameters we can, but within those parameters we can't control how long rebuttal's going to take.

MR. BROOKES: It's up to you.

MR. YOVANOVICH: Well, I mean, there's a lot that's been said and, frankly, I could be more organized if I come back at the beginning of the next meeting.

MR. BROOKES: If we're going to come back anyway, we might as well have some people come back then rather than --

MR. YOVANOVICH: I just want to keep the list, if Mr. Brookes can agree.

MR. BROOKES: We had 45 minutes for lunch, and I don't want anyone to get -- my expert has health issues with diabetes and stuff, and there's other people here that are elderly. I don't want people passing out on us.

CHAIRMAN FRYER: Okay. All right. Planning Commission?

COMMISSIONER VERNON: The only thing I'd add -- I'm trying to -- I'm trying to weigh or think about what Mr. Yovanovich said. You know, maybe a proposal -- because some of the people who are prepared to speak today may not be available next time, et cetera, et cetera; things come up.

But if we take a list of how many speakers we have left and limit the number of speakers that come back to whatever is listed today -- so the speakers may change, but you're not going to have any more.

MR. YOVANOVICH: I don't mind if Mr. Brookes had a couple of speakers that can't come and they want to substitute. I think what you're suggesting is if there's five that can't come back and they've got five more to take their place, I'm fine with that.

COMMISSIONER VERNON: Right. He's going to say there's -- how many speakers did you say there are?

MR. YOVANOVICH: I think there's 32.

MR. BROOKES: Someone had the cards. I don't know how many.

MR. YOVANOVICH: It was 32.

COMMISSIONER VERNON: So you're going to bring back no more than 32 speakers. And I would say, kind of echo the thoughts, you know, some of these speakers have been super interesting, and I've enjoyed hearing them speak, but I got the message -- I don't really -- I mean, my opinion, I don't need to hear 32 more people. So you might want to -- but reserve the right to bring back 32 people and maybe think about narrowing that and winnowing it down when we come back, and then you do your rebuttal as soon as 32 or less people speak.

MR. YOVANOVICH: Right.

COMMISSIONER KLUCIK: And I would go on record, you know, saying that it seems obvious to me -- and I can't speak for my peers here -- but it seems obvious to me that there's almost unanimous and certainly overwhelming opposition for all the reasons that people have stated. The NPR piece was good. You know, we have everything from fact-based to stories. You know, like you said, that would be on NPR. Very interesting. I get it, and I think we all get it. And I think we would like to go ahead and move it along for the sake of everybody.

But, again, if people want to speak, they want to speak. And so if there's 96 minutes of speakers, we have to decide whether to do that tonight or not.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: I think we're beyond that point right now. We've got people here lined up that came for the 5:00 session, and I don't think we can ask them to sit -- even if we're willing to sit here for another couple hours, I don't think we can ask them to do that. And, so, I think we've got to split it.

COMMISSIONER HOMIAK: Can we just hear the speakers that we have in the room --

COMMISSIONER SHEA: Yeah.

COMMISSIONER HOMIAK: -- and then --

CHAIRMAN FRYER: Well, how many people do we have in the room?

COMMISSIONER SHEA: Twelve.

CHAIRMAN FRYER: Twelve times five is 60.

MR. YOVANOVICH: Oh, you're right. I forgot they get five.

CHAIRMAN FRYER: Yeah, I'm inclined to recommend --

COMMISSIONER HOMIAK: Can they do it in three minutes instead of five?

CHAIRMAN FRYER: Well, here's what I'm going to do.

COMMISSIONER HOMIAK: Let's try and do the people that are left in the room for three minutes, and then --

CHAIRMAN FRYER: Mr. Brookes?

COMMISSIONER HOMIAK: Three minutes each, if you need it.

MR. BROOKES: I'm told there's another attorney here from Capri Community, Inc., another organization, and that attorney would like to speak today if possible --

CHAIRMAN FRYER: All right.

MR. BROOKES: -- so that they don't have to come back. They're, I believe, from St. Petersburg.

CHAIRMAN FRYER: Planning Commission?

COMMISSIONER VERNON: There's no perfect solution, but I'd say, picking up on Commissioner Homiak's comment, I think, I guess hear from the 12 who are here, and maybe they can talk and have less, speak, and then hear from the other attorney, and then we'll stop, and they'll have the right to bring as many as 20 speakers back on the 15th, you'll have your right to rebuttal, and then we move to the marijuana issue. That would be my proposal.

CHAIRMAN FRYER: Okay. Well, I am inclined to want to continue this current matter right now with the possible exception of having the lawyer who wants to speak speak if he can -- he or she can get it done in 10 or 15 minutes. I don't know whether that would work with counsel. But we've got a whole bunch of people who've come in wanting to talk about the marijuana issue, and it seems to me that we ought to hear from them.

COMMISSIONER VERNON: I'm okay with that.

CHAIRMAN FRYER: All right.

COMMISSIONER VERNON: I'm just trying to get to some decision.

COMMISSIONER SHEA: What are you suggesting?

COMMISSIONER KLUCIK: And when you say "continue," you mean cease this after we hear from the attorney?

CHAIRMAN FRYER: Oh, yes. Continue it to the 15th of September.

COMMISSIONER SHEA: I agree.

COMMISSIONER FRY: Agreed.

CHAIRMAN FRYER: Who's the lawyer?

COMMISSIONER SCHMITT: I would agree as well, because I really am interested in Mr. Yovanovich's rebuttal, and I'm also interested in hearing the rest of the citizens talk, as well. And if we're going to have to do that at the next meeting, we'll do it at the next meeting.

MR. YOYANOVICH: But, Mr. Chairman, if I may.

CHAIRMAN FRYER: Who was that? Oh, yeah. Go ahead, Mr. Yovanovich.

MR. YOYANOVICH: Can we agree that there'll be just 32?

COMMISSIONER VERNON: That's my proposal.

MR. YOYANOVICH: I don't care who the 32 are. I just don't -- I just don't want 32 to grow to 60.

CHAIRMAN FRYER: Well, I want Mr. Brookes to come back up.

MS. ASHTON-CICKO: I don't know that you can limit the number of speakers that are going to show up if public speaking hasn't concluded.

COMMISSIONER SCHMITT: I would agree, Heidi. We can't -- I would agree, Heidi. We can't limit the numbers. If 50 show up at the next meeting, 50 show up.

CHAIRMAN FRYER: And I think as a practical matter, we were thoroughly prepared today for this. We have heard everything that's been said. We've considered it carefully. I honestly don't believe there's too much more that could possibly be said about this, and you reach a point of diminishing returns. You know, when you're making an argument before a court, sometimes it's best to just sit down and say no more.

And with that, I'm going to ask that we continue the Isles matter. Well -- this is the -- you're the lawyer, ma'am?

MS. LAKE: I am, yes.

CHAIRMAN FRYER: How long would you like to speak?

MS. LAKE: Well, if I talk today, it won't be very long because you've heard so much. But if we come back in two weeks, I'm probably going to need the whole 15 minutes.

COMMISSIONER KLUCIK: Mr. Chairman?

COMMISSIONER HOMIAK: Oh, well, then talk today.

CHAIRMAN FRYER: Go ahead.

COMMISSIONER KLUCIK: Before we do that, can we ask -- again, poll the people present and poll online to see how people actually want to speak today? Insist -- no, I mean now. Has anyone changed their mind?

CHAIRMAN FRYER: All right. Mr. Youngblood, any -- are the numbers still the same as far as you know?

MR. YOUNGBLOOD: (Nods head.)

CHAIRMAN FRYER: Okay. All right. Ma'am, you have 10 minutes.

MS. LAKE: I'm going to come over here. I have a few pictures that I want to show you.

CHAIRMAN FRYER: Okay. And we'd like to know not only your name but also whom you're representing and the composition of your client.

MS. LAKE: My name is Sheila Lake. I'm representing Capri Community, Inc. They're made up of many members of the Isles of Capri, residents of the Isles of Capri, and I came here to, you know, talk to you about their concerns and their objections.

The main concern and the main objection is the height of the buildings and the compatibility.

COMMISSIONER SHEA: If you could go back. I'm not sure who you represent. Is it a different group than the --

MS. LAKE: Yes, there are two groups.

COMMISSIONER SHEA: Can you be in both groups?

MS. LAKE: Yes. I'm not.

COMMISSIONER SHEA: Why? Why?

MR. MUELLER: Can I answer that?

COMMISSIONER SHEA: Yeah, I'd love to have --

CHAIRMAN FRYER: Yes.

MR. MUELLER: John Mueller.

Many of us on Capri are members of Capri Community, Inc. That's our social organization, okay, that we have parties with, they keep the community together, communicate information, and then when this issue came up, our group, SaveCapri.org, was formed. So we had two groups looking at this issue from two different perspectives. So that's why there's two different groups. And Ms. Lake is representing -- has been hired by Capri Community, Inc., and Mr. Brookes was hired by SaveCapri.org.

COMMISSIONER SHEA: How many residents do you represent?

MR. MUELLER: Well, we really don't go by residents. We have a key group of seven founders and supporters, and people from the community have donated to both organizations for this effort. So -- and some people have donated to both organizations. So it's a -- it's a conglomeration of citizens all against this development.

CHAIRMAN FRYER: Okay.

COMMISSIONER SHEA: Do you share information?

MR. MUELLER: Yes, we do. We tried not to double up information from the lawyer perspective.

COMMISSIONER SHEA: Thank you.

MR. MUELLER: Okay. Thank you.

CHAIRMAN FRYER: Ms. Lake.

MS. LAKE: Yes.

CHAIRMAN FRYER: One moment. How many -- how many people do you represent? What's the number of your clients, or the members of your client?

MS. LAKE: Matt, do you have that number?

UNIDENTIFIED MALE VOICE: We have between 3- and 400 members.

CHAIRMAN FRYER: Okay. Thank you very much.

Mr. Bosi.

MR. BOSI: I just wanted to remind -- I wasn't sure -- and I think we reached out. Were you able to register as a lobbyist?

MS. LAKE: Yes.

MR. BOSI: Okay. Thank you. Because that is a requirement.

MS. LAKE: Yes, I got confirmation this morning that you got everything in the mail, so I was good.

CHAIRMAN FRYER: Okay, thank you. You have 10 minutes from now.

MS. LAKE: Thank you. I don't even think I'll take 10 minutes.

CHAIRMAN FRYER: Okay.

MS. LAKE: Like I said, my main focus was going to be on the compatibility issue. My client, since day one, has said to me, we don't want to lose our lifestyle. We don't want all this crowding. We don't want this eyesore in the middle of us.

Throughout the day, though, you've discussed in depth everything that I was going to put before you. So I just wanted to leave a few things for you to consider during your deliberations.

One of the things is that we've seen a lot of really pretty pictures and different points of view for where the site is going to actually be. And we've talked about the RMF-16 property. I wanted to point out that the RMF-16 property is in a corner. It is not in the middle of the commercial district. It's over here in a corner. It's covered by landscaping. As a matter of fact, I didn't even see it when I came in on Tuesday.

So when you come in, and you make that left turn, it's like a circle, the road is. Where the site is is in the middle of that circle. So the nice, pretty pictures that we've seen that don't show any obstruction are taken from a very good viewpoint. There will be a lot of obstruction. In that area, no matter what door you walk out, the minute you walk out, you are going to see a wall in front of you. So I wanted to make sure that you understood when we're talking about it's not compatible and building heights and sizes, this is why it's not compatible.

This morning I went out to the site and just took pictures from -- I just -- so you could -- so you could see what the surrounding properties look like, what the surrounding businesses and buildings are. And if you see, none of them are very large. All of them, for lack of a better term, are more industrial than they are retail. You know, there's no pretty storefront.

Anywhere that you look, you see here, this little tiny building, you're going to see a lot of that. So you're going to have this great giant monstrosity dead center. Think of town center. That's where it's going to go, town center. So anywhere that you go, you are going to be confronted by this. There's nothing comparable in close proximity to the proposed development.

The other two things that I wanted to mention is the residents have not changed their position. It was never about traffic. That was a side. Yeah, it's going to increase traffic, but we all know traffic's going to increase whenever you develop. They have always had the issue of the compatibility. It doesn't belong here. It's going to take over our style, our lifestyle. We're going to be putting in, at a minimum, 108 new people that have no connection to Capri, to the business island, to Marco Island, to anywhere. They're not going to be what the Capriers have come to define as their community. They're not going to be members to their community. And earlier you discussed how -- everybody discussed how we're opening up the door for further development of these high-rise condos. And I can tell you, since I've been here, I've talked to the owners of at least two of those properties that have been piecemealed together, and I've been assured that the day after this is approved, they're putting in their application. So it's not "what if," "maybe." It will happen.

And the other thing is, I'm from a small coastal Florida town that's been overdeveloped, and it doesn't take long before you no longer know your neighbor, before you can no longer walk outside your house without locking your keys [sic], and that is one of their concerns. Apparently they don't lock their doors when they leave at night because they know everybody and they trust everybody, and that's unheard of where I live.

But now you're going to have, at a minimum, 108 new people that they don't know that

have no ties to Capri. So these are valid -- valid concerns for why they believe that this type of project is not compatible in their community.

And the other thing is, your staff did an excellent job. They made my job so easy. And I had a great presentation for you, but it was based off of everything that they asked and said and informed you of, because they did a great job.

CHAIRMAN FRYER: Thank you. Sometimes, for a wise lawyer, it's nice to know when less is more.

MS. LAKE: Yes, sir.

CHAIRMAN FRYER: Thank you very much. All right. So what we're going to do is we're going to continue Isles of Capri. It will become the first matter on the 15th of September. We're also going to continue the Golden Gate Estates variance distance notification amendment, and that will go on, I guess, as the second matter on the 15th?

MR. BOSI: Sure.

CHAIRMAN FRYER: And then we will -- we'll go to second session.

COMMISSIONER VERNON: Could I make one comment?

CHAIRMAN FRYER: Yes, please, Commissioner.

COMMISSIONER VERNON: I understand -- I heard Jeff Smith say that Aubrey wasn't honorable and saying he was going to do one thing and do another thing, and I understand that the divide between the applicant and your group or your groups is wide, and I understand that, you know, everybody's loaded for bear on both sides, but since we're continuing it, since you guys have attorneys, it would seem to me to not hurt much for your attorneys, your two attorneys, to reach out to Mr. Yovanovich and at least have a discussion.

I would urge you to do that because, frankly, it troubles me a little bit that you guys have not tried to communicate and work through any of these issues directly with Mr. Yovanovich, at least that's my understanding. I think that would be a good idea. It may not be productive, but I don't think it will hurt anything, and it may help the situation.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik.

COMMISSIONER KLUCIK: Mr. Chairman, yes.

And I would agree. And to that end, I would just say that if I had to predict, I would say, you know, there's going to be, you know, some sort of a proposal. I don't think what has been proposed is likely to pass, but I don't know. We're not done yet. I haven't heard the rebuttal. And so you might want to influence what the final thing looks like by being willing to negotiate rather than say that you won't, because I would say that's probably an outcome that is predictable that there's going to be something and, you know -- and you can either influence it to a great degree or not, and, you know, it's up to you.

CHAIRMAN FRYER: Thank you. Anything further on the first session?

(No response.)

CHAIRMAN FRYER: And we're going to suspend old business and new business and comment from the -- well, anybody wish to be heard on a matter that was not -- not on our agenda today, public comment?

(No response.)

CHAIRMAN FRYER: If not, then the first session is closed.

(A brief recess was had.)

MS. ASHTON-CICKO: Chairman Fryer, would you like to take a vote on those motions for continuance?

CHAIRMAN FRYER: Yeah, if you would advise me to do so.

COMMISSIONER VERNON: Vernon moves.

COMMISSIONER FRY: Second.

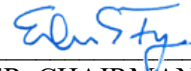
CHAIRMAN FRYER: Further discussion?

COMMISSIONER KLUCIK: I think we're back in session on our first meeting?

CHAIRMAN FRYER: Yeah. Okay. All in favor?
COMMISSIONER SHEA: Aye.
COMMISSIONER FRY: Aye.
CHAIRMAN FRYER: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER VERNON: Aye.
COMMISSIONER KLUCIK: Aye.
COMMISSIONER SCHMITT: (No verbal response.)
CHAIRMAN FRYER: Opposed?
(No response.)
CHAIRMAN FRYER: Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 5:27 p.m.

COLLIER COUNTY PLANNING COMMISSION



EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on _____, as presented _____ or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING BY TERRI L. LEWIS, RPR, FPR-C, COURT REPORTER AND NOTARY PUBLIC.