

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
September 15, 2022

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

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

ALSO PRESENT:

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

PROCEEDINGS

CHAIRMAN FRYER: The September 15, 2022, meeting of the Collier County Planning Commission will now come to order.

Everyone please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: The first order of business, I believe, is going to address the request of Commissioner Klucik to be involved remotely. And, Commissioner Klucik, did you want to state a reason for us and then we'll take a vote?

(No response.)

CHAIRMAN FRYER: Mr. Youngblood, is he on?

MR. YOUNGBLOOD: Yes, sir.

CHAIRMAN FRYER: Okay. Well, when he comes on, we'll loop back and do this. In the meantime, Mr. Secretary, please call the roll.

COMMISSIONER FRY: Thank you, Mr. 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?

(No response.)

COMMISSIONER FRY: We think he's here. So I believe we have a quorum of seven, but we'll have to confirm that.

CHAIRMAN FRYER: Yeah. We'll have to confirm it, and we'll have to take a vote as well. Thank you very much.

Before we continue, I want to take this opportunity on behalf of the Planning Commission to offer our heartfelt thanks to Vice Chair Karen Homiak and Secretary Karl Fry whose terms expire October 1 and who will be leaving us. Each has contributed generously to the work of the Planning Commission and to the welfare of our county.

Please join me in wishing them godspeed with a standing ovation.

(Applause and standing ovation.)

CHAIRMAN FRYER: You both will be missed.

Addenda to the agenda, Mr. Bellows.

MR. BELLOWS: Yeah. For the record, Ray Bellows. We did have an intent to talk about election of officers coming up at a future Planning Commission meeting. Do you want to put that under new business?

CHAIRMAN FRYER: Yeah. And I think we're looking at October 6th for having an election. We're in a position where there will be two vacancies arising as a result of two officers leaving, and so we will definitely have new people in those positions. So we will, on the October 6th agenda, under new business, we will elect officers.

Thank you. Anything else under addenda?

MR. BELLOWS: That's it.

CHAIRMAN FRYER: Okay. Thank you.

Planning Commission absences. Our next meeting is October 6th. Does any returning commissioner know if he won't be able to attend the meeting?

COMMISSIONER SCHMITT: I will miss the October 6th meeting.

CHAIRMAN FRYER: You'll miss the October 6th, okay. Any other commission member?

(No response.)

CHAIRMAN FRYER: Okay. So it looks like -- well, we hope we'll have a quorum.

Planning Commission absences. Our next -- oh, same question for October 20. I should cover that as well. Does anybody know whether they will not be able to be in attendance on October 20?

(No response.)

CHAIRMAN FRYER: Okay, very good. Thank you.

Approval of minutes. We don't have any today before us for action.

BCC report/recaps, Mr. Bellows.

MR. BELLOWS: Yes. On September 13, the Board of County Commissioners, during their advertised public hearing, they heard the PUD amendment for the Lely Resort. The Board approved it 5-0 subject to the Planning Commission recommendations and five additional conditions of approval that they made.

CHAIRMAN FRYER: Thank you.

MR. BELLOWS: And then on the summary agenda, the Seminole Government Center was approved as a conditional use.

CHAIRMAN FRYER: Thank you.

Let's see. Under Chairman's report, nothing at this time.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: I had to dial in by phone. My computer audio wasn't working. I apologize.

CHAIRMAN FRYER: Okay. If you would just say a word or two so that we can take an extraordinary-circumstances vote, I'd appreciate it.

COMMISSIONER KLUCIK: Sure. I just have pressing client matters that I have to work on today, and it's just -- they're unavoidable deadlines that are today, so that's all.

CHAIRMAN FRYER: Understood. Is there a motion?

COMMISSIONER SCHMITT: I make a motion to approve attendance.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: All those in favor of allowing Commissioner Klucik to participate remotely, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No response.)

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Welcome, Commissioner Klucik.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Thank you.

Consent agenda, none today.

\*\*\*This takes us right into our public hearings. The first matter to come before us today is PL20210002313, which is the Isles of Capri small-scale Growth Management Plan amendment and its companion, PL20210002314, the Isles of Capri MPUDZ.

As you will recall, this matter was commenced at our last meeting, continued, and will now come on again for hearing this morning. It will require three actions on our part after the conclusion of the presentations, including an EAC vote, which all can be combined into one action if we choose to do so.

All those wishing to testify in this matter, please rise to be sworn in by the court reporter. (The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN FRYER: Ex parte disclosures from the Planning Commission for any contacts you've had since your previous disclosures on this matter, starting with Ms. Lockhart.

MS. LOCKHART: Yes. Text and material review only.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Just the additional materials we were sent.

COMMISSIONER FRY: No additional disclosures.

CHAIRMAN FRYER: Thank you.

Additional materials on my part, also meeting with staff and with members of the public -- communications from members of the public.

COMMISSIONER HOMIAK: I had additional emails.

COMMISSIONER SCHMITT: Likewise, I had additional emails. I asked for information from Mr. Bosi on the documents that were handed out, and he graciously sent those. I was absent that afternoon. And I also spoke to Mr. Yovanovich.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: Yes, I spoke with staff. I don't believe I spoke with anybody else.

CHAIRMAN FRYER: Thank you.

We left off during public comment back on the first, and that's where we'll pick up today.

So, Mr. Youngblood, who is our first public speaker, and also please tell us who's on deck.

MR. YOUNGBLOOD: Our first public speaker is going to be Jeri Neuhaus, followed by Kathy Kurtz. And I would like to encourage our public speakers, they are welcome to use both podiums, the one on the left side of the room and the one on the right side of the room.

CHAIRMAN FRYER: Good. All right. And could you give us a total tally again, Mr. Youngblood, how many people in the room who wish to speak.

MR. YOUNGBLOOD: Mr. Chairman, we have 16 registered speakers in the room and approximately 25 online.

CHAIRMAN FRYER: Okay. Thank you.

Planning Commission, what is your wish with respect to the length of time that we permit?

COMMISSIONER VERNON: I feel very well informed, and I feel very strongly that I understand the concerns over this project. So I would suggest the shorter the better so that we can get through this, but I don't want -- if there's vigorous opposition, I don't want to -- I don't want to cut anybody off, so I'm flexible. But I prefer shorter.

COMMISSIONER SHEA: I concur with that.

COMMISSIONER HOMIAK: I think three minutes is good.

COMMISSIONER FRY: I concur, and I guess I would just ask for people not to say the same thing over and over again, but I would listen longer to new material, to new arguments, to new information myself, but I also agree with the three minutes.

CHAIRMAN FRYER: Yeah. And that's exactly what I would like to recommend to the Planning Commission, that you confine yourself to three minutes. Unless you, in good faith, have a new issue that we haven't heard yet, you can take another two minutes. But please try to confine yourself to three.

Ma'am, you have the floor.

MS. NEUHAUS: Thank you. Good morning. I'm Jeri Neuhaus. I've been a Caprier for the past 27 years either as a homeowner, commercial property owner, or business owner. I've owned Capri Realty since 2003. Ironically, I'm also currently a business tenant of petitioners on Isles of Capri and will be for the next several years. I'm also an officer with the Capri Community, Inc., our local community organization.

I join the approximately 900 other Capriers, and I object to the proposed rezoning of our commercial island. I object to the idea of being advised by some CCPC members and our commissioner, Mr. LoCastro, to negotiate with the petitioner.

Capriers have been consistent going as far back as 1996 with regard to the subject property and our expectations that our commercial island would remain zoned C-3. Agreeing to negotiate is premature and would be completely contrary to our position of no rezoning and would serve only to benefit petitioners, not Capriers.

If these petitions are approved, we would lose an additional four-plus acres of commercial space that will become fully private and not available to the public or Capri. We've already lost the ability to use the marina that Capriers used for decades unless we join the private club, which involves a hefty buy-in and annual fees in addition to the boat storage fees.

While it was stated at the 9/1 meeting that no preferential treatment is given to the club members over the public, that's simply not true. To imply that because they can join the club so that makes it open to the public is misleading and disingenuous at best.

Capriers, especially those with non-waterfront properties, continue to scramble to find slips and docks because of this and are most often relegated to off-island marinas. Why should we support yet more private development on the commercial island?

I object to the notion that simply because commercial downsizing to residential is preferential in some areas of Collier County and certainly to petitioner that it is appropriate on Isles of Capri. It is not. We are very much like Goodland, a small island with waterfront properties, restaurants, bars and marinas, one road in and one road off. Unlike Goodland, however, we're not protected by a zoning overlay.

If the county approves privatizing the additional four-plus acres, we will never get those acres back. The precedent will have been set. And even though each petition is judged on its own merits, historically, the county has relied heavily on precedence, and it would be highly unlikely that the next developers who's already piecing together his properties would be turned away.

Petitioner presented a commercial alternative at the last meeting, which he said is completely consistent with C-3 zoning, and he knows he has the right to do it. While it is far different from what Capriers were told in writing and in the presentation in 1996 and was on display at the Fiddler's Creek sales center for many years until just a couple of months ago, the alternative presented on 9/1 is one that I'm confident Capriers could and would support.

As a realtor, I welcome commercial development on Capri because addressing the parking and traffic would be part and parcel of that. As a commercial project, the marina could be public rather than private, benefiting both Capriers and the public.

Quality of life is, to me, more important than revenue potential. Even though realtors would, of course, be able to resell these luxury condos down the road, that will only benefit us realtors, not the Capriers.

Short of an overlay, the commercial project such as the one presented by Mr. Yovanovich appears to me to be the best alternative so far to the private gated luxury high-rise project before you that excludes all Capriers.

Lastly, I and many others have always been impressed with Collier County Growth Management staff. They're the experts that CCPC and BCC rely on as evidenced by the number -- number of questions during hearings that you-all direct to staff for clarification. This is normal. The folks on the top of orick [sic] chart can't be expected to be experts in every area they

oversee. That's why you have staff. You've paid them to do a job. Please listen to them, heed their concerns, and recommend denial of these petitions.

CHAIRMAN FRYER: Thank you. Before you go away, ma'am, first of all, I want to ask you for your last name because I neglected to write it down.

MS. NEUHAUS: Neuhaus, N-e-u-h-a-u-s.

CHAIRMAN FRYER: Thank you. And Commissioner Fry has a question.

COMMISSIONER FRY: Ms. Neuhaus, first, do you have a planning background? It was very well stated just --

MS. NEUHAUS: No, I don't, but I care about Capri, and I'm following it.

COMMISSIONER FRY: You brought up something that I think -- maybe I wasn't -- didn't fully grasp thus far, so I want to clarify it. There are existing boat slips, and they are adding boat slips as part of this -- part of the application. Are you saying that you're able to use some boat slips -- the boat slips now but after this you will not be able to use any of the boat slips without being a member of the yacht club?

MS. NEUHAUS: No, we already can't.

COMMISSIONER FRY: Already can't.

MS. NEUHAUS: There are no -- there are no more nonmembers -- there are no boat slips available at the Tarpon Club Marina on Capri right now. We've confirmed that.

If you're a Capri resident and had previously been allowed to lease there, if a Tarpon Club member wanted -- had a boat the size that fit your slip and yours was the only one available, you are given notice of nonrenewal of your agreement, and then that was assigned to a Tarpon Club member.

Our understanding is right now there are no nonmember slips at Tarpon Club now. So we're already -- and this has been going on for years. It dwindled down from all of us being able to use it to now none, and it's just going to compound.

And as far as they're doing this 200 -- I mean, this increasing the boat slips, they still have yet to clarify that to staff and to the Capriers, because they've got 140 now. Where are these other slips coming in? I didn't -- I don't see them drawn somewhere on anything that was presented.

It's been privatized already, and it's just going to be worse because they're adding the 37 -- I mean, they're doing the ones behind what used to be Backwater Nick's, but those are going to be private as well. Where's the benefit to Capri in any of this?

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yes. First of all, thank you for your testimony. But you made a statement that this was a gated community. I thought it was made clear on the record that this is not a gated community. Do you believe that it is a gated community?

MS. NEUHAUS: I may be -- I may be mistaken. My understanding was that there was going to be some sort of gating property. I could be -- I could be wrong on that, absolutely.

COMMISSIONER SCHMITT: I think the petitioner's already made it clear there's no gate.

MS. NEUHAUS: Okay. Then I amend that.

COMMISSIONER SCHMITT: And, yes, in regards to my understanding with the boat storage, it's been full for years just because of the limited space. The spaces that are under permit now and have been approved have yet to be constructed. So I have no idea what their business plan is for the slips that are going to be open. There are slips available --

MS. NEUHAUS: Not to the public.

COMMISSIONER SCHMITT: Not available, but there are slips on Isles of Capri connected with other vendors, is there not?

MS. NEUHAUS: Very few. There's -- there's probably less than -- there's a handful at what's called the Isles of Capri Marina.

COMMISSIONER SCHMITT: Yes.

MS. NEUHAUS: A handful, but most of those are their rental slips for their boats that they rent out, and at the Pelican Bend there's a few private slips, and at the fish house there's a handful of private slips, and a lot of those people are from Marco and elsewhere, bigger boats. But there's just -- there's a big demand, and we're all being relegated elsewhere right now because there's no availability on Capri, so why privatize it more?

COMMISSIONER SCHMITT: But I don't understand. You're saying you're being prohibited. Is it not -- aren't those other slips open to the public?

MS. NEUHAUS: Those are -- there's a hand -- we're only -- I say we're only being prohibited from the marina that we've used for decades. What used to be Williams Capri Marina, when it became the Tarpon Club, most everybody there were Capriers. Now there are none. And there's not enough slips available publicly at the other marinas to support Capri. So this is just a matter of clarification is that they -- we've lost our ability to do this at the marinas that we've been accustomed to, and now they're going to further compound it with more private marina.

COMMISSIONER SCHMITT: Is there a prohibition of opening private marinas in that area?

MS. NEUHAUS: No, but no developer right now -- why would they want to -- I mean, what -- Fiddler's Creek isn't going to do it. FCC's not going to open it to the public unless it's a commercial C-3 project. Then it would make sense.

COMMISSIONER SCHMITT: You said you're in real estate.

MS. NEUHAUS: Yes. I own Capri Realty. I'm the broker.

COMMISSIONER SCHMITT: The C-3 property has been vacant for how many years?

MS. NEUHAUS: Since Backwater Nick's -- there was -- 2005 is when Backwater Nick's was blown away. It remained in a derelict condition with derelict docks and no lighting at night and things like that, lots of complaints about the maintenance on the property, up until recently. So it's been derelict for ages. After One Naples was approved and FCC jumped on the bandwagon to now do this project, other developers are now piecing together property as well because they want to follow right in those footsteps.

COMMISSIONER SCHMITT: And that is based on your personal opinion, not a professional assessment. You brought in the term -- excuse me, ma'am.

MS. NEUHAUS: Yes.

COMMISSIONER SCHMITT: Is this person your attorney?

MS. NEUHAUS: No. I don't know -- I'm not even sure what she's showing me. What were you asking?

COMMISSIONER SCHMITT: You brought in the term "One Naples." Is this your personal opinion that somehow this is connected to One Naples?

MS. NEUHAUS: It's -- yes, it's a well-informed personal opinion, as a result, that they were waiting for the decision on One Naples, and right after that is when this happened.

COMMISSIONER SCHMITT: Okay.

MS. NEUHAUS: Very, very closely is when they decided to move forward with that.

COMMISSIONER SCHMITT: Do you have anything to substantiate that, or that's just your personal opinion?

MS. NEUHAUS: No, personal opinion.

COMMISSIONER SCHMITT: Okay. So in real estate, how many businesses have -- do you know of that has -- that have looked at property in this -- in this C-3 zoning to open up a business?

MS. NEUHAUS: We've seen multiple people try to open individual small businesses. Those don't succeed unless they're a restaurant, marina, or bar. So we've seen a number of very small mom-and-pop things try to open on the island that have failed. But as a commercial project where it's an attractor, which we like because then parking and everything will be addressed, there are a number of people that come into our office and go, hey, is there any land for lease for this?

You know, I need two acres or I need three. There are people that come into our office regularly asking about commercial on Capri, and then we know a developer who is planning on following in their footsteps.

COMMISSIONER SCHMITT: What I gather from your statement is you would prefer this to remain C-3 and that you would prefer to have some kind of restaurants or other businesses come in and develop that area.

MS. NEUHAUS: This is what works on Capri: Restaurants, shops -- I mean, as a group, marinas. That's -- that's the highest and best use on Capri.

COMMISSIONER SCHMITT: And how about the other businesses on Isles of Capri? The Capri Fish House, the Gypsy Cafe? I guess it's the Blue Heron. I don't know.

(Simultaneous crosstalk.)

MS. NEUHAUS: It's now Osteria Capri. We have good restaurants on Capri.

COMMISSIONER SCHMITT: Yes.

MS. NEUHAUS: And restaurants attract other restaurants. I'm not worried about the competition, and I haven't heard any of them complain about the idea of competition. We're -- you can -- we can support our restaurants as evidenced by you driving down there and seeing the traffic, how bad it is because our parking situation is so bad. We can't even -- Capriers can't even get into the restaurants in season from all the people coming off island. So we are already an attractor with our restaurants. We just need to do it properly, commercially, make this work commercially, address our parking and traffic, and we're golden.

COMMISSIONER SCHMITT: Okay. So basically what you're saying is you need a developer to come in and develop an attractor, commercial, restaurants, parking, which seems to -- going to exacerbate the whole issue of parking and traffic on Isles of Capri. So I don't understand --

MS. NEUHAUS: I disagree. Our issue is the traffic is only the way it is right now because it's being mismanaged because we didn't plan adequately for it when we did these restaurants.

We all know that if a commercial project is submitted and goes through the proper channels, that parking and traffic will have to be addressed. It will have to be, because staff in Planning aren't going to say, no, we can't just let you do this and exacerbate it, but you know what, maybe if you had a two-story garage next to all of this or maybe if you had that. Maybe if we moved the road that separates the two areas on Capri, that separates the part of the commercial island and just move it so that the developers can develop theirs, the other developer can develop theirs, but now we've managed this. Put in traffic-calming procedures. There's a number of things that can be done and would be done by any true commercial developer.

The realtors submitted letters to the petitioner. They were effusive, and those are strictly commercial realtors. I'm not a commercial realtor. I've done some commercial, but I am in no way, shape, or form a commercial realtor.

CHAIRMAN FRYER: I'm going to interrupt you right there, because I want you to be careful what you're saying, what you might be opening yourself up to.

You're here testifying as a resident. You're not presenting yourself as an expert, are you?

MS. NEUHAUS: No, no way.

CHAIRMAN FRYER: Okay. I just wanted to be clear.

MS. NEUHAUS: I'm a Caprier. I'm not a resident. I'm a business owner there now. I was a resident and --

(Simultaneous crosstalk.)

CHAIRMAN FRYER: Okay. So you're a former resident, and that's why you're before us?

MS. NEUHAUS: Absolutely.

CHAIRMAN FRYER: Okay. Thank you very much. Sorry to interrupt. Finish up.

MS. NEUHAUS: The realtors submitted a letter saying that they were effusive about the



potential for a beautiful, attractive, well-done commercial project in those letters that were submitted at the 9/1 meeting. I agree, and a lot of people on Capri agree once they heard that.

COMMISSIONER SCHMITT: Well, just one last point. I mean, the property's been vacant for over 20 years, and nobody has come forward in any way, shape, or form to develop a commercial property there.

So I hear what you're saying. I'm not looking for a comment from you. I'm just saying, I hear what you're saying. It's just the land's going to be used for the highest and best use.

MS. NEUHAUS: Which is commercial, in my view.

COMMISSIONER SCHMITT: Okay. Thank you.

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

MS. NEUHAUS: Thank you.

CHAIRMAN FRYER: Mr. Youngblood, who's next up, and then who's on deck?

MR. YOUNGBLOOD: Our next speaker is going to be Kathy Kurtz, followed by John McNicholas.

MS. KURTZ: I'd like to cede my time to John Rogers.

CHAIRMAN FRYER: All right. Is Mr. Rogers here ready to speak?

MR. ROGERS: You want me next?

CHAIRMAN FRYER: Yes. Who's on deck?

MR. ROGERS: Well, you asked for something different, so get ready, and you might want to duck.

My name is John Rogers, and I've been a resident of Isles of Capri for well over 20 years. The property at issue here today is bordered to the west by the water, is bordered to the south by a very small piece of property owned by a private individual, and the other two adjacent borders to the east and north are properties which I own.

As Commissioner Homiak correctly pointed out at the last meeting, there have been people parceling properties together on Isles of Capri for the last 12 or 13 years. I'm that person.

I'm currently either a sole owner or partner or in a partnership that has purchased all the property you referenced at the last meeting, and we currently either own or have agreements for property in excess of the amount you're considering here today.

But before I give you my position on the proposed development for my sake, I have to defend my friends and neighbors on Isles of Capri against two comments that were made. They didn't ask me to, they don't need me to, but I'm so extremely familiar with this that I feel a duty to do this.

The idea -- and, by the way, the rhetoric needs to come down, and you're going to hear in what I have to say that I'm hoping we bring some of this rhetoric down, and we try to make sense out of this. But that hasn't come from the other side, and I'm very sorry about that.

The idea that their counsel, their very competent counsel, would stand up and accuse my friends of lawyering up when at the very first NIM, a very polite gentleman stood and up said, where's Aubrey? Where's Aubrey? Why doesn't he come talk to us? This is where we live. This is personal to us. Where is he? And there was no response.

Obviously, Aubrey not only lawyered up, he teamed up. And so to say to these people who went out on the streets and collected money to hire a lawyer at the 11th hour that they lawyered up and that's why they're not negotiating in good faith is unfair and offensive.

The second thing is they're negotiating. Commissioner Klucik mentioned at the last meeting that they should have negotiated, and I think he said he was disappointed that they hadn't.

When my friends and neighbors asked at the second NIM meeting, the staff has said your project is inconsistent and incompatible with Isles of Capri, please resubmit, can you explain to us what you're going to resubmit or how you're going to make it compatible? And you know the negotiating answer they got? You know the olive branch they'd back? We'll tell you later. We'll tell you in front of the Planning Commission.

So you want to tell these people who are doing their best, who've had their position since

day one that they should be the ones coming forward and negotiating in this? There hasn't been a response to staff's request which says specifically please submit something that's consistent. Please give us another idea. I just think it was unfair to make those comments about my neighbors. Okay. I've defended them all I can.

I think this is very personal to all of us, but I don't think anybody should be attacked personally. Unfortunately, there have been a few and, unfortunately, someone on Capri directed some of those at Aubrey and Tina. And although it wasn't me, I regret that that occurred.

Tina is nothing but a lovely human being, and Aubrey is a developer with impeccable taste. His projects are fantastic. He either has great taste himself or he knows how to surround himself with people with great taste. If there was a project to go forward on this property, we probably couldn't do better than to have him develop it.

Now, let's talk about the project. I've been very clear with my neighbors for months that I'm in favor of development. I'm a developer. I've built high-rises. I believe residential is, in fact, a downzoning. I like that. It makes sense to me, but when we -- and I've been very clear that I'm pro-development and development of this area.

But when we stand back and look at this PUD, let's really, really look at this PUD. You want to take the entire 5.32 acres, the entire acre -- entire property, and multiple that by the 20-point whatever it is units to come up with a density of 108 residential units. Then you want to layer on top of that a restaurant up to 10,000 square feet. That's C-5. That's not C-3. In C-3 we're limited to 6,000 square feet. So we're going to count all of the land for 108 units, then we're going to count a 10,000-square-foot restaurant, then we're going to put 6,000 square feet of residential on top of that, then 64 wet slips on top of that. And then here's the point Ms. Neuhaus was making that was --

CHAIRMAN FRYER: You're at six minutes, sir, so please start trying to wrap it up.

MR. ROGERS: I will. Thank you.

Ms. Neuhaus pointed out -- and I hope you'll specifically pay attention to this -- Fiddler's Creek's property advertises online today they have 140 dry slips. The plan calls for 268 dry slips. Where those other 118 [sic] are going to go and where the parking's going to go, I have no idea.

The property's ripe for development, but it needs to be consistent. Consistent is RMF-16 which is a stone's throw away. Get rid of all of the other things that they can sneak in in a PUD. Do a simple rezoning to RMF-16, stay under the 75 feet, and build your residential.

CHAIRMAN FRYER: Thank you, sir.

MR. ROGERS: Thank you very much.

CHAIRMAN FRYER: Next speaker, please.

MR. YOUNGBLOOD: Mr. Chairman, our next speaker is John McNicholas, followed by Jacob Winge.

CHAIRMAN FRYER: Thank you.

MR. McNICHOLAS: Good morning, Commissioners. My name is John McNicholas, and I'm a long-time resident of Capri.

I would like to talk about zoning and our property rights as residents, not as legal definitions, but in a broad sense that I think we all understand intuitively.

We all bought on the Isles of Capri knowing or should have known, because it is called a business island, that the C-3 zoned properties in our midst would have commercial redevelopment someday. We relied on the protection of the existing zoning of C-3 that limits that kind of development to low-rise retail stores, restaurants, et cetera.

We knew there would be more traffic when it was developed no matter what is legally built. We factored these things into our decision to purchase here and accepted that possibility. That is on us.

But we did not and do not accept the risk that the zoning could be changed by one property owner against all our collective will of a majority of the 850 other property owners to allow totally incompatible massive high-rise buildings that the petitioner's property was not zoned for when we

acquired our properties.

The petitioner, when valuing the property at the time of purchase, obviously felt it was valuable enough zoned as C-3 to purchase it knowing he had no inherent right to, nor guarantee of, that he could ever rezone it. He made that calculation, and he took that risk. If the expansion of the petitioner's property rights with the rezone occurs, which can change the whole face and feel of the island without the majority consent of other owners on our small island, then our legal property rights are inherently being diminished.

The fact that this property might be immensely more valuable if it is rezoned as requested is irrelevant to us in our rights not to have our quality of life and our property values diminished by creating a city looming over us. The current C-3 zoning for property is in keeping with what the community accepted and should remain in place.

There are times in life when we all encounter situations that we inherently know are wrong, something in the gut just doesn't feel right. I believe several of you have been to the Isles of Capri and sensed how damaging this could be to our island. Our county staff has been emphatic that this is not compatible with the surroundings.

There may be pressure from various quarters attempting to legitimize this questionable path with legal ease, skewed logic, glossy pictures, et cetera. But I suspect you know this is wrong in your gut. Please check in with and listen to it before making your decisions. Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker and the person after that.

MR. YOUNGBLOOD: Our next speaker is going to be Jacob Winge, followed by Darla Gaeltin. Did I pronounce that correctly?

MS. GOETZELMAN: Goetzelman.

MR. YOUNGBLOOD: Thank you.

CHAIRMAN FRYER: Go ahead, sir.

MR. WINGE: For the record, Jacob Winge, president of East Naples Civic and Commerce.

We took very early interest in this issue with our neighbors in Capri, because I think anything that happens around us as a community, whether it's to our north, in Golden Gate, the City of Naples, Marco, people are going to come one way or the other. And Capri is unique in that they're either going to come north for business and services into East Naples or they're going to drive down 951 and go to Marco Island for it.

And a project that rezones the commercial ability that they have on their business island would have serious consequences and set just a serious precedence, as a previous speaker mentioned, that One Naples did set. So this does have a very strong relationship to it. I think that there's, you know, no surprise that future projects are going to continue to take place, as community members have mentioned.

But I also want to speak to a particular notion that the petitioner mentioned in the aspect of history. And I'm a history buff. I'm a former president of Friends of Collier County Museums. I served on their board for 12 years. And my family's been here in Collier County since the '20s.

And I would submit to you that to use a notion that our drafters in our Growth Management Plan that suggested, well, if a C-3 zoned property that wasn't near an activity center or arterial roads or it wasn't meant to be C-3, that you could rezone it, well, if there's any worth to those statements, then I think there's equal worth that those planners and those drafters could have been wrong in stating that.

There's no evidence to support that that land on Capri was wrongly labeled commercial or otherwise and, for that fact, any parcel in Collier County is in that retribute. I think we see far too many PUDs and conditional uses than any other municipality similar to our size or any other form of government, certainly that I've seen in and around the state. And I believe that this project is wrong for Collier County. It is wrong for Isles of Capri. It's wrong for East Naples, Marco, Goodland, surrounding communities.

And I'll also speak to the boat dock. My dad and I own a slip at Port of the Isles, and we have seen a considerable amount of people that live or are seasonal in Capri that are coming to Port of the Isles for slips, which are also in very, very short supply for the area.

And so, again, to just rebuff that, you know, making these slips privatized and continuing to do that really serves absolutely no one in the community and no public good whatsoever.

So thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yes, Jacob, you represent East Naples Civic Association?

MR. WINGE: Civic and Commerce. We reorganized this past year.

COMMISSIONER SCHMITT: Okay. Have you spoken to the current business owners on Isles of Capri? Meaning the Capri Fish House. I used to call it Blue Heron, but I believe now it's Osteria Capri, Gypsy Cafe, and the other one there is Pelican Bend restaurant. Have you spoken to any of those businesses?

MR. WINGE: No.

COMMISSIONER SCHMITT: Are you -- so you don't represent any commerce, then, on Marco Island, even though you report yourself as representing the East Naples Civic Association and Commerce Association -- I'm sorry -- I mean on Isles of Capri?

MR. WINGE: No.

COMMISSIONER SCHMITT: Okay. Do you believe that if this were to go C-3 it's going to become the highest and best use? The land is very expensive. I have absolutely no idea what Fiddler's Creek paid for this property. I think some of it they own. The others they amassed or accumulated over the years. But I'm sure it was pretty spendy in regards to what it cost the developer. So if they're going to put some kind of development up there, it is going to be -- in your estimation, do you think it's going to be rather expensive for any type of development to go in there? They're going to charge a fee that's commensurate with what they paid for it -- for the property to put a boat in, if you want a slip or otherwise?

MR. WINGE: Well, I mean, I think that's part of the issue and, unfortunately, I think we've almost kind of missed the boat on that. I mean, the privatization of the slips really have now pigeon held this area of the county into that issue, and that's something that, you know, obviously, our decision makers, whether it was not this body or the Board of County Commissioners, was able to allow those aspects to get through.

But as far as commercial on the island, first of all, if this property remains C-3 -- it's not becoming C-3. If it remains C-3, I agree with the community that I think it would be something positive and have value, and I believe that other people, both on Marco and East Naples, Goodland, and surrounding communities would be able to see benefit from that.

And, you know, no, I haven't spoken with the current businesses. I do know, and I agree with the statement that was made, that businesses attract other businesses, restaurants attract other restaurants. There's how many on Fifth Avenue, and none of them scream each time another one opens or remodels or does something like that, so...

COMMISSIONER SCHMITT: That's a different capture rate. I'm talking about the capture rate in and around Isles of Capri.

From a standpoint of businesses, you're familiar with 951 and what used to be called Outlet Mall along 951?

MR. WINGE: Correct.

COMMISSIONER SCHMITT: I mean, that's a large mall that's probably, what, 20 percent occupied now?

MR. WINGE: Probably.

COMMISSIONER SCHMITT: So it seems to be that commercial business in that area of the county is not really a viable entity.

MR. WINGE: I dismiss -- I think that's a personal opinion.

COMMISSIONER SCHMITT: Twenty percent occupancy rate on a --

MR. WINGE: I think it's not the right business.

COMMISSIONER SCHMITT: Okay. All right. Thank you.

MR. WINGE: You're welcome.

CHAIRMAN FRYER: Thank you. Thank you, sir.

MR. WINGE: Thank you.

CHAIRMAN FRYER: Next speaker and next person on deck.

MR. YOUNGBLOOD: Next speaker is going to be Darla Gelton, followed by Lilian Compton.

CHAIRMAN FRYER: Thank you, ma'am. And if you don't mind, please spell your last name.

MS. GOETZELMAN: Sure. It's G-o-e-t, z as in zebra, e-l-m-a-n.

CHAIRMAN FRYER: Thank you.

MS. GOETZELMAN: Hello. My name is Darla Goetzelman, and I have lived at 105 Jamaica Drive on the Isles of Capri for 17 years and owned it with my husband, Gary, for 30 years.

Thank you for the opportunity to speak and state my reason for opposing this zoning change. Number 1 is the property was zoned C-3, and that was part of the appeal of buying property on the Isles. We would be happy to see the original use proposed and complying with C-3 zoning for the area and advertised by Fiddler's Creek for years. This promise to the residents of Fiddler's Creek has never been honored.

My rhetorical question to ponder, for those of you on the Planning Commission, is should broken promises be rewarded? How much value do you put on being honest with what is said? It cannot be argued that it was an oops when it was advertised and hung for all to see for many years. Honesty is a forerunner to trust, and my trust in the new attempt to rezone is riddled with doubt and fear.

The second reason to oppose the rezoning is that the proposal is incompatible with the neighborhood. When you drive on 952 and enter the Isles of Capri, you see a quiet neighborhood dominated by single-family homes, not monstrosities that are over three stories high. Aesthetically, this is like putting an 8-foot replica of the Eiffel Tower in the middle of your living room. The architectural rendering is not compatible with the surrounding area. I am talking about Isles of Capri and not some development miles away.

Now, let's talk about trust again. The Board of County Commissioners asked the rezone petitioners to provide some input as to compatibility. The petitioners ignored this request and left it for later. When you ask your children at home for information, do you accept an answer of "I'll get back to you in a few months?" Respect for the governing body was lacking or dismissed to fit a personal agenda. This does not instill trust in the words of the petitioners.

The third reason for voting against the rezoning is that the overwhelming voices of 900-plus petitioners and voters have declared their opposition to this rezoning.

I was taught in civics class that our government is based on majority rule. I have not seen a petition for those in favor. Some in favor apparently have written anonymous letters to some of the Board of County Commissioners. Be weary of those who hide behind closed doors. If you feel passionate about a subject, why hide?

COMMISSIONER KLUCIK: Commissioner -- or Mr. Chairman?

CHAIRMAN FRYER: Ma'am, just a moment. Commissioner Klucik has a question.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER KLUCIK: I just want to interpret you realtime that -- I just want to correct. Happily, we're not a majority rule society. We actually have protections against majority rule, and people have rights against majority opinion, and I just want to point that out --

MS. GOETZELMAN: Is that true in Congress?

COMMISSIONER KLUCIK: Yes.

COMMISSIONER SCHMITT: It is true in the Constitution.

COMMISSIONER KLUCIK: It is not -- it's the filibuster and other things. But I just want -- that's an important civics point.

(Simultaneous crosstalk.)

MS. GOETZELMAN: Is a bill passed -- is a bill passed by majority rule?

COMMISSIONER KLUCIK: Ma'am, ma'am?

CHAIRMAN FRYER: Let Commissioner Klucik finish, please. You'll be given additional time.

COMMISSIONER KLUCIK: Yeah. I'm making an important point about America and about Florida. We don't go by majority rule. We have things in place. We have majorities influence us and make many decisions, but there are also protections against majority rule. And, for instance, the planning code has issues in there of everyone -- if you have a right to do something and everyone is against it except you, you still get -- you know, you still have a right to do it.

Now, I'm not saying that's the case here, but I don't -- I think it's unfortunate that people think that it's just strictly majority rule, because that's actually dangerous. We actually -- the American system is set up -- the American system is set up to protect individuals against majority rule, and that's all I have to say. Thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

MS. GOETZELMAN: Okay. Thank you for your input.

CHAIRMAN FRYER: Ma'am, Commissioner Fry would like to make an inquiry. And we're going to give you additional time.

MS. GOETZELMAN: Okay. Thank you.

COMMISSIONER FRY: I guess I just want to comment that I feel like, in a way -- you folks are up here expressing your personal opinions.

MS. GOETZELMAN: Yes.

COMMISSIONER FRY: And I feel like in some ways we are interrogating you and cross-examining you like you are -- you know, like we are your enemies, and I don't -- I hope that you know that's not our intent. And I'm not -- I'm attempting to avoid that myself personally.

So I just want to be clear, we -- that these folks are expressing their personal opinions. We might agree or not agree. We might have things we'd like to interject, but I feel that we should treat the speakers with respect and let them say their viewpoints, and understand that they are your viewpoints, you know, and it's our job to weigh it all.

MS. GOETZELMAN: Absolutely.

COMMISSIONER FRY: So I guess I'm just speaking up for you folks at the podium.

MS. GOETZELMAN: Thank you.

CHAIRMAN FRYER: Thank you.

And, ma'am, you can have two more minutes, please.

MS. GOETZELMAN: Okay, thank you. I'm not quite sure where I stopped, so if I repeat myself, forgive me.

Some in favor apparently have written anonymous letters to some on the Board of County Commissioners. Be weary of those who hide behind closed doors. If you feel passionate about a subject, why hide? And I'm putting myself in that position.

It will be interesting to see who we are beholden to. We are not opposed to building on the property, just to preserve the C-3 zoning.

The fourth reason to oppose this zoning request was stated in the *Naples Daily News*. Directly reading from the front page dated Tuesday, August 30th, 2022, perilous course, saving the past for the future.

We are stewards of this planet, and as members of the Planning Commission, you have a front row seat in preserving the past and protecting the future. Allowing this piece of the property

on the Isles of Capri to be rezoned would set a terrible precedent and accelerate more and more high-rises to dominate the area.

This is not the Florida that I want my grandchildren to inherit. When we drove on Collier Boulevard on Marco, I was asked by one of my grandchildren, why can't we see the ocean? When we approach Residents Beach, they asked if we could go there. I had to say, no, we live on the Isles of Capri, and we are not Marco residents.

Do we want the future generations to see the ocean as slivers between high-rises and provide limited access on narrow pathways with inadequate parking? Progress can be accomplished without high-rises. C-3 would likely provide better views than the current proposal and may even allow some of us lowly residents on the Isles of Capri some access to the property. Inclusivity versus exclusivity is a better hope for the future, in my humble opinion.

CHAIRMAN FRYER: Please try to wrap it up now.

MS. GOETZELMAN: I've got three more sentences. Once this property is rezoned, how soon before the next time and the next and the next?

Thank you for allowing me to express my view.

CHAIRMAN FRYER: Thank you, ma'am.

Next speaker and the person after that?

MR. YOUNGBLOOD: Next speaker is going to be Lilian Compton, followed by Glen Fick.

CHAIRMAN FRYER: Thank you.

MR. YOUNGBLOOD: Or is it William Compton?

CHAIRMAN FRYER: Mr. or Ms. Compton, are you in the room?

(No response.)

CHAIRMAN FRYER: Who's the one after that?

MR. YOUNGBLOOD: All right. Glen Fick is going to be our next speaker, followed by Kathleen Demaret.

CHAIRMAN FRYER: Thank you. Mr. Fick.

MR. FICK: Hello, Glen Fick. It's F-i-c-k.

CHAIRMAN FRYER: Thank you.

MR. FICK: I've lived on Capri nine years.

Excuse me. I just want to point out a couple things. I'll try not to be redundant. One of the things that was discussed on the 1st was the whole subject of looking up, and I sort of want to address that real quickly, if I can.

The petitioner mentioned that he didn't think that people looked up very much when they're walking around. Well, you haven't spent much time on Capri, evidently. Sorry, I'm supposed to be addressing you.

We look up on Capri. Probably over 50 percent of the people on Capri have dogs. They walk them every day, multiple times a day.

We have these things called magnificent frigatebirds on Capri and around Capri. Guess what, when you're wearing the Yovanovich special harness that doesn't allow you to look up, you can't see those magnificent frigatebirds, because they're up there, along with many other bird species, along with beautiful sunrises, along with beautiful sunsets, all of which will be blocked by these huge towers. So I just want to point that out, that we do look up on Capri.

And I think I can clarify something that Mr. Schmitt was questioning about the boathouses. What happened is when your lease is up and somebody from Fiddler's Creek wants that slip, you're out, and they're in. So the whole notion of not showing any preferential treatment, that was actually checked into on a break on the 1st to see if there was going to be any preferential treatment to Fiddler's Creek in the new Tarpon Club. Well, there currently is preferential treatment right now at the current Tarpon Club. So evidently there's going to be separate rules for one side of the street and the other side of the street. So I just don't think it's consistent with the message that the petitioner has put forth.

That's all I'm going to say.

CHAIRMAN FRYER: Thank you very much.

Next speaker.

MR. YOUNGBLOOD: Our next speaker is Kathleen Demaret, followed by Mark Gardner.

CHAIRMAN FRYER: Thank you. And if you wouldn't mind spelling your last name.

MS. DEMARET: Yes. D-e-m-a-r-e-t.

CHAIRMAN FRYER: Thank you.

MS. DEMARET: I'm going to read this, because I'm a little nervous.

Thank you for allowing me to speak. On the way home after waiting to read my comments at the all-day meeting on September 1st, we turned the first corner on Capri Boulevard, and I was reminded how serious a threat the property rezoning from C-3 to mixed-use was to our tranquil, special, and unique island lifestyle.

Each morning I walk my dog, Coda, on the island's walk/bike path, and I do this each morning, and she will not allow me not to. It follows Capri Boulevard and basically goes around the three sides of the proposed high-rise exclusive, private building/buildings and garage structure.

Since I do not -- since I do a lot of thinking during my walks, I started to wonder, would these elites who come to spend their time in their second, third, and fourth residence, those are the words of Rich on September 1st, bring their children or their grandchildren to our little playground and watch them play? Would they attend the Capri Christian Church and be in awe when they see the osprey perch to top the cross? Would they go grab a drink and put their toes in the sand while their dog played in the water at the Capri Fish House? My guess is that they would not assimilate into our island lifestyle which I am blessed to call home since 2014, and I live there 12 months a year.

So the question is, why should you approve the applicant's request to change the zoning from C-3 to mixed-use, especially when the county staff has stated that the proposed mixed-use structures are not complementary to the landscape of the Isles of Capri and do not meet the code requirements?

In my opinion, the applicant doesn't want to use the property they purchased as it was zoned. Somehow the applicant thinks that it wouldn't be profitable and uses the residents as an excuse for why it won't be profitable. Sorry, but that's not enough reason to change the zoning, in my opinion. I don't -- I didn't know that risk is now dependent on the people who happen to live next to a business.

In closing, I ask that you protect our island, not make development a dirty word, agree with your staff that to rezone would be a net negative for the Isles of Capri, and deny the change to C-3 -- from C-3 to mixed-use.

Thank you very much.

CHAIRMAN FRYER: Thank you. Mr. Youngblood.

MR. YOUNGBLOOD: Our next speaker is going to be Mark Gardner, followed by Ralf Brookes.

MR. GARDNER: I'd like to cede my time to Nicole Esch.

CHAIRMAN FRYER: And you're Mr. Gardner?

MR. GARDNER: I am.

CHAIRMAN FRYER: Okay. And Nicole Esch, is she a registered speaker?

MR. YOUNGBLOOD: She is a registered speaker, sir.

CHAIRMAN FRYER: All right. Okay. Ms. Esch, come on up.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, sir.

COMMISSIONER KLUCIK: Yes. I just would maybe suggest to the speakers, if you



recall, the staff actually has indicated that a residential project that was, you know, a lower height very similar to the project that's before us, you know, that was submitted but at a lower height, that they actually would not object to that. And so if the -- you know, the arguments we've heard, you know, we know there's passionate opposition to the project. We understand that. Certainly, I understand that.

And all I would say is, it's an opportunity to address one of the developments from the last meeting which was actually staff is not -- you know, their recommendation won't be to oppose a similar project of a lower height, at least that's how I understand what the conversation was at the last public hearing.

And so if you could address that or keep that in mind, because comments that just, you know, reiterate that you're against rezoning this to residential don't address that issue, because if we have a recommendation from staff, you know, that you know -- and you're saying that staff is against it. We understand staff is against the current proposal. But as I mentioned in the last meeting at the end, it's probably going to be something, you know, that is residential that would likely be -- there would be sentiment to approve that, I think.

So if you could address that, it would be helpful to me, certainly, as a commissioner to hear more on that.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: Thank you.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Robb, I would just say that I think you're speaking your personal opinion. I don't -- I mean, I don't -- I'm still considering this matter. So for myself, I would not say at this point that I believe residential is the best use of this property, and I would point out that staff suggested denial not only for height but also the density.

So while they said there was a way that, you know, they might support a lower density and lower height, it was both. It was not just the height.

So I think we're taking a little bit of a leap in that that we do not know yet, and we can't speak for each other as planning commissioners as to where -- what the important issues are.

So I just want that -- I want that to be out there. There are a number of issues with this. And so just keep going. Give us more -- give us more information. The applicant will have a chance for rebuttal. And speaking for myself, I just want to have all the information to be able to weigh it, because we really do care about making a well-informed decision here.

So thank you.

CHAIRMAN FRYER: Thank you, sir.

Commissioner Shea.

COMMISSIONER SHEA: I just wanted to reiterate what Karl just said. I feel the same way, that I don't agree with everything that Commissioner Klucik has said in terms of -- I don't believe this is a negotiation that's going on, and I don't believe the ultimate result necessarily has to be a negotiation. I think -- and I'll leave it at that. So I don't support that feeling.

CHAIRMAN FRYER: Thank you. Ma'am, please introduce yourself, and then go right ahead.

MR. YOUNGBLOOD: Mr. Chairman, Nicole Esch has been ceded time by a few people. Tamara Esch, M.D. Jones.

CHAIRMAN FRYER: As your name is called, please raise your hand so we can be sure you're here. All right. I see two hands. Go ahead.

MR. YOUNGBLOOD: Mark Gardner.

(Raises hand.)

MR. YOUNGBLOOD: And from a person online, James Esch.

CHAIRMAN FRYER: You can't do that. They've got to be here physically present in order to cede time.

MR. YOUNGBLOOD: Understood.

CHAIRMAN FRYER: So we have -- how many was that, four? Okay. Ma'am, you have 12 minutes.

MS. ESCH: Good morning. My name is Nicole Esch, and I'm an Isles of Capri resident of 10 years, and my family owns multiple properties on the island.

I'm adamantly opposed to the project and would like to address the building heights.

I'm trying to get my presentation on the screen for you.

The Land Development Code defines compatibility as 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 or indirectly by another use or condition.

CHAIRMAN FRYER: Excuse me, Ms. Esch. We're having a technical difficulty up here.

COMMISSIONER SHEA: Yeah, I don't have it either.

COMMISSIONER HOMIAK: I got it.

CHAIRMAN FRYER: What button did you push to get it? We won't charge your time on it.

MS. ESCH: Okay, thank you. I need as much time as I can get, so...

CHAIRMAN FRYER: Okay.

COMMISSIONER SHEA: She did something. I think I need to do the same.

CHAIRMAN FRYER: Yeah.

This is why you can't leave us, Karen.

COMMISSIONER HOMIAK: I just figured this out after how many years?

CHAIRMAN FRYER: All right, ma'am. You have 12 minutes.

COMMISSIONER SCHMITT: You'll have to give your pay back.

CHAIRMAN FRYER: Go ahead, Ms. Esch.

MS. ESCH: I'm going to skip over this part right here, because I'm sure you all know the definition of "complementary" at this point. And I'm just going to quickly review the FLUE Policy 5.6., that new development shall be compatible with and complementary to the surrounding land use as set forth in the Land Development Code.

In my opinion, this proposed project is not complementary nor compatible. I'm going to share pictures of all the buildings on the business isle with their actual heights so you can see and understand how this proposed project does not fit into our community.

Before I start, I want the Planning Commission to know these buildings' heights are approximate, as they were measured with a drone, which is not 100 percent accurate. But I do ask the applicant to have an expert provide their own analysis if they don't agree with my findings.

Based on my findings, the average zoned and actual heights on the business isle are well below 30 feet. I'm going to start at the beginning of the business isle with Osteria Capri as if you were driving onto the isle. These buildings will be in order and will end with Capri Christian Church.

Osteria Capri is the first building on top at 20 feet. Capri Lodge condos is below at 20 feet. Capri Realty on top at 14 feet, and John R. Woods building is below at 25 feet.

Little cream building to the left is 10 feet. The pink building to the right is 17 feet. Capri Community Center to the left is 17 feet, and Tarpon Village, 55-plus community, to the right is 25 feet.

White building to the left is 25 -- or 28 feet. Capri Produce, to the right, is 17 feet.

Yellow building/Kitchen of Isles of Capri is 15 feet, and Island Gypsy, to the right, is 20 feet. Island Gypsy -- whoops. Island Gypsy Cafe and Shop, to the left, is 32 feet. Driftwood Landings, to the right, is 25 feet. The Tarpon Club Marina on top is 75 feet, and the teal building below is 20 feet.

Pelican Bend on top is 21 feet. Capri Fish House below is 19 feet. Greater Naples Rescue Fire District on top is 25 feet, and Capri Christian Church below is 35 feet.

My measurements provided on the table show that the average actual height of all

buildings on the business isle is just 24 feet. Why is this important? C-3 is zoned for a maximum height of 50 feet, but the actual height would be closer to 75. At 168 feet the proposed project would not be compatible with any buildings on the business isles. The C-3 maximum allowed actual height is currently 150 percent higher than the current average building height on the business isle, according to my calculations.

I believe the Comprehensive Planning review put together by staff is correct. FCC Beach and Yacht Club's proposed project must be compatible with the surrounding land uses and, I agree, it is not.

The picture on top shows Backwater Nick's. It was the applicant's waterfront restaurant on the property prior to Hurricane Wilma. Backwater Nick's was compatible.

The picture on the bottom left is the applicant's model at their sales office. The model was compatible. You can see the applicant's proposed project to the right, which I believe is not compatible.

The two existing structures adjacent to the proposed property are the teal building to the left and Osteria Capri to the right. Both buildings are 20 feet actual height. The proposed project would be located between these two buildings. Think of the privacy lost by the residents living across from these three proposed buildings. These towers will look directly down into the back patios and into their houses. The homes across the water are zoned RSF-3 with three allowed houses per acre and a maximum height of 35 feet.

Most of the houses and businesses represented by the color yellow will be negatively impacted by losing some of their sky view or looking directly at the proposed project. When these residents bought their houses, I doubt most thought that there would be three large towers to look at while they are in their houses or in their backyards.

I'm going to give one quick example. If you look at where the lower black arrow is pointing, this is all the way back to Tahiti Street. I have friends that chose this house as their retirement home. When you enter their second floor, which is the main floor of their house, their husbands' chair, you know, like the big recliner chair, it looks out the window, and it looks directly at his TV. Right now his view, you can see the top of the marina, but you see nice, blue sky.

The proposed project will put the towers right in his view, and that was a concern of the couple all the way that far back.

The applicant's attorney commented that we would not notice three buildings because of the lush landscaping. I disagree. Every time I come onto Isles of Capri, I will have to make an approximately 240-degree turn around the three buildings and parking garage.

Section 56-128 states, parking garages under five, detailing of parking garages similar to buildings it serves, or if serving multiple buildings, detailings of the parking garage to be compatible with the neighboring buildings.

There are no parking garages on Isles of Capri. There are no pools on top of parking garages on Isles of Capri. All parking is ground level on Isles of Capri. This garage is not compatible with the current parking, and is it not compatible with the current surrounding's height of 24 feet.

Mr. Yovanovich said we have one deviation related to parking. Because this is a small site, we're asking for a reduction in the required parking for the property. This was the May 19th NIM, and I have the time noted.

I asked the planning board -- I ask the planning board to not grant any parking reductions to the applicant. Parking reductions have the potential to cause overflow parking. This overflow parking will end up parking around the perimeter of the business isle. This already happens sometimes in season. Look at the pictures of the cars on the business isle. I also do not find a 100-foot-tall parking garage compatible. Please hold the applicant accountable with any proposed project to have the full amount of parking required to service their business or property.

Also, I personally find all parking garages unattractive. I ask the planning board to not have a parking garage in the center of our community business isle. In my opinion, it is offensive,

and this would not happen in Port Royal or Goodland due to their superior standards.

In my opinion, Isles of Capri represents the best waterfront property in east/south Naples and should be not subject to this concrete structure.

In today's Collier County Planning Commission agenda, Page 3, No. 2, states -- I guess I'm just going to kind of quote, plus accessory indoor and outdoor recreation units and parking structure without limitation.

As stated above, no parking garage should be allowed at all. A parking structure without limitation is asking for no rules regarding parking to the applicant. Please request this -- please reject that request.

CHAIRMAN FRYER: You have four minutes just to --

MS. ESCH: Okay. I'm going to try to go ahead. All my stuff's new, so I'm going to try to go as quickly as I can.

Okay. Compatibility, we have a third-mile radius. A third-mile radius is within a reasonable distance of the subject site. The Planning Commission with the Naples One project acknowledged it multiple times. I have the circle right there on the diagram. It does not include the end of Isles of Capri, it does not include Hammock Bay, and it does not include anything from Marco Island.

Please look at this radius very closely, as any changes to this zoning will greatly affect future business standards and set precedents for this circle in the business isle.

The Tarpon Club Village 55-plus community is zoned RMF-16 on the business isle, and it is the only property as such.

Please look at the picture to the left. Only two stories, and it's set far back from the main road. In my opinion, it's not what the property can be many years down the road. It's what is compatible with the properties near it right now.

This slide shows the property owners of the Tarpon 55-plus community. It's all in alphabetical order, and there are only -- there's a couple that owns two properties, and it looks like a family member, but other than that, they are all privately owned. So there is -- and there's none for sale right now. So this property is not going to, hopefully, anytime soon turn into that building that is kind of being threatened as a possibility.

The applicant's attorney -- and, Mr. Schmitt, you brought this up multiple times, that the applicant's property needs to be profitable. I personally don't think the price paid for a property should reflect any decisions made by the planning board. The applicant bought most of this property many years ago in the total of four million, one hundred and eighty-six. I have it all out, and I tracked everything back. With this amount paid, they could just sell the land and make money.

And I should also note that at that price, that also includes the Tarpon Club Marina which is successful and has been opened for many years, and they've probably made their money back on just having the parking lot right where it is.

And just another little sidenote, too, is when they did have Backwater Nick's there, I would find it hard to believe that the applicant didn't have insurance on this property, and they probably made claim to that insurance, and they never rebuilt. So they should be very positive with this investment.

CHAIRMAN FRYER: One minute.

MS. ESCH: All right. A C-3 project will be profitable. Mr. Yovanovich showed two letters at the last meeting, and he stated so himself.

This is the current business isle with the property owners, and that's why I want you to really take this into consideration, because they seem to be really pushing that they want these towers. As you can see, there's other owners right over there. One of them spoke earlier. And that's why they want to put -- there will be other towers if you approve this today, and I'm highly opposed to that.

CHAIRMAN FRYER: Would this be a good time to conclude?

MS. ESCH: Can I have like -- I have the -- one of my biggest things is at the end here, and it's about sewer.

CHAIRMAN FRYER: Here's what I'm going to do. I'm going to let Commissioner Schmitt ask you a question, and maybe --

MS. ESCH: Oh, I'm happy -- yes, I'll take a question.

COMMISSIONER SCHMITT: No, I prefer she finish, because I'm going to go back to a slide in the beginning.

MS. ESCH: Okay.

CHAIRMAN FRYER: Try to wrap it up in 30 seconds or so, if you can.

MS. ESCH: I'm trying to go as fast as I can here.

CHAIRMAN FRYER: I know, and I hate to say this to you --

MS. ESCH: I'm sorry. I have so many slides. I want you to -- I actually had over 100, and I scaled it down.

CHAIRMAN FRYER: Stop. We've got another problem here, and that is we've got an excellent court reporter, but she can only --

MS. ESCH: Oh, she needs a break.

CHAIRMAN FRYER: -- go about a thousand words a minute, and when you're talking 1,200 words a minute --

MS. ESCH: I know, I'm sorry.

CHAIRMAN FRYER: -- it makes it especially difficult.

MS. ESCH: I'm trying to get -- I'm skipping over a lot of stuff here.

CHAIRMAN FRYER: I know. Well, if you can find other people to cede you time, and they would not speak, that's another thing, but we're being real generous here with time, and please try to wrap it up.

MS. ESCH: Okay. I appreciate that. Thank you so much.

All right. So too much density. Real quick, you can see here, this project could put another 253 residents added to the Isles of Capri population.

Just as a quick note, there is another property that is zoned at the end of the isle. I believe it's the RMF-12. They could build a tower down there, and they could potentially do that. They have the zoning right to do this, but this -- these property owners do not.

So, basically, where I'm getting at with the too much density is -- I agree with staff. I like the three dwelling units better. I want to remind you that four dwelling units, if you were to go that route, is discretionary and is not entitled.

Sewer pipe. This is -- this is the very important part here. The applicant cannot do this proposed project without a new sewer pipe coming all the way down Capri Boulevard. Currently, the City of Marco Island will not allow any more connections to the city's force until a gravity sewer collection system is constructed for the commercial zone.

In addition to installing a force main along Capri Boulevard, the Collier County -- or, I'm sorry, along Capri Boulevard from Collier Boulevard to the business isle with the capacity to handle future phases. Capri Boulevard is a narrow, two-lane road, and with such a construction project, this will likely take it down to one lane during the construction activities.

CHAIRMAN FRYER: Ma'am, I'm going to have to call time now, I'm sorry --

MS. ESCH: That's fine.

CHAIRMAN FRYER: -- in fairness. And I want to remind everyone that we have really done our homework carefully. We're thoroughly familiar with this information, and you can assume that we will give the fullest consideration to all relevant points that have been raised.

And, Ms. Esch, before you sit down, I think Commissioner Schmitt has a question or comment.

MS. ESCH: Oh.

COMMISSIONER SCHMITT: Yeah, I have a question. By the way, that was really well done and well researched.

I have two comments. Can you go back to the sale prices.

MS. ESCH: Yes.

COMMISSIONER SCHMITT: I just want to make sure, for the record -- and I would defer to Mr. Yovanovich. If he has any objections to this, he could so state in his closing. I don't have any idea if this information is accurate. I trust you did the research. And I have to believe that what you got off the Property Appraiser's website, or wherever you got these records -- but I defer to Mr. Yovanovich if he objects to the accumulation of these different properties. Frankly, I had no idea it went back that far.

COMMISSIONER HOMIAK: It did. I looked it up.

COMMISSIONER SCHMITT: Oh, did it. Wow.

Can you go back to the picture, the original picture of -- maybe it was your second slide. You showed what was shown in the sales office. There. Oh, there. Now, that's the lower left-hand corner. I guess that represents what was going to be built that was going to be termed the Tarpon Club; is that correct?

MS. ESCH: Yes.

COMMISSIONER SCHMITT: Okay. That goes back probably, what, 20 years ago? I think it was even proposed while Backwater Nick's was still there.

MS. ESCH: It goes back before I lived on Isles of Capri. I've heard of it. I -- yes.

COMMISSIONER SCHMITT: I just only want to point out that -- in fact, there was a stunning architectural design. It kind of reminded me of the Coronado hotel in San Diego the way it was designed, because I've seen a copy of it in the sales center.

But my question is, do you have any idea if that building could be built today? And the reason I ask is because the base flood elevation is significantly higher than what it was when this building was proposed, meaning you can have no habitable floors below the base flood elevation. And I have no idea -- and Jamie French isn't here. But I have to believe the BFE there is probably 12 to 13 feet, meaning you can't have anything built below that. And my only point there is it's a wonderful representation, but I doubt they could build that same building today on that property based on the new flood maps and flood elevation requirements. Do you have any idea?

MS. ESCH: I don't want to speak incorrectly, but I would agree that, with flood elevation rise, that there's a good chance that they probably couldn't build that exact model. But, typically, C-3 you can go as high as three stories, and I would guess they should really just do two stories, because they're going to want some high ceilings that -- they could do something very similar to this. And as you can kind of see with this picture, there's no parking garage. There's --

COMMISSIONER SCHMITT: Well, that's my second point. My second point --

MS. ESCH: And that's the part that I think is the big mistake. I don't see any community that their center has a parking garage right in the middle, especially between million -- multi-million-dollar homes.

I know they made the parking garage look really pretty, but parking garages -- I mean, the best one I've seen is, you know, tucked behind Fifth Ave South. But other than that, most other parking garages you see are not attractive. And you can try to hide it with your trees, but it's not --

COMMISSIONER SCHMITT: But my point to my other fellow commissioners, any C-3 building that goes in there today, because of the base flood elevation's going to have parking underneath the facility. A parking garage -- and the parking garage -- I know you stated you object to parking garages. But any facility that's built there today, because of the base flood elevation, is going to require some kind of a building over parking, because the parking -- either you're going to have frangible walls for -- to build above the flood elevation requirements, or you're going to have parking, which allows you to put your elevated floor.

So it's just a matter of understanding that because of the building restrictions today, anything that's built on that property is going to require a -- some sort of -- either on stilts or parking underneath the building in order to build it under today's criteria. So just so folks understand that. This building, great representation, but today's criteria, it just could not be built.

MS. ESCH: Well, the thing that you could easily build, though, is you could put parking garage, like, underneath the building and have it look like a building so it's not a parking garage.

COMMISSIONER SCHMITT: I understand.

MS. ESCH: So it's not a concrete structure.

COMMISSIONER SCHMITT: I just want to make sure all the folks understand this representation probably goes back 20, 25 years, I think, when --

MS. ESCH: Agreed.

COMMISSIONER SCHMITT: Okay.

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

Mr. Youngblood, how many more do we have?

MR. YOUNGBLOOD: We have three more in-person speakers, and then we have about 26 online.

CHAIRMAN FRYER: All right. It's 20 minutes after 10. We're going to take a hard break at 10:30.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes. Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: I just wanted to commend that speaker for being so organized and having such good exhibits and, obviously, having done such thorough research. That is very helpful to any -- to any panel like this panel, so I just wanted to commend her.

CHAIRMAN FRYER: Thank you. Now, do you want to say something?

MR. YOVANOVICH: Yeah. Mr. Brookes already had his chance to speak.

COMMISSIONER SCHMITT: I would agree.

MR. YOVANOVICH: I do not believe he should be given another chance to speak.

COMMISSIONER SCHMITT: I would agree. This is not time for Mr. Brookes to speak.

MR. YOVANOVICH: He was given extra time to represent his group. If they wanted him to have -- I don't know what basis there would be for him to get another bite at the apple. But he had his opportunity to speak, and he represented the group, and he should not be back up there.

MR. BROOKES: I'll be here for 20 seconds. I'm just reporting on the meeting we had with Mr. Yovanovich that --

MR. YOVANOVICH: You weren't at the meeting.

COMMISSIONER SCHMITT: Excuse me, sir.

CHAIRMAN FRYER: Sir, please, we're going to talk about it up here, and then --

MR. BROOKES: Okay.

CHAIRMAN FRYER: -- we'll see where we go. What is the wish of the Planning Commission on this? Ordinarily -- well, let's keep in mind that the parties here are the applicant and the county, and we do grant latitude for counsel of other interested persons. There should be limits to that latitude. Certainly, Mr. Yovanovich is going to have the last say in rebuttal.

And the question, I think, before us is, do we want to allow Mr. Brookes an opportunity right now to have, say, three minutes or not?

COMMISSIONER VERNON: No.

COMMISSIONER SHEA: I'd say yes.

COMMISSIONER VERNON: I may want to hear Mr. Brookes, but I don't really want to hear from him right now.

COMMISSIONER SCHMITT: I agree.

COMMISSIONER VERNON: It may get answered. And if we want to call him up later, we can. If he wants to come up, he can ask later. I just -- you know, this is going -- I mean --

MR. BROOKES: I do have some other things --

COMMISSIONER VERNON: No, no, no. Don't say anything. I would like this to proceed as -- I don't know. If everybody -- I think, if everybody agrees with me.

COMMISSIONER SHEA: No. No, we don't.

COMMISSIONER VERNON: I would like you to proceed as planned, and we can call you up, or you can request to come up when we get through this phase.

COMMISSIONER SHEA: I think if he's reporting on something that's transpired since he last spoke, why can't he offer -- I'm for giving him 20 seconds.

MR. YOVANOVICH: Mr. Shea, he wasn't at the meeting. He's going to report on something he didn't attend.

COMMISSIONER SHEA: Who wasn't?

MR. YOVANOVICH: He was not at the meeting. He wants to tell you what happened at a meeting he didn't attend.

COMMISSIONER SHEA: Oh.

MR. YOVANOVICH: So, you know, with all due respect --

MR. BROOKES: Well, Mr. Mueller is right here, and he can --

MR. YOVANOVICH: He can come back up at his time if you want to ask.

COMMISSIONER SCHMITT: I'd, likewise, say if, in fact, we want to hear from Mr. Brookes, we can do it after the public speakers.

CHAIRMAN FRYER: Under the circumstances, I'm going to make a ruling here, and you can overrule me if you wish. But my ruling is that we will reserve our right as we always do to call up other speakers at the proper time. And it sounds like there's going to be serious interest in hearing from Mr. Brookes again later on but, perhaps, this is not the time.

So, without objection, that will be the ruling from the Chair.

MR. BROOKES: And if I might, for one second. I'm going to yield this to John Mueller, because he was at the meeting with Mr. Yovanovich. So later when that --

CHAIRMAN FRYER: Hang on.

MR. BROOKES: -- comes up, he can explain --

CHAIRMAN FRYER: Hang on.

MR. BROOKES: -- what happened in the negotiation that Commissioner Klucik asked for.

CHAIRMAN FRYER: Please, Mr. Brookes. Please. Let's maintain order.

In fact, it's 10:23. We'll take a 10-minute break right now until 10:33, and when we come back I'm going to ask everybody to please be civil and respectful of everyone else's right to speak when they have the floor. In recess until 10:33.

(A brief recess was had from 10:23 a.m. to 10:33 a.m.)

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

CHAIRMAN FRYER: Thank you. Let's return to session, please.

While we're regaining our seats, I'm going to ask Mr. Mulhere to approach the podium, please, with a request.

MR. MULHERE: Hi. Bob Mulhere, for the record, thank you.

It looks like there's a consensus that maybe this isn't going to take all day, and so there's a good shot that we would be heard. We're next on the agenda, I think, after the Golden Gate -- what is it tower? -- distance waiver. So that shouldn't take a great deal of time. So I told my clients we'll stick around and --

CHAIRMAN FRYER: Okay.

MR. MULHERE: -- enjoy the fun.

CHAIRMAN FRYER: Thank you very much. Thank you.

MR. MULHERE: Thank you.

CHAIRMAN FRYER: The other preliminary matter --

COMMISSIONER SCHMITT: Bob, they're billable hours, are they not?

CHAIRMAN FRYER: Speaking of billable hours, it's been brought to my attention, of course, that Mr. Brookes is representing a number of individuals and is on the clock. In keeping with the obvious rule that Mr. Yovanovich is going to have the last word in rebuttal, to the extent that we wish to call Mr. Brookes back up, we're going to do that, if possible, after all the other



public speakers and before Mr. Yovanovich begins his rebuttal.

And if we can get that done sooner rather than later, it will save the residents some money.

All right. So where are we now, Mr. Youngblood?

MR. YOUNGBLOOD: Mr. Chairman, we are now going to Rick Champ, and then followed by Gary Kluckhuhn.

CHAIRMAN FRYER: Okay. Mr. Champ.

MR. CHAMP: I'm going to yield my time to another speaker.

CHAIRMAN FRYER: To whom?

MR. CHAMP: Anybody who wants to speak.

CHAIRMAN FRYER: You're for sale? Well, why don't you find someone who would take your -- who ?

MR. CROWDER: Matt Crowder.

CHAIRMAN FRYER: All right. Mr. Crowder, have you already spoken?

MR. CROWDER: I have not already spoken.

CHAIRMAN FRYER: Okay. Come on up. Speak for six minutes.

MR. CROWDER: Let me see if I can figure this out.

Thank you, Mr. Chairman. For the record, Matt Crowder. I'm the president of Capri Community, Inc., and I'm here to request that you vote to deny this application.

Oh, thank you.

I wanted to show you something interesting. This is a memo dated March of 1996. Our secretary found this in the archives. It is from a Mark Woodward. And Mark was affiliated with the partnership, the joint venture that purchased the property with the intent of putting up a development.

Up in the right are the members of his partnership, and of note, Burt Saunders of counsel; small world. And I won't waste your time with all of this; just to note that, like I said, they were involved in the purchase on behalf of FC Marina Joint Venture, and I have the underlined part down there, all plan development will be consistent with the uses permitted under C-3 zoning.

You've seen this already. This is the Tarpon Club Resort annexed, the model that has been displayed already. And I understand the commissioner that said that this probably couldn't be built today exactly as laid out in this model, but I think it's important to note that this has been the foundation of our expectations for the last 26 years.

If I can go back, I'll just point out that at the beginning of this memo he says there's been a great deal of speculation and rumor circulating among the residents regarding the sale of this property. We have been consistent since then about our desire to keep this C-3.

Sorry, this is a little fuzzy. It's a screen grab from the September 1st meeting. This is the petitioner's commercial option that they displayed during the September 1st meeting. He described this as both viable and within the capacity of the road infrastructure on Capri. He included with that two letters from commercial real estate professionals testifying to the potential success of this commercial project, one of whom, the fellow on the left was, as Jeri Neuhaus said, effusive in his enthusiasm for this project.

This is a copy of the letter. I was at the meeting with Mr. Yovanovich on the 13th. The meeting lasted about seven minutes. There were no changes to the height or density as a result of this meeting.

And I'll just -- I won't bother you again with this letter. I'll be happy to submit copies of it. But I'll just read the last paragraph. We are encouraged to see the C-3 compliant commercial alternative that was included in the FCC presentation. Since FCC presented a viable and supportable alternative, and the overwhelming majority of Isles of Capri residents are opposed to rezoning, this commercial alternative or the originally planned Tarpon Club annex, we would not object to either one of those.

I won't bother you with too much of this, but as you know, after staff review process, staff declined to recommend approval of one of these petitions, and recommended denying the other.

During the review, the staff described the associated site plan as inconsistent with the surrounding area and asked FCC to resubmit the plan in a manner that is consistent. In response, FCC terminated the staff review process, as you know, and forwarded the issue straight to the Planning Commission. They did not offer a compatible solution; they stood their ground.

I will say this -- and this is Item No. 3 here, because I think it's important to note when we talk about the willingness or the obligation to negotiate. In lieu of reaching out to CCI or the community at large, as they did in 1996, FCC held private meetings in a Capri residence, invited only those individuals they deemed to be receptive, and the meetings were unannounced, and no one from CCI was invited.

Next point, as I've already said, FCC has displayed a commercial option they describe as viable and supportable by the infrastructure along with the enthusiastic letters. One of the real estate professionals described the option as fantastic and foresaw a wonderful and active project patronized by high-quality patrons who love to utilize their resources on entertainment and shopping.

So the commercial option or the originally planned Tarpon Club resort annex seemed like win-wins for us. By contrast, the residential solution seems like a max profit win for the developer and a total capitulation on the part of the residents.

And that's all I have.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. YOUNGBLOOD: Our next speaker is Gary Kluckhohn, and then we will go on to our online speakers.

CHAIRMAN FRYER: All right.

COMMISSIONER SCHMITT: Didn't he speak already?

CHAIRMAN FRYER: Yes, he did.

Sir, you've spoken already, have you not?

MR. KLUCKHOHN: Not at this meeting.

CHAIRMAN FRYER: Did you speak at the first?

MR. KLUCKHOHN: I don't recall having spoken on this subject.

CHAIRMAN FRYER: Yeah. We recall.

MR. KLUCKHOHN: Pardon me?

CHAIRMAN FRYER: We recall you speaking, sir.

COMMISSIONER HOMIAK: I thought he didn't get a chance to.

CHAIRMAN FRYER: Oh, you were not -- go to the mic so we can hear what you're saying.

MR. KLUCKHOHN: I just have something very brief to say.

CHAIRMAN FRYER: Well, before you do that, we want to determine whether you've spoken or not.

MR. KLUCKHOHN: I don't believe I have spoken to this committee. I've met some of you folks and talked to some of you folks.

CHAIRMAN FRYER: So you were not at the podium on the 1st of September?

COMMISSIONER SCHMITT: Yes, he was.

MR. YOVANOVICH: In fairness to him, he spoke on a different matter. He didn't speak on this matter.

MR. KLUCKHOHN: Oh, that was the other rezoning subject.

COMMISSIONER SCHMITT: The other rezoning.

MR. KLUCKHOHN: I apologize.

MR. YOUNGBLOOD: Let the record reflect.

CHAIRMAN FRYER: Ladies and gentlemen, we need to -- please, one at a time. Our apologies, sir. You have the floor.

MR. KLUCKHOHN: Thank you.

COMMISSIONER SCHMITT: Another matter.

MR. KLUCKHOHN: Shall I introduce myself again?

CHAIRMAN FRYER: Just spell your last name for me.

MR. KLUCKHOHN: K-l-u-c-k-h-u-h-n.

CHAIRMAN FRYER: Thank you.

MR. KLUCKHOHN: Thank you.

Our motives. I live on Isles of Capri. I've lived there about three years. I lived in Naples at the end of -- on Haldeman Creek for over 30 years, having moved down here over 40 years ago to Marco Island. And Haldeman Creek, when I moved there, was considered the most polluted tributary in the Gordon River/Naples Bay estuary system. It had septic systems up the creek.

And they put a septic system in East Naples, or a sewer system, with a promise of things getting better. Things got better for a little while, but the density that enabled as a result of the sewer system causes today Haldeman Creek to be so polluted that to go in the water you've got to rinse off with peroxide afterwards.

I moved to Isles of Capri to get away from the pollution and to get the lifestyle that I originally moved my family down here to enjoy. It's beautiful.

I do look up from time to time. I've got osprey on my property. It's a beautiful place. People won't live there. Property value down there is about a million-dollar entry level for a vacant lot if you want waterfront view. It's gone up.

The density of the land is the biggest impact on the infrastructure. Density's simply a factor of volume. Volume's a factor of how tall you can go. Ground covers, we assume, are going to work towards getting the wetlands back and get the river of grass back but, in the meantime, we need to respect the density that we're imposing on the property.

C-3 will let you do anything you want to do on that property. It's profitably -- well profit. The \$50 million you lose by not going taller. You go taller. You put five stories more at one -- at 10 units per floor that's 50 units, land cost per unit on that project is about a million dollars. So, yes, there's \$50 million profit motive on the table here. It's a lot of money.

I really would strongly encourage -- and I talked to Mr. Yovanovich about compromise and said, really, it's the height is the one objection we have. And he said, well, that's off the table.

Anyhow, that's all I got.

CHAIRMAN FRYER: Thank you.

Next speaker. Are we going online now?

MR. YOUNGBLOOD: Mr. Chairman, we are going online now. Give me just one moment.

CHAIRMAN FRYER: I'd like, then, to -- without objection from the Planning Commission, we will listen to each online speaker for three minutes.

(No response.)

CHAIRMAN FRYER: Seeing no objection, that's how we'll proceed.

Who's the first online speaker?

MR. YOUNGBLOOD: Our first online speaker is George Merkling.

George, you are being prompted to unmute your microphone, and he's going to be followed by Karen Wassermann.

CHAIRMAN FRYER: And spell your name for us, sir.

MR. MERKLING: M-e-r-k-l-i-n-g.

CHAIRMAN FRYER: Thank you. You have three minutes.

MR. MERKLING: And thank you for hearing me today. I wanted to bring forth the fact that there are only two people that are going to profit from this petition, and that is Mr. and Mrs. Ferrao. When one looks at the organizational chart of FCC businesses, they all go up to only two people as becoming shareholders and owners. We've heard that the culverts are going to really help our community out. We heard that four additional mini pump stations are really going to help

the community out. That's very debatable. But as far as who's being helped out here, it's only two people, Mr. and Mrs. Ferrao, and that's all I wanted to say today. Thank you very much for listening to me.

CHAIRMAN FRYER: Thank you, sir. Next speaker.

MR. YOUNGBLOOD: Our next speaker is going to be Karen Wassermann. She's going to be followed by Debra Ersland.

CHAIRMAN FRYER: Thank you, Ms. Wassermann.

MR. YOUNGBLOOD: Ms. Wassermann, you're being prompted to unmute your microphone.

CHAIRMAN FRYER: Who is the person after her?

MR. YOUNGBLOOD: Deborah Ersland. We will let Debra speak. Deborah, you're being prompted to unmute your microphone.

MS. ERSLAND: Hello. Can you hear me?

CHAIRMAN FRYER: Yes. Spell your name for us, please.

MS. ERSLAND: Thank you. My name is Deborah Ersland, E-r-s-l-a-n-d.

CHAIRMAN FRYER: Thank you.

MS. ERSLAND: Been a resident -- have been a resident of Capri for 12 years. I'm also a 45-year commercial real estate broker as well as developer.

I threw away my four pages that I was going to use today, and I just want to pick up on some highlights so to not take so much time.

From my experience and my background, I want to talk about the outlet mall being used in any fashion as a comp here. Outlet malls in general are no longer in fashion, and not just this location. They have failed all around the United States, and they have been used for adaptive reuse and not as outlet malls. There are very few that are continuing to operate. There are some, but there are very few that are working. This particular location was not a highlight and never really destined to work. So in terms of determining whether or not commercial will work in this area, please do not use that as a comp.

Profitability and highest and best use for the owner should never ever be used as a determination or a measuring stick what should go in. That's what's happening, I'm afraid, today when we look at the profitability of this proposed development.

He needs to go up, and he needs to have as many units. The higher the units -- the higher the units are up, the more costly they can be sold for and the profitability for the owner. But in terms of anybody else making decisions about whether it's appropriate for the site, profitability for the owner of the property should never be considered. That's a risk assessment that they have to take themselves.

That's the same with highest and best use. Highest and best use for him in terms of profitability is residential. It's highest and best use for everybody. And I think that has to be weighed in here. And I think you've heard from enough speakers to know where most people stand from.

Highest and best use has to come as a matter of what works on the site for the community as a whole as well as the developer. And if he says what the community needs is commercial and I can't do that to be profitable, that's a decision he has to make.

Their basis in the property is extremely low, and they could flip it tomorrow and make a big profit, if that's what they're looking to do, but they'll make more money with a development.

The question about whether the property that they're planning on is gated or not is, I think, incidental and should be cleared up. Gated means will there be gates at either end. Probably not. Maybe. I don't know. But will it be useful for the rest of Capri? Absolutely not.

So the fact that we might be able to walk in front of their parking garage is meaningless to us. It still will be a project that's designated for the use of their residents only, including the parking area.

I've always had a question about the boat barn building being included in this rezone

application. I don't understand why it was included in the application. If the boat barn business is terrifically profitable for them --

CHAIRMAN FRYER: Thirty seconds, ma'am.

MS. ERSLAND: -- and they plan on leaving that there forever, why are they asking for that to be zoned the same as what they need to do their residential towers?

When I talked to city staff, they did indicate to me once this gets rezoned, the boat barn, at any time, that could also be converted to the same density that would be allowable in the other part of the PUD. I question why that is in this application, why it needs to be. I just don't think it should be. It puts the rest of the island at risk that if at any other point down the line that the profitability of the boat barn becomes incidental to them, it could become towers of housing without anybody, again, on Capri having any say to that.

CHAIRMAN FRYER: Thank you, ma'am. You're over time. Thank you very much.

MS. ERSLAND: Thank you.

CHAIRMAN FRYER: Before we go to the next speaker, just a word of caution. We value seriously the opinion of residents, people who live in the area, and they are, in a sense, experts about the area, but if you're going to stand up and say that you're a real estate developer or something else, you may possibly open the door to cross-examination by the petitioner's counsel. You don't need to do that. We value the evidence you're supplying. Don't make yourself into an expert, because you run the risk of getting yourself on an entirely different playing field.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be Ronald Helsel, followed by Sheryl Braun.

Mr. Helsel, are you with us?

MR. HELSEL: I am.

CHAIRMAN FRYER: Go ahead, sir.

MR. HELSEL: Can you hear me?

CHAIRMAN FRYER: Yes, go ahead.

MR. HELSEL: Okay. Andrew, I'm trying to share the screen, and I don't see that icon at the bottom.

MR. YOUNGBLOOD: Do you see a green icon that says "share screen"?

MR. HELSEL: I do not.

MR. YOUNGBLOOD: Okay. Give me just one moment here.

MR. HELSEL: Hang on. I got one at the top that says "meeting information."

MR. YOUNGBLOOD: Okay. Mr. Helsel, unfortunately, you're not able to share your screen, sir. I apologize for that.

CHAIRMAN FRYER: But we can hear you loud and clear, so go ahead, sir.

MR. HELSEL: Okay. Well, my PowerPoint presentation's kind of gone to crap.

So you've heard from members and organizations in the Capri community that are against the proposed high-rise development. This will be a little bit different. I'm here to talk about how this directly affects myself and my wife. This will destroy our investment in our retirement sense of place that we sought out and found over 12 years ago.

As I've stated, I've owned for over 12 years a single-family home that is directly adjoining a proposed Fiddler's Creek development. I'm across the bay. I'm 352 feet away.

In addition to that, we've also purchased a home next to us, so now we're the owner of two residential properties that are directly affected by this proposed development.

The existing remains of the commercial marina were present when we purchased our home, and we did the research into the zoning so we knew what to expect when and if they choose to develop understanding that anyone with that type of property would someday most likely do so.

My view facing south, which if you were looking at my PowerPoint presentation right now would be pretty nice looking, will be completely and utterly blocked. You will never ever see the sky to the south again from my back porch. In addition, I'm going to have people looking at me

from the 14th floor down onto my dock into the pool that we're about to put in; probably not now.

The slide that Mr. Yovanovich presented from over by Mr. Cox's house was, I don't know exactly the distance, but let's just say it was significantly far away when he said, well, nobody's view's going to be affected. Now, that was facing north. Remember, my house faces south. Anyone that buys real estate in South Florida is going to know that if your house faces south, it's more valuable because you get to see the sunrise, the sunset.

Having read the summary of the proposed Fiddler's Creek rezoning request to change the residential -- to increase the density at least 750 percent above the current allowance, which it clearly cannot do unless they build an exceptionally high building, leaves us stunned. If they're allowed to proceed with this development, it will result in a building -- a loss of our investment in our home and destroy our retirement sense of place that we have with the expectations of living in a community that we currently enjoy.

What they're proposing is much like the high-rise area of Marco, Naples, which is not where I chose to live when I purchased my house.

These are the reasons people seek out to live on Capri. It's a lifestyle. It's sense of small community. And this development will clearly change. I'm skipping some stuff in this because it's already been gone over.

I don't see how you can put any faith into what FCC proposes if you stop and think that they acquired a property under the current zoning, which has been gone over. They proposed a development which has been gone over. So I'm going to skip over all that part now.

Let's talk about compatibility. Which one do you think fits our community better, the proposed development that you saw --

CHAIRMAN FRYER: Sir, I'm going to pause you just for a moment here. I'll give you a little more time, but I have a question.

Mr. Youngblood, are you running the clock?

MR. PERRY: No, we are.

CHAIRMAN FRYER: Oh, Mr. Perry's running the clock. If you don't mind, sir, let me do that. But I appreciate your help. Your help is much appreciated, but it's going to be confusing a little bit. And we can talk about maybe doing it a different way going forward. Thank you.

All right. Go ahead, Mr. Helsel. Finish up, please, sir.

MR. HELSEL: If you looked at the PowerPoint presentation that was put out with showing the new three towers and the proposed development that they put on the table back in the '90s, you can see which one is more compatible. Now, I understand what Mr. Schmitt said about the fact that it's probably not a probable design right now because of code and everything, but what about the concept? The concept is what we're talking about. That fits the community.

CHAIRMAN FRYER: Thirty seconds, sir.

MR. HELSEL: All right. The only other thing that I'm going to ask you is -- there was cited by Mr. Yovanovich three different cases where they put towers next to residential. Was there any significant opposition in the communities when those particular towers were erected?

And I assume by now you think I'm out of time, so I'm going to wrap this up by saying, yes, I object. I understand they're going to develop the property. They have a right to develop the property. They have a right to develop the property under what they purchased it under, the current zoning.

Thank you for your time.

CHAIRMAN FRYER: Thank you, sir. Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be Jeffrey Oh, and he is going to be followed by Ken Lovegreen.

Mr. Oh, are you with us?

MR. OH: Yes. I'd like to defer my speaking time to Mr. Brookes.

CHAIRMAN FRYER: You can't do that, sir. You have to be in person in order to cede your time to someone else. Do you want speak for three minutes?

MR. OH: Great. I want to thank you for your time regarding this matter.

The bottom line is, I'm not going to repeat all the things people have said.

CHAIRMAN FRYER: Please don't, but could you spell your last name?

MR. OH: My last name is O-h.

CHAIRMAN FRYER: O-h, thank you.

MR. OH: Yes.

CHAIRMAN FRYER: Got it, thank you.

MR. OH: I'm not going to repeat all the things that people have said already, but I think we all know, just listening to all the common citizens, that this decision is a wrong decision. We -- I think deep in our hearts we know this is not the right thing to do for the community or for the Collier County.

If the builder bought that under C-3, they have every right to build it the way they want to under the C-3 provision. And if they want to build, they can build the grand, beautiful restaurants, any kind of shops, any kind of attractions under C-3. If they really care about the community, then they should build and care for people.

Obviously, Mr. Ferrao and his staff have indicated many times that they care about the community. They care about how people think, and they want to work along the side with other people that live around and build around. What they're doing is completely wrong. I believe that we all know deep in our hearts this is a wrong decision.

Now, there are people in the room, I'm sure, that have personal relationship with Mr. Ferrao. And, you know, our country was built on what is right and wrong, and you guys hold tremendous power to do the right things. And I hope you look at this decision objectively and fairly and decide what is best for the community and as a community and as a whole for the county.

And your decisions do matter. It matters to me; it matters to many people that live around the community. It matters to Marco Island people, Naples, north of us.

People come here for enjoyment, bring their families down here, grandchildren, and I'm hoping and I'm pleading with you to consider common people's interests rather than somebody's deep pockets and check to yourself. We all have lived long enough. We're never going to be here forever.

I hope you make the right decision, what is right for people after us. And if you have a personal relationship with Aubrey, I understand that, but what is right and wrong is clear. And I don't see that anybody with common sense and anybody with ethics and honor, like myself, a veteran could decide --

CHAIRMAN FRYER: Thirty seconds.

MR. OH: -- this is a right decision. Thank you very much.

CHAIRMAN FRYER: Thank you. Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be Ken Lovegreen.

CHAIRMAN FRYER: Commissioner Schmitt has a question.

COMMISSIONER SCHMITT: I have a comment. I would ask that the speakers refrain from, I guess, the disparaging remarks that seem to be being made of the developer. We don't allow that, and we never allowed that kind of thing to happen in the past, whether it's Aubrey Ferrao or some other developer. But there seems to be a lot of comments made in regards -- and sort of disparaging comments, and I would object that we allow that to continue.

CHAIRMAN FRYER: I agree. Please no ad hominem personal attacks. We don't need to go in that direction. We can just stick to the issues. Thank you.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be Ken Lovegreen, followed by Sheila [sic] Braun.

Mr. Lovegreen, you're being prompted to unmute your microphone, sir.

MR. LOVEGREEN: Okay. My name is Ken Lovegreen. For the sake of time, I'll just

make this very quick.

CHAIRMAN FRYER: Thank you.

MR. LOVEGREEN: Can you hear me?

CHAIRMAN FRYER: Yes.

MR. LOVEGREEN: Mr. Schmitt, can you hear me?

CHAIRMAN FRYER: Yes, we can.

MR. LOVEGREEN: Okay. We all bought with the understanding this was zoned business island, and the current -- is the current zoning right now dangerous? Is it toxic or hazardous to our neighborhood? There's no health or welfare reason this is being justified to change. If you can't find any reason like that, then there really is no reason to change the current zoning.

And I'll ask you all one simple question. Would you like your own neighbor's property at your house be zoned differently than what it is when you brought that property? Of course not.

You know this decision -- just like the previous speaker said, you know this decision is wrong in your heart. And as far as I've heard -- as far as I've heard living there, there are no residents in favor of this project. If there are, there's very few.

So I would ask you all as the Planning Commission to please represent the overall majority of the residents at the Isles of Capri.

Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. YOUNGBLOOD: Our next speaker is Sheryl Braun.

Sheryl, you're being prompted to unmute your microphone. Sheryl, are you with us?

(No response.)

MR. YOUNGBLOOD: All right. We're going to go to Giovanni Delcompare.

CHAIRMAN FRYER: How many more do we have after that?

MR. YOUNGBLOOD: I'll be right back with you with that number, sir.

CHAIRMAN FRYER: Okay. Very good.

MR. YOUNGBLOOD: Giovanni, you're being prompted to unmute your microphone.

Are you with us, sir?

MR. DELCOMPARE: Yes, sir. Can you hear me?

CHAIRMAN FRYER: Yes. Will you state your last name again.

MR. DELCOMPARE: Delcompare, D-e-l-c-o-m-p-a-r-e.

CHAIRMAN FRYER: Thank you.

MR. DELCOMPARE: I live in Isles of Capri for the last 24 years. And my main concern as whether the island goes residential or commercial or combination of the two, it's clear the densities will increase.

And my concern is actually the road that links us to 951, which is 952. The road is a winding road, no pass, with minimum shoulders. And we have -- I personally experience a lot of situations where we have fishermen fishing on the culverts, bikers, runners, sometimes golf carts once in a while, and now we are increasing the vehicles with, really, no patrolling because Collier County Sheriff can't park anywhere in between 952. And again, you know, the traffic has increased. Aggressive drivers are passing. And I'm just concerned about the safety of everybody who drives on that road.

Thank you.

CHAIRMAN FRYER: Thank you very much. Mr. Youngblood?

MR. YOUNGBLOOD: Mr. Chairman, we have approximately 20 more speakers.

CHAIRMAN FRYER: Twenty?

MR. YOUNGBLOOD: Yes, sir.

CHAIRMAN FRYER: All right.

MR. YOUNGBLOOD: Our next speaker -- our next speaker is going to be Tina Petrik,



followed by Linda Oneski.

CHAIRMAN FRYER: Before we do that, we as a Planning Commission need to talk about how long we want to go on this.

COMMISSIONER HOMIAK: We were only going to have 30 speakers, I thought.

CHAIRMAN FRYER: Well, no. We -- the County Attorney determined, and I happen to agree with her, that we should -- anybody who wants to speak once should be allowed to speak. We can -- we can change the time limits, if needs be. What's your preference, Planning Commission?

COMMISSIONER SCHMITT: I would -- I welcome the speakers. I think we should allow the speakers but keep it to three minutes, the same as they would at the Board of County Commissioners.

COMMISSIONER FRY: Agreed.

CHAIRMAN FRYER: And that's what we'll do. Thank you.

Next speaker, please.

MR. YOUNGBLOOD: Ms. Petrik, you are being prompted to unmute your microphone. Can you hear us?

(No response.)

MR. YOUNGBLOOD: Okay. We're going to move on to Linda Oneski.

Linda, can you hear us? You're being prompted to unmute your microphone.

(No response.)

MR. YOUNGBLOOD: All right. We're going to move on to Sandra Gardner.

MR. GARDNER: Sandra Gardner has a professional commitment between 11:00 and 12:00, so she's not going to be able to speak. I'm her husband.

CHAIRMAN FRYER: Okay. Thank you.

Next speaker.

MR. YOUNGBLOOD: Joyce Beatty.

MR. CROWDER: Joyce Beatty is unable to speak.

CHAIRMAN FRYER: Thank you.

Next speaker.

MR. YOUNGBLOOD: Ronald Fowle.

CHAIRMAN FRYER: Mr. Fowle?

MR. YOUNGBLOOD: One second here.

Mr. Fowle, you're being prompt to unmute your microphone, sir.

MR. FOWLE: Yes. Can you hear me?

CHAIRMAN FRYER: Yes, we can.

MR. FOWLE: I had a lot to say --

CHAIRMAN FRYER: See if you can do it in three minutes for us, sir.

MR. FOWLE: Oh, I'm going to shorten it up.

No one has spoke to the view that -- the people that come down Rookery Bay, Johnson Bay, who come from all over the world to fish. It's a beautiful view down there. It will be ruined by something 168 feet long -- high on a Band-Aid sized piece of property. There are lots in Collier County that houses are on that have a deeper depth than this piece of property. So my opinion, it's a definite no. No zoning.

Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. YOUNGBLOOD: Our next speaker is going to be Nancy Kramer.

Nancy, you're being prompted to unmute your microphone. Are you with us?

(No response.)

MR. YOUNGBLOOD: All right. We're going to move on to Ray Carter.

Mr. Carter, are you with us, sir?

MR. CARTER: Yes, good morning. Can you hear me?

CHAIRMAN FRYER: Yes, we can. Please proceed three minutes.

MR. CARTER: Yes, thank you.

Ray Carter, long-term resident and owner on Isles of Capri. And I want to first thank you all for listening generously to all of the commenters up to this point, but -- and I won't bring anything new to the table, but I just want to reiterate a couple of points.

Number 1, the applications by the petitioner are not consistent with the current land use and, further, they're in no way consistent or compatible with the current community. And I just wanted to really stress those two important points and, lastly, just reiterate my view that they should both be denied in their entirety as presented for your consideration.

Thank you for your time and your service.

CHAIRMAN FRYER: Thank you, Mr. Carter.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is going to be Michael Peel.

Michael, you're being prompted to unmute your microphone. Can you hear us, sir?

(No response.)

MR. YOUNGBLOOD: All right. We're going to move on to John Strothers.

Mr. Strothers, can you hear us, sir? You're being prompted to unmute your microphone.

(No response.)

CHAIRMAN FRYER: Next speaker, please.

MR. YOUNGBLOOD: Okay. Tina Lutz.

Tina, you're being prompted to unmute your microphone. Can you hear us?

(No response.)

MR. YOUNGBLOOD: Okay. We're going to move on to James Hughes.

CHAIRMAN FRYER: Mr. Hughes, are you there?

MR. YOUNGBLOOD: Mr. Hughes, you're being prompted to unmute your microphone,

sir.

(No response.)

CHAIRMAN FRYER: Next speaker.

MR. HUGHES: Hello?

MR. YOUNGBLOOD: Mr. Hughes, can you hear us, sir?

MR. HUGHES: Yes, I can. I was not listed to be a speaker.

CHAIRMAN FRYER: Do you care to speak, sir?

(No response.)

MR. YOUNGBLOOD: Okay. We're going to move on to Jeffrey Clark.

CHAIRMAN FRYER: Mr. Clark.

MR. YOUNGBLOOD: Just one moment here. Mr. Clark, you're being prompted to unmute your microphone, sir.

(No response.)

CHAIRMAN FRYER: Next speaker, please.

MR. YOUNGBLOOD: Okay. James Esch.

Mr. Esch, you're being prompted to unmute your microphone, sir.

MR. ESCH: Hi, there. Can you hear me?

CHAIRMAN FRYER: Yes, we can. You have three minutes. Go ahead.

MR. ESCH: Okay. Thank you, Commissioners.

I'll be picking up where Nicole left off. Unfortunately, you just won't have the visual aids to go along with it. But she left off talking about how the sanitary sewer system is not currently funded in the City of Marco Island's five-year capital improvements plan, and it's not been designed. We're wondering what controls we put in place to ensure this work will have a minimum impact on the flow of traffic during construction. As others have commented, it's a two-lane road, no passing on the way down. This is going to be extremely disruptive to the typical

traffic flow.

The existing sewer pipe only services three condominiums at the end of Isles of Capri and five commercially owned businesses on business isle. All residents and other property owners on Isles of Capri are on septic.

Now, there's an overwhelming number of residents in 2005 and still currently today that feel if and when Isles of Capri converts from septic systems to public sewer system for residential homesites, Collier County would be the preferred utility owner, as we receive our water from Collier County and are taxed by Collier County and live in unincorporated Collier County.

This sewer pipe that the developer would be putting in would create redundant infrastructure almost guaranteeing the residents of Isles of Capri are going to be using City of Marco Island for the sewer connection. This is troubling because the City of Marco Island's Resolution No. 2003-43 under Section 5, they argued that the City of Marco Island should proceed with the purchase of the Marco Island/Marco Shores utility system to ensure that the system is not sold to another public entity operated and appointed or elected by officials who are not politically accountable directly to the customers of the Marco Island/Marco Shores utility system.

This would effectively put us in that exact situation that they chose to purchase or why they chose to purchase that infrastructure. We'll be charged assessments and sewer rates by an entity that is not politically accountable directly to the residents of Isles of Capri.

If Collier County can agree with City of Marco Island that they should have a sewer system that's operated by an entity that's politically accountable to its residents, the residents of Isles of Capri and unincorporated Collier County deserve the same.

Please do not agree with the proposed sewer project. Isles of Capri was told in 2019 by Marco Island City Council, when the time was right this will be discussed with Collier County, and the residents of Isles of Capri should have a say in any proposed future system that we, as residents, could be required to hook up to. The sewer's a big project, and Isles of Capri deserves the same consideration as all their sewer project plans in Collier County.

CHAIRMAN FRYER: You're at three minutes, sir. Thank you very much.

MR. ESCH: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: I'd just make a comment. I appreciate your comments, sir. But for the record, before anything could be built on that island, there would have to be a certificate of adequate public facilities, which is -- the applicant would have to go through before any type of building permit would be allowed.

Now, whether that is serviced by Marco Island or Collier County, any agreement between Collier County Water/Sewer and Marco Island would have to be through the Board and the agreement of both districts.

So all that information, though interesting, is irrelevant, as far as I see, to the zoning. The zoning or anything that would be built there, whether commercial or residential, would still require a certificate of adequate public facilities, meaning that they would have to be assured that water/sewer, whether Collier County or Marco Island, that the facilities are there to support the development.

CHAIRMAN FRYER: Thank you.

Next speaker, please.

MR. YOUNGBLOOD: Our next speaker is Jenny Pacer.

Jenny, you're being prompted to unmute your microphone. Are you with us?

(No response.)

MR. YOUNGBLOOD: All right. We're going to move on to Robert McNamara.

Mr. McNamara, are you with us, sir? You're being prompted to unmute your microphone.

CHAIRMAN FRYER: Moving along.

MR. YOUNGBLOOD: All righty.

Mark Ramer.

Mr. Ramer, are you with us, sir? You're being prompted to unmute your microphone.  
(No response.)

MR. YOUNGBLOOD: All right. We're going to move on to Kim Apuzzo.  
Kim, are you with us? You're being prompted to unmute your microphone.  
(No response.)

MR. YOUNGBLOOD: All right. We're going to move on to Gladys Fitzsimmons.  
Gladys, you're being prompted to unmute your microphone. Are you with us?  
(No response.)

MR. YOUNGBLOOD: That concludes our public speakers for this item.

CHAIRMAN FRYER: Thank you very much.

At this time I'm going to have an opportunity for the Planning Commission to make comments, and if anyone would like to hear from Mr. Brookes, this would be the appropriate time to do so.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Just for the record, at the last meeting when I left, I did go back and watch the portion that I missed until I called back in again, so I did make some notes.

And I do have some notes that I probably will ask Mr. Yovanovich during his closing or will turn to staff.

But I do want to clarify this statement of highest and best use. That is a term of art. We as the Planning Commission have nothing to do with profitability of a project, and whether the investment turns out to be positive or negative to the developer is irrelevant. My only statement of highest and best use is from a practical standpoint when we look at land development and what a developer would propose to put in there. We fully understand that what's going to be proposed would be something deemed to be highest and best use. It may be for profitability, but that is irrelevant to us from a voting process, and I just want to make sure that that's on the record.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah, I'd like to hear from Mr. Brookes, and I'd certainly like to hear from Mr. Yovanovich. However, I've said it before and my colleagues have said it probably more than me; we've heard a whole lot of evidence, so I don't need a whole lot from either one.

CHAIRMAN FRYER: Mr. Brookes, are you here, sir? I don't see him.

UNIDENTIFIED MALE VOICE: No. He's on his way back to the City of Naples. He's en route right now.

CHAIRMAN FRYER: He's en route. All right. Well, we --  
Commissioner Fry.

COMMISSIONER FRY: Joe, you brought up highest and best use, and I'm glad you did because I think it's relevant. I guess the way I look at it -- and I'm bringing this up in case I need to amend that, is I look at it that when they're applying -- when an application applies for a change to the GMP, I look at it from two standpoints. Is the highest and best -- does it offer highest and best use in terms of the county as a whole --

COMMISSIONER SCHMITT: Yeah.

COMMISSIONER FRY: -- and also does it -- I look at also from the standpoint of the nearby residents -- the surrounding area as well. So I look at it from those two aspects. Is there a legal definition of it that would restrict or change that interpretation?

COMMISSIONER SCHMITT: I don't think there's a legal. It's just a term of art meaning a highest and best use, whether it's commercial, meaning if it's deemed to be a viable entity. That sometimes comes in -- but that's typically a developer's decision. We don't have any criteria that I know of from highest and best use. It's just a matter of a term of art that -- whether it's commercial or residential. Typically, in this county there were a lot of areas that were zoned

commercial that were then converted to residential because residential at that time was determined to be the highest and best use, meaning the market could sustain it and that the housing was needed. Likewise, on activity centers, when you look at commercial, if you expand the activity center, it's because we believe that commercial is needed in the activity centers.

So I guess, as I said, that's a term of art more than a -- I don't believe -- as far as I know, there's nothing in the LDC that requires that as a review criteria.

MS. ASHTON-CICKO: It's an appraisal term for determining the highest and best use of the property for fair market value.

COMMISSIONER SCHMITT: Yeah. That's pretty much it. Yeah, thanks.

CHAIRMAN FRYER: Thank you.

Commissioner Klucik, before you go ahead, we've got two other commissioners lit up, and then we'll get to you, sir.

Commissioner Shea.

COMMISSIONER SHEA: Just more on the highest and best use. I look at the highest and best uses within the current zoning or the current Growth Management Plan, not that somebody -- you know, I mean, if you want to change the plan because there's a better use than what it's zoned at, but I don't think you just say a piece of property -- you change the zoning because somebody determined there's a better use for it. I mean, I think it has to be within what we're chartered to do, which is manage the Growth Management Plan.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: I agree with everything that's been said. But just from my -- the way I think of it is highest and best use from the surrounding area in the county is often not consistent with the highest and best use for the property owner, and that's probably one of the reasons we exist. We probably wouldn't be needed if they were one and the same. So it's highest and best use for who.

CHAIRMAN FRYER: Thank you. What we're going to do at this point is we're going to hear staff's presentation.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes. Oh, I'm sorry, Commissioner Klucik. Yes, please, go ahead, sir.

COMMISSIONER KLUCIK: Yes. I would just -- as a housekeeping matter, I think I would like to go ahead and close the public comments. We didn't do that. That was -- our staff member mentioned that we were done, but I think we have to -- you have to formally close that portion.

CHAIRMAN FRYER: Well, we can certainly do that, but we as commissioners retain the right to call other people up in spite of the fact that we've closed public comment, and that's part of what I'm going to be suggesting here. And we're not going to keep this going on indefinitely. I don't know when Mr. Brookes is going to be back. But right now we're going to hear from staff, their presentation.

COMMISSIONER KLUCIK: Well, right. That's what I was -- that was my point is that I'm going to move that we close the public comment portion. We can always bring up anybody we want to as commissioners, including, you know, anyone who spoke previously, including citizens. So I'd like to go ahead and make sure that on the record we have closed the public comment portion of the hearing.

CHAIRMAN FRYER: All right. Is there a second?

(No response.)

CHAIRMAN FRYER: Motion fails for lack of second.

Staff?

MR. BOSI: Chair, at the September 1st hearing, staff provided their recommendations in

the staff presentation. If you'd like a summary of those, we can provide it again, but I'm not sure -- we had said at the end of the -- at the end of the hearing on the 1st that we would come back, listen to public comments, and then hear the rebuttal from the applicant. But we can -- staff could make another presentation if that's --

CHAIRMAN FRYER: Well, Planning Commission, I don't think --

COMMISSIONER SCHMITT: I have some questions I'd like to ask staff.

CHAIRMAN FRYER: Okay, yeah. And the only -- I will -- Commissioner Schmitt, what I would -- what I'd like to hear -- maybe this is what Commissioner Schmitt wants, too, is whether there's been any change in the recommendation.

Go ahead, Commissioner Schmitt.

COMMISSIONER SCHMITT: Well, first, was there any change in recommendation?

MR. BOSI: There's been no change to the application. There's no change to the recommendation.

COMMISSIONER SCHMITT: I'm just going to follow up on a couple of comments I heard. There was a comment made about the small Comp Plan amendment. Staff is of the view that the applicant is certainly within its right to request a small Comp Plan amendment; is that correct?

MR. BOSI: Correct.

COMMISSIONER SCHMITT: There was a statement made on the record that somehow this small Comp Plan amendment would put in jeopardy the rest of the Comprehensive Plan of Collier County. Is that the staff's view as well?

MR. BOSI: That is not the staff's view, and I would remind the Planning Commission that the GMP amendment is not to change from commercial to residential. The GMP amendment is for density above what the Growth Management Plan would allow them. The Growth Management Plan Future Land Use Map designates this area as residential.

This is commercial zoning that's been deemed consistent by policy because it's outside of the activity center, the places where the Growth Management Plan directs commercial uses.

So this is -- residential property is what the Growth Management Plan Future Land Use Map would allocate to this parcel of land. But it has a limitation of three units per acre. With the conversion of commercial, they can get up to four, and then they can get additional density if they would seek the -- the older TDR provisions or whether they were going to seek an affordable housing density bonus. They chose not to go that route. They chose a Growth Management Plan to increase their density.

So the Growth Management Plan isn't to be consistent with the GMP from a use standpoint. It's a GMP amendment to be consistent with the density standpoint.

COMMISSIONER SCHMITT: I clearly understand.

But the comment was made somehow that this small-scale Comp Plan amendment puts at risk the entire Comprehensive Plan of Collier County.

MR. BOSI: We --

COMMISSIONER SCHMITT: We've done Comp Plan amendments -- small-scale Comp Plans amendments under 50 acres, several areas of the county. I just want to make sure, for the record, that staff does not support that view.

MR. BOSI: The Growth Management Plan is an evolving document on a daily basis. The land uses and what's needed and what's demanded of the county and the needs from housing from an economic standpoint, from an environmental standpoint, from multi levels is constantly changing.

We process Growth Management Plan amendments on a regular basis. So one GMP small-scale or whether large-scale is not going to displace or upset the Growth Management Plan. There's a public process it goes through. There's criteria that's reviewed to be established. And if the advisory boards and ultimately the Board of County Commissioners feels that an application satisfies those requirements to change the Growth Management Plan, then they'll gain approval,

and it becomes part of the fabric of the Growth Management Plan. So, no, staff wouldn't agree with that position.

COMMISSIONER SCHMITT: Okay. The other point, there was a lot of discussion, and I did call in at that time when they talked about the evacuation plans and emergency evacuation, hurricane activities. For the record, our Emergency Management Division recommended approval; is that correct?

MR. BOSI: Correct.

COMMISSIONER SCHMITT: With the stipulation of providing a generator. Whether you debate whether that's an adequate provision or not typically the generators are needed to power lift stations in case we have loss of power, and I understand that's the main reason why they want these -- these generators. But there's no opposition from Emergency Management in regards --

MR. BOSI: Emergency Management has signed off on this petition.

COMMISSIONER SCHMITT: Okay.

There was a lot of talk -- and, again, I'm going to ask the applicant this as well. But there was a lot of talk about the loss of commercial and the impact that the loss of commercial would have. Has staff done any evaluation as to whether commercial -- if this were rezoned from residential to commercial -- I'm not talking about the height or the density but just let's say it was zoned -- rezoned from commercial to residential. The loss of commercial, has staff looked at any impact that that would have from the standpoint of the services provided to the residents of the Isles of Capri?

MR. BOSI: Staff -- and staff made the comment at the September 1st hearing that the number of dwelling units -- it's 850-some-odd dwelling units -- and the population that would suggest just over 2,000, based upon the current standards within the county and what -- a neighborhood center that could be supported, which is roughly around 10 acres, is about 10,000 people per -- for a 10-acre site. So 2,000 -- 2,000 individuals, the permanent population of this -- of the island could support about two to three acres of commercial from a -- from a ratio standpoint of what's been established within the county.

So staff looked at it, and it was concerned, and we still do have concerns about the loss of commercial, but there is still -- there are still commercial parcels available that could provide goods and services.

From a perspective, the amount of commercial that is on the -- that currently is designated on the island far exceeds what -- the needs of the number of units that are on the -- on the island, and that's just from a numerical fact.

COMMISSIONER SCHMITT: The only last question, and -- whether Nancy looked at it or the staff in general, not far away from this location are three towers, two more yet to be built and zoned. It's zoned for five. It's three built, and that's Hammock Bay right across the street. And we've heard a lot about compatibility.

Would staff consider the units that surround Hammock Bay -- most are multi-family, if I recall -- I think, yeah -- and the size of those towers just on the other side of -- as you come out of Isles of Capri, right across the street through the light is Hammock Bay. Would that be deemed incompatible, those three towers incompatible with the surrounding property?

MR. BOSI: I think if you -- and I'm not sure of the exact height of what those three towers are.

COMMISSIONER SCHMITT: I think it's got to be at least 20, 22 stories. I'm not sure. They're -- it's -- they're big.

MR. BOSI: In the immediate local area of where this is, there would be a compatibility issue from a staff perspective.

COMMISSIONER SCHMITT: And I can't recall when those were approved. It was even before my time with the county. But we talk about compatibility, and there -- I could give example upon example. Yes, it's -- there are high-rises located right next to single-family and multifamily homes. Okay.

MR. YOVANOVICH: Mr. Chairman, if I could just supplement that point.

CHAIRMAN FRYER: Yes, go ahead.

MR. YOVANOVICH: Because I do have some history on that zoning. That property -- actually that PUD was amended after the fact to put those high-rise towers in. So obviously it was deemed to be compatible with the already approved lower-rise residential within that project.

COMMISSIONER SCHMITT: Yeah. Which was approved by both the staff and the Board of County Commissioners.

MR. YOVANOVICH: Correct, yes.

CHAIRMAN FRYER: Thank you.

Sufficient time has passed now that I believe it is appropriate to close the public comment portion of this hearing, recognizing that at anytime any planning commissioner can call whomever they please up for additional questions or comments. So without objection, the public comment portion is closed.

And let's talk about scheduling. It's 11:31.

Mr. Yovanovich, I'm sure you have a number of things you want to cover in rebuttal. What would be your request at this point with respect to timing?

MR. YOUNGBLOOD: I should be done before lunch. A lot of what I was going to bring up Mr. Schmitt asked some of the questions already. So I don't plan on repeating those answers to those questions.

CHAIRMAN FRYER: All right. Then please proceed with rebuttal.

MR. YOUNGBLOOD: Okay. A couple of things I want to do before I get to my planned remarks, if I can. One of the things -- I'm trying to pull the podium computer up. Am I doing this wrong?

MR. BOSI: Oh.

MR. YOVANOVICH: When we were talking about what did we commit to when we did our presentation, and that buildings could somehow now be built on the other side of the street -- on this side of the street, we can somehow move this building to over here.

We're prepared to commit to this site plan as part of the approved PD [sic]. So you would see the three residential buildings, and then the amenity building right here, which is the parking, as well as the pool, and I mentioned the workout facility as well as the restaurant.

One thing that needs to be -- so we're willing to commit that this would become an exhibit to the PUD so I can't somehow build a high-rise right here -- knock this building down, and build a high-rise. That was brought up, and people wanted assurances, so we're willing to do that.

There is one -- in the Development Standards Table, it's a little confusing as to what the height of this building can be. The reality is, both the actual height and the zoned height of that building is 40 feet. So we need to fix that in the Development Standards Table so you'll have an actual zoned height -- excuse me. I'm a little under the weather -- of 40 feet on that building.

There was a lot of testimony from the public. It was hard for me not to get up and correct it then, but I'm going to correct it now regarding the boat slips. I'm sure none of them actually read the sovereign submerged land lease that goes with the boat docks. Ninety percent of those wet slips have to be available to the public on a first-come, first-served basis. So those are not private boat slips. Ninety percent of them are open to the general public, because that's what the state said. If you want to have these boat slips, they've got to be open to the public.

So I want to --

COMMISSIONER SCHMITT: And I ask for a clarification. Is that in the stipulations from the U.S. Army Corps of Engineer permit?

MR. YOVANOVICH: Yes. It's in the sovereign submerged land lease.

COMMISSIONER SCHMITT: Okay, fine.

MR. YOVANOVICH: So it's in a mandate from the state in order to lease their land.

COMMISSIONER FRY: Rich, does that apply to the current slips or --



MR. YOVANOVICH: All of them. All the wet slips, correct? All the wet slips. All the wet slips. The ones that are there today and the ones we're going to be building in the future.

COMMISSIONER FRY: But it's a yacht club, correct, so...

MR. YOVANOVICH: There's a couple of things. The yacht club actually is -- yes, you don't have to own a slip to be a member of the yacht club. It's a very nice dining facility. Mr. Fry, you can join if you want to join and come, and that's what I said early on. It's open to the general public. Whoever wants to be a member can be a member of that yacht club. That's where the restaurant facilities will be. You don't have to own a wet slip. You don't have to rent -- rent a wet slip or rent a dry slip to be a member of the yacht club.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: So you're saying the testimony that there's preferential issuing of leases on the slips is not accurate?

MR. YOVANOVICH: Correct, it is not accurate.

CHAIRMAN FRYER: Go ahead, sir.

COMMISSIONER SCHMITT: Let's just clarify for the record, because I see a lot of head shaking out there.

MR. YOVANOVICH: I know. And it's a little distracting.

COMMISSIONER SCHMITT: And whether there's disagreement or not, for the record it is very clear there's no preferential treatment is what you're stating. At one time I believe there was reservations for when you purchased a home in Fiddler's Creek, you had an option to join Tarpon Club. That no longer exists.

MR. YOVANOVICH: Those are first-come, first-served.

COMMISSIONER SCHMITT: First-come, first-served. It's similar to the golf course now at Fiddler's Creek. If you want to come from Bangor, Maine, you can come from Bangor, Maine, you can join the golf course. So it's the same regards with the clubhouse or, correction, with the --

MR. YOVANOVICH: Wet slips.

COMMISSIONER SCHMITT: -- wet slips. Okay. Thank you.

CHAIRMAN FRYER: Is that a statement of current practice or a commitment for the future?

MR. YOVANOVICH: It's in the sovereign submerged land lease for the wet slips.

CHAIRMAN FRYER: And how would that be amended if it could at all?

MR. YOVANOVICH: I'm pretty sure -- I don't know if you've ever been through the process of getting one of these sovereign public submerged land leases, public access to the water is critical to get the lease.

CHAIRMAN FRYER: Could you explain to me what, if any, action could be taken to change the requirements in that.

MR. YOVANOVICH: I could tell you we could probably ask, but we won't get it.

CHAIRMAN FRYER: Okay. Thank you.

COMMISSIONER SCHMITT: The land lease comes from the state?

UNIDENTIFIED MALE VOICE: It's in the Administrative Code.

COMMISSIONER SCHMITT: It's the Administrative Code?

COMMISSIONER KLUCIK: Mr. Chairman?

MR. YOVANOVICH: It's a state lease. It's a state lease. I don't know the exact agency from the state that leases it to you, but you have to have this public aspect to get the lease.

CHAIRMAN FRYER: Commissioner Fry, and then Commissioner Klucik.

COMMISSIONER FRY: So -- but the requirement to join a yacht club qualifies as public access.

MR. YOVANOVICH: No, the public access to the slips. You want to join -- if you want to bring your boat and you want to rent a slip, you don't have to join the yacht club.

UNIDENTIFIED MALE VOICE: Clarify wet and dry.

MR. YOVANOVICH: I just -- I said the wet slips. The wet slips are in the water. The dry slips are not in the water. Okay?

COMMISSIONER SCHMITT: That's clear. The boat barn is typically -- it's -- the boat barn for dry storage is typically for Tarpon Club members --

MR. YOVANOVICH: No.

COMMISSIONER SCHMITT: -- but if there's space available.

MR. YOVANOVICH: Right. There are people who are not members of the Tarpon Club --

COMMISSIONER SCHMITT: Oh, there's a lot. I know that.

MR. YOVANOVICH: -- who are currently leasing slips in the dry slips.

COMMISSIONER SCHMITT: But if I have a boat, which I don't, and I want a wet slip, I get in line and wait for a wet slip. I can -- whatever the -- lease for -- annual, whatever they -- however the lease process is, I don't care. But I can go there and get a wet slip if it's available?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER SCHMITT: Okay.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik, and then Commissioner Fry. Yes, Commissioner Klucik, you're on.

COMMISSIONER KLUCIK: So I guess what I would say -- from -- you know, from what I've heard is there seems to be -- there's one or two things happening here. Either there's a misperception and then because of that misperception and honest misstatement of, you know, this issue of whether these wet slips are available to the public on the same basis as they are to homeowners in Fiddler's Creek, or associated associations, and then -- or there's been -- it actually is happening and, apparently, that's a violation of law. Does that sound right, Mr. Yovanovich? It's either a misunderstanding or the law's being violated, and you're asserting that certainly the law's not being violated. Are you willing to say that?

MR. YOVANOVICH: I am, and I'm saying they just didn't know what they were talking about. That's why I get to come up here and --

COMMISSIONER KLUCIK: Okay, yeah. That's why I described it -- that's why I described it as an honest mistake, a misperception and an honest restatement of their perception. That's what I'm getting, and I -- you know, I think that certainly is a -- you know, is an issue that rings, you know, strong, you know, if there's a statement that these are -- you know, from your applicant that these are going to be public and there actually was a denial, you know, of use and a preference of use, then, of course, that matters because, you know, the practice of the applicant and their integrity actually is something that we would factor in. But it sounds as though now you're affirming that -- under oath that that's not -- that they actually are not violating the law, and there is public access. Thank you.

MR. YOVANOVICH: I was actually provided a copy of that provision in the lease so I could get up here and say I read it.

COMMISSIONER FRY: Rich, I'm sorry.

CHAIRMAN FRYER: Commissioner Fry.

MR. YOVANOVICH: It's okay.

COMMISSIONER FRY: Sorry to stay on this, but there's certainly a boatload of people that have a different perception.

MR. YOVANOVICH: Pun intended?

COMMISSIONER FRY: I just think it's important that we as a group understand, and I guess I don't fully understand yet.

There are a combination of wet slips and dry slips, the dry slips being in the barn, correct, the wet slips being in the water, obviously. You are -- there is a Tarpon Club now, and you are introducing a yacht club, or maybe it's the Tarpon Club that's evolving into this Yacht club. So I

join the yacht club, hypothetically.

MR. YOVANOVICH: Okay.

COMMISSIONER FRY: So there are no -- so what are my options as a yacht club member? Am I assured of having a slip, a wet slip or a dry slip --

MR. YOVANOVICH: You are not.

COMMISSIONER FRY: -- or a person in the public could be renting a wet slip, and there are no vacancies for me. I get in line like everybody else to wait for a slip?

MR. YOVANOVICH: You get in line on the wet slips, yes, sir.

COMMISSIONER FRY: On the wet slips. How do the dry slips work?

MR. YOVANOVICH: The dry slips currently are open. There's -- there's enough to go around for people who want to use the dry slips to where it's not exclusively to any one group.

COMMISSIONER FRY: Okay.

CHAIRMAN FRYER: Thank you. Continue, sir.

MR. YOVANOVICH: Thank you.

I want to go back -- I haven't had a chance to verify the dates of every one of those deeds, but the property was acquired in 1996, and that's important for a couple of reasons, not the most important is there was some Growth Management Plan provisions that Mr. Bosi put up that appeared to contradict the provisions I put up with regard to how many units -- we would start as a base. I still need to do a Growth Management Plan regardless. The question is, am I going from four to a little over 20, or am I going from 16 to a little over 20, okay.

And just to remind everybody -- if I could get to the -- this is the language I read from, which now I can't see because I'm too far away. It says you can't go above four except as allowed under certain FLUE policies under Objective 5.

So the specific provision dealing with this land, the Urban Coastal Fringe Subdistrict says, you're capped at four unless you go under the Group 5 policies. And I took you through those Group 5 policies that said you can get to 16. Then Mr. Bosi put up there on the visualizer the general introductory language that says you can't do it under the Density Rating System in the Urban Coastal Fringe except for affordable housing. Now, I think Mr. Bosi's guess is that language has been around since about 2001-ish, that that language was there.

My client bought the property in 1996 when that limitation that Mr. Bosi claims applies did not exist. I don't think under the -- under statutory construction that that limitation exists for the following reason: Because in 2018 -- I'm just going to put the ordinance number up. In 2018 the county amended its Growth Management Plan again. And what did it say about the Urban Coastal Fringe? Can you see it all? The only change to that was to -- instead of having the number 4, to put the word "four." Had the Board wanted to make it clear you could not get above four under the FLUE policies relating to Objective 5, they would have struck that whole provision and just limited it to affordable housing. So at best, you have an inconsistency.

So what does Florida law say -- you're supposed to read every word in the Growth Management Plan and not ignore them. So -- and Florida is one of those wonderful states where the Constitution respects private property rights, so it's resolved in favor of being allowed to use your property.

If there's an inconsistency, which I don't think there is, I think you're allowed to go above -- go to 16, it would be resolved in our favor. It doesn't matter. I just wanted to bring up -- because there was discussion about this. I need a Growth Management Plan amendment, but I don't need to go from three to 20. In my opinion, I need to go from 16 to 20, and that's the math. It doesn't matter. I still need one.

CHAIRMAN FRYER: I'm going to call on Mr. Bosi to reply to that. But first I want to observe under Section 1.03.01 of the Land Development Code in Section D it says, quote, where any provision of these regulations, the GMP, or any other law or regulation in effect in Collier County, Florida, imposes greater restrictions upon the subject matter than any other provision of these regulations, the GMP, or any other law or regulation in effect in Collier County, Florida, the

provision imposing the greater restriction or regulation shall be deemed to be controlling.

MR. YOVANOVICH: I don't disagree with you. And, ultimately, that's a decision that a judge needs to make as to which provision applies. My whole point was a question came up about this inconsistency. My position is we're starting at 16, not at three. We can agree to disagree. I'm still telling you I've still got to get a Growth Management Plan amendment to go above that number. I just wanted to address that point, because Mr. Klucik asked me to address that in my rebuttal. I've told you my legal position. You can have a different legal position, but I just wanted to address that in my rebuttal. And I don't want to really debate the point, because I still need a Growth Management Plan amendment.

CHAIRMAN FRYER: Yeah, but I want to pursue it just a little bit, because Mr. Bosi is the official interpreter of the language of the GMP and the Land Development Code, and so without even getting to legal interpretation, I'd like to hear what the official interpreter's interpretation is with respect to 16 dwelling units per acre on that property.

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

My interpretation is as I stated on September 4th [sic], the conversion of commercial only allows him to go to four units per acre, and the fringe subdistrict -- Coastal Fringe Subdistrict allows for increasing above four with the TDR provision with the application of affordable housing. Certain provisions of policies, Group 5, but Group 5 is -- that he's referring to is the conversion of commercial to residential, and we believe that's still capped at four. What the conclusion of a judge would be I couldn't comment upon. I'm just giving you the perspective as the zoning director.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. And I apologize for doing this, because I know I did it last time, or somebody did it. But I think -- and just correct me, Derek and Heidi, I think we asked you your opinion, and your opinion was Mr. Bosi, or the staff, is the official opinion giver was your response; is that right?

MS. ASHTON-CICKO: Correct.

COMMISSIONER SHEA: It's a high-tech term.

COMMISSIONER VERNON: Yes.

MS. ASHTON-CICKO: Correct, per the Land Development Code.

COMMISSIONER VERNON: Third year of law school I got that one.

Go ahead.

MS. ASHTON-CICKO: Correct, per the Land Development Code.

COMMISSIONER VERNON: It's staff's interpretation?

MR. YOVANOVICH: And, Mr. Vernon, I'm not disputing that, ultimately. Mr. Bosi and I have had a few instances where we didn't actually see eye to eye, and we went and asked either -- well, only the County Commission, as to who was right, because there's a process to do that, or we can go to a judge. Just because he says it doesn't mean he's right, but I respect his ability to decide.

COMMISSIONER VERNON: I completely understand. My question is really whether we should get an opinion from our lawyers or whether we should get an opinion from Mr. Bosi. So I got my question answered.

MR. YOVANOVICH: Thanks.

CHAIRMAN FRYER: I want to clarify something here, because I don't think -- Ms. Ashton, I don't think you said it quite exactly right. I'm looking at 1.06.01. You limited your opinion to the Land Development Code, but it also says, and interpretations of the text of the Growth Management as well.

MR. YOVANOVICH: Right.

MS. ASHTON-CICKO: Correct. It's the Land Development Code that authorizes Mr. Bosi to interpret the Growth Management Plan.

CHAIRMAN FRYER: Thank you. Okay.

MR. YOVANOVICH: I'm not disputing he has that right.

COMMISSIONER SCHMITT: I'd like to clarify further on that.

CHAIRMAN FRYER: Go right ahead, Commissioner.

COMMISSIONER SCHMITT: An official interpretation, the applicant has the right to go to the zoning director and ask for an OI, as we used to call it, official interpretation. If there's disagreement with the OI, then the next step is to appeal to the Board of County Commissioners, who also sit as the Board of Zoning Appeals. So that's the option, and that's usually the route.

So if there's a disagreement, it goes to the BZA. If, in fact, the petitioner disagrees, again, with the BZA, then you can go to the courts. But you're correct, it is under the auspices of the zoning director to interpret -- make an interpretation.

MR. BOSI: And just to reiterate, he's -- the application has a Growth Management Plan to go to the requested density. This is a -- this is an -- this is a discussion that really doesn't -- won't change the effect of anything. We could go that route.

COMMISSIONER SCHMITT: Right.

MR. BOSI: Chose not to. Chose to go to a GMP amendment. I think we're going to go to the Board of County Commissioners with two perspectives. We'll put the perspectives out. The rest of the factors will be evaluated by the Board of County Commissioners. I don't think we're going to gain any more value --

COMMISSIONER SCHMITT: And that was my next point is this is a -- this is debatable. It's an issue that's going to probably go to the Board of Zoning Appeals -- the Board of County Commissioners sitting as the Board of Zoning Appeals. They will make an interpretation.

The applicant chose to go through the Comp Plan amendment and not go through the OI process. So I just wanted to make that clear.

MR. YOVANOVICH: And I only brought it up because I promised Mr. Klucik I would address it in my rebuttal.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: I want to talk about one other statement, and I think -- I think it came from staff, but I know it also came from the residents, that somehow you're opening up Pandora's box. Can we go back to the -- that we're somehow opening up Pandora's box, that every C-3 piece is going to come in and ask for high-rises. That's the way they characterized our development. I could tell you for a fact that that's not going to happen, because when the property was assembled and it went out to bid, there was an auction, just so you know. We were going to attend the auction, we being my client who's here before you today, but they laid out the property, and they determined that they could not do a marketable project similar to their project on the property for a few important reasons.

There's no --

MS. ASHTON-CICKO: But anyone can come forward with a Growth Management Plan amendment and PUD, just as the applicant is doing here today.

MR. YOVANOVICH: No question. And we would have had to do that, and I'm telling you we wouldn't have come forward with that because we couldn't make it work for four primary reasons. There's no usable room in front for a resident or visitor access, no usable room in front for an arrival court, there's no functional room for a service court, including solid waste and recyclables, pickups, and no functional room for shared garage access to each floor.

So I don't think anybody doubts that Mr. Ferrao is an experienced developer of buildings that are greater than three or four stories, and he knows how to lay out a project and, if it could fit, we would have -- we may not have won at the auction. I don't think anybody bid on the property for what they wanted. But it doesn't fit. I said that at the last meeting, and I promised I would provide information as to how we came to that conclusion.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Again, this is just a follow-up because Mr. Yovanovich

brought up the issue, but I'm going to ask staff. It was raised many times somehow that this would open Pandora's box. Each Comp Plan amendment is evaluated separately. They -- it is not an iterative process. It is -- they're each evaluated separately, is that correct, based on the conditions and the application?

MR. BOSI: Each Growth Management Plan amendment, each rezone application, is based upon the unique geographic features of the lot in context of its other surrounding built environment. And we -- we stand behind that we have no precedent that's set for each action.

COMMISSIONER SCHMITT: All right. Okay.

COMMISSIONER SHEA: But you are changing the comparable-use picture when you do that. If you put these up, then next door they have a different argument about comparable use. So I think there is an argument for this.

MR. BOSI: I believe -- oh, you're correct. If this would be constructed, then it gives the argument to say that there is a taller structure within a local area --

COMMISSIONER SHEA: We hear it all the time.

MR. BOSI: -- therefore, the conditions that exist for this evaluation would suggest that it could be supported, there's no doubt. But that is on its own specific -- that's its own evaluation.

COMMISSIONER SCHMITT: Own merits of the application. It is not because of one, then the other.

MR. YOVANOVICH: I want to -- I want to kind of briefly talk about the existing Growth Management Plan, talk about staff's compatibility determination.

CHAIRMAN FRYER: If I may -- and, of course, I'll let you do that, but we're going to take a hard break at noon, because that's been an hour and a half since we've had one for the court reporter. We can either then go to lunch, or we can just take 10 minutes and come back.

MR. YOVANOVICH: If you-all don't ask me any more questions, I could probably get done.

CHAIRMAN FRYER: No, I'm not faulting you. I know you've been interrupted.

MR. YOVANOVICH: I've spoken for six minutes.

CHAIRMAN FRYER: You're going to have as much time as you want. Go ahead.

MR. YOVANOVICH: If you're going to stop me in six minutes, why don't we just stop now and then take your break and then let me finish, and then take your lunch.

CHAIRMAN FRYER: Planning Commission, does that work?

COMMISSIONER FRY: I'd like to hear Rich finish his rebuttal --

COMMISSIONER VERNON: I would, too.

COMMISSIONER FRY: -- before we go to lunch. I'm willing to wait a few more minutes, if Terri is able to.

CHAIRMAN FRYER: Well, we usually have a break for the court reporter every hour and a half, and we're up against that now.

MR. YOVANOVICH: I'll do whatever Terri says.

CHAIRMAN FRYER: I'm not going to put her on the spot. We'll stand in recess for 10 minutes until 12:04; is that right?

(A brief recess was had from 11:54 a.m. to 12:04 p.m.)

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

CHAIRMAN FRYER: Ladies and gentlemen, let's return, please.

Mr. Yovanovich, you have the floor, sir.

MR. YOVANOVICH: Thank you.

Going back to what does the Growth Management Plan really say -- it says should be on this piece of property, the Growth Management Plan says residential should be on this property. Mr. Bosi confirmed that again just a few minutes ago. He also confirmed in his testimony that our requested density is, in fact, compatible for this specific piece of property. He testified to that.

He also testified that a building taller than 75-foot zoned and approximately 100-foot actual height is also compatible. We never got to what's that number. Somewhere between the 148

zoned and 168 actual I was asking for, and the RMF-16 adjacent to us at 75-foot zoned and approximately 100-foot actual is a number that staff said is compatible.

Now, I've been doing this a long time. Most of you have either been sitting there, or Mr. Fry's actually been across the table. We always, always engage our neighbors in a conversation as to what would be a potential compromise. We don't always get there, but we always treat each other with respect and talk about that.

I was actually encouraged when we left at the last meeting because, basically, the Planning Commission said, you-all really should get in a room and talk. So I spoke to my client. We talked about options from what we originally submitted and what we'd be willing to trade off.

I had a very nice woman -- I'm sorry I don't remember her name -- come up to me at the end of the meeting and said, we really want to talk to you. I said, great. I followed up with their lawyer, Mr. Brookes, and said, hey, you know, we don't have a lot of time. Let's talk. I got an email back that says, height's the issue. So, great, we're prepared to talk about height. We're also prepared to talk about density.

Two gentlemen come to my office. Mr. Muller -- or Mueller and Mr. Crowder. Mr. Crowder came up and told you what he -- his take on the meeting and that it lasted seven minutes. I'm not sure it really lasted that long because I did say, hey, nice to meet you. I'm glad we finally get to sit down and talk.

And then I was handed an envelope with a letter in it. This isn't the envelope. I threw the envelope away. Silly me. I lost some of the dramatic effect. And they handed me an envelope saying, you know, we don't want to waste your time, but it's commercial. Residential's not an option.

I said, well, with all due respect, we could have done that over the phone. You could have told me there's no reason to talk. I said, why are we talking? And they said, well, because Planning Commission told us we had to talk. So it was a check the box. Come to my office, have my client talk about potential options, and then hand me a letter that says, commercial's the only thing I want to talk about.

Now, you all know me long enough. I said, really? Are you telling me that there's no change I can make to higher density that we could talk about? And they said, there's no change you can make. That's what I was told. There's nothing to talk about if it includes residential.

CHAIRMAN FRYER: Did you mean higher or lower?

MR. YOVANOVICH: I said we would talk about bringing the height down. We could talk about staggering the heights. We can talk about density. No, we don't want to talk. I said okay. I'm okay. You know what, you tell me no, you tell me no I respect your position. But to say that I did not want to engage in a conversation to talk about height and density or my client didn't want to engage in that conversation is not an accurate representation of what happened at that meeting. I respect their right to dig in and say there is no option, but they do not have the right to say we dug in and said we were not going to change or negotiate our position.

So we had that very short meeting, and we came -- we're here today with what --

CHAIRMAN FRYER: Mr. Yovanovich, before you move on.

COMMISSIONER FRY: Rich, so you were willing to sit down with them?

MR. YOVANOVICH: Of course.

COMMISSIONER FRY: And it was not the Planning Commission as a whole that said they should negotiate. It was one or two members that said that they should. And I think -- I just want to point out that, you know, my own neighborhood's been impacted by an issue where they -- they decided not to -- I was no longer on the board, but they decided not to negotiate, and it makes it a zero sum game. I think that's kind of what the reality is. You either win or lose then. You don't meet in the middle. And so I think that's just a decision that your neighborhood made, and that's very fair.

MR. YOVANOVICH: Right.

COMMISSIONER FRY: My question is, you were willing to sit down and negotiate.

Are we in a zero sum game here, or are you -- if you're willing to negotiate with them, are you willing -- are you interested in --

MR. YOVANOVICH: Of course.

COMMISSIONER FRY: -- coming forth with reduced density and height to us so we can factor that in?

MR. YOVANOVICH: Yeah. But what I'm not -- what I'm not willing to do is bid against myself. I was willing to --

COMMISSIONER FRY: We're okay with it.

MR. YOVANOVICH: You're okay with it. But what I'm willing to do is have a conversation like we were willing to have with the residents. Because there is -- I know the positions that have been staked out, but I also know the history of comments that were made about what is best for the island. And one of the items related to the food truck park which, ironically, it was Mr. Bosi's interpretation that the food truck park was a permitted use on the island. I challenged that interpretation under the right process, and the Board agreed that although he had that opinion, he had the right to ask it, under the appeal they didn't agree with his interpretation.

The residents didn't want the noise or the traffic related from a food truck park. They did not want the traffic. They said the road couldn't handle the traffic. I'm telling you that there will be noise and traffic associated with a facility that has multiple restaurants in it.

And, ironically, Mr. Winge gets up here, and he talks about commercial. And I respect Jacob. But he didn't even ask the commercial property owners on the island what they thought.

And I'm going to tell you, the island is fractured, because I believe you all received an email -- I know there was an email sent to the commissioners -- from a couple who said, we used to be against this. We changed our mind. We're in favor of it as presented, 12 over two, and they were vilified on that island. They were taken to task. Their name was presented to everybody that they were now in favor.

There is a silent number of people on that island that are supporting what we're asking for, but they're afraid to be made public because they don't want to deal with what that couple dealt with. I've talked to them, and I've asked them, can't you come? They said, Rich, I'm not coming. I've got too much at stake if I've got people upset with me because they find out I now support what you're proposing.

So there are people on that island that think this is a good project as presented. I'm not saying we're dug in on that number, to answer your question, Mr. Fry. But the residents here, the two groups here, are dug in. So I guess it's a zero sum game as far as they're concerned.

So what we're asking for is consistent with the Growth Management Plan. We could talk about density. I'm sure you heard Mr. Bosi say, if I was an affordable housing project, I don't think density's an issue. We might be still talking about height, but I don't think density's an issue if this was an affordable housing. Because he says his hands are tied. He can't recommend approval unless there's affordable housing to go above the density he's talking about.

So there's also no question that the commercial is not consistent with the Growth Management Plan. There's no -- there's no question that the density is compatible. There's no issue with hurricane evacuation. There are two -- there are two issues that are public benefits that we talked about that are important to the environment.

The culverts --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: I don't understand what you just said based on the context of -- you know, of all the proceedings beforehand. You just said there's no issue about density.

MR. YOVANOVICH: There is no question -- I said what -- Mr. Bosi testified that our requested density is, in fact, compatible, and he said that the reason --

COMMISSIONER KLUCIK: Twenty, or whatever it is --

MR. YOVANOVICH: That 21's going to --



COMMISSIONER KLUCIK: Twenty is compatible?

MR. YOVANOVICH: Yeah, because you know that little condo project on the corner is 23 units per acre. Am I right, Mike, about the numbers?

MR. BOSI: Correct. It's 23.8. It's zoned RMF-16, but it was developed in '72 to '75 at a higher density. So it is -- roughly, it's 56 units. It's 2.35 acres. It turns out to 23.8 units per acre. So from a density --

COMMISSIONER KLUCIK: So what you're saying -- so what you're asking me to conclude, then, in your assertion, then, Mr. Yovanovich, is that your applicant -- or your client's application is compatible in that the density right next door is even higher?

MR. YOVANOVICH: Correct, and I think Mr. Bosi agreed that we would be compatible.

COMMISSIONER KLUCIK: Okay. So it's compatible, but not permitted?

MR. YOVANOVICH: That's why we're here as far as under the Growth Management Plan, yeah.

COMMISSIONER KLUCIK: Well, right. But as far as the code -- the code does not -- do you agree -- I understand what you're saying as a -- as a point we've all heard about, you know, density and the concerns. What your argument is -- and it's a good point -- well, we already have that density right next door. We have higher density. Okay, that's a good point to make. But then that's -- you know, your application is undercut by the staff's interpretation and their authoritative interpretation of Mr. Bosi that under the current code you don't have --

MR. YOVANOVICH: Of course.

COMMISSIONER KLUCIK: -- you don't get that -- you don't get -- excuse me. You don't get the increased density without making some -- under the way you would interpret the code, you would actually have -- you know, as by policy we're asking for there to be some reason beyond just --

MR. YOVANOVICH: Right. And, Mr. Klucik, I'm not disagreeing with Mr. Bosi that I have to ask for a Growth Management Plan amendment to get to the density. I'm just asking -- I disagree with him as to how many units above what I could do today versus -- but I have to ask for it.

But one of the -- the criteria you look at when evaluating our ask is compatibility, and the residents are up there saying, it's not compatible, but the expert on compatibility, one of the experts, is Mr. Bosi and Mr. Arnold. And you heard their own expert get up there and say, I defer.

Mr. Forgey got up there --

COMMISSIONER KLUCIK: Mr. Bosi.

MR. YOVANOVICH: They deferred -- he deferred to Mr. Bosi.

COMMISSIONER KLUCIK: No. Excuse me. Excuse me. Excuse me.

MR. YOVANOVICH: Yes?

COMMISSIONER KLUCIK: Mr. Bosi, so just point blank, is the density requested compatible?

MR. BOSI: Based upon --

COMMISSIONER KLUCIK: Under the current application, is that density compatible?

MR. BOSI: Based upon adjoining properties being zoned commercial and the intensity associated with that and the 23.8 units per acre that currently exist, the density is compatible.

COMMISSIONER KLUCIK: Okay. So it seems to take off compatibility if -- as to the argument for density? There's other -- there's other issues of compatibility, but --

MR. YOVANOVICH: Sure.

COMMISSIONER KLUCIK: -- as to the issue of compatibility, density seems like there's some argument in favor that there's not an issue. Okay. I'm sorry. I'm just -- I wanted to make sure I understood the point being made and, for me, the relevance it has to the -- to my decision.

MR. YOVANOVICH: Okay. And there was a statement made that getting the money was imminent for culverts to be constructed on Isles of Capri. That's not true. It is not imminent. It's not even in the five- or seven- or 10-year plan to get monies to build these culverts.

This is a public project that my client will design, permit, and construct on his dime, or its dime, to benefit the water quality of that chain of islands as is the -- as is the building of a force main and pump system of additional size. And it's about a half a million dollars, Mr. Klucik. You asked me to come up with that number. It's about a half a million dollars of upsizing that we have to do in order to make it large enough to accommodate the remainder of the island.

So there are those two significant environmental benefits associated with this project. Together with actually bringing a use that is consistent with the Growth Management Plan, actually increasing ad valorem tax dollars that, frankly, can be used for the commissioner to advocate for more improvements on Isles of Capri or in East Naples due to the increased ad valorem tax benefits.

It's a reduction in traffic. And I think, importantly, you have a developer that even Mr. Rogers got up there and said, if Mr. Ferrao develops this property, it's going to be first class. And it is going to be first class.

And I can't, for the life of me, figure out why, if I lived on that island, I wouldn't want a first-class, high-end condominium project with residents who are only probably going to be there in the season. And I find it a little hard to even accept the statement -- what makes you think these people aren't going to want to go and dip their feet in the water? What makes you think they're not going to want to go eat at the local restaurants that are already there? Just because they paid a few million dollars for their unit? There's multi-million-dollar homes on that island right now, and there will be more.

So these people will, in fact, benefit the local businesses. There's going to be more residential people there to eat and enjoy those restaurants -- or businesses that already exist.

All of the testimony, in my opinion, lead to the conclusion that what we're requesting is appropriate, it is compatible, and will benefit the residents on the Isles of Capri.

And with that, that's our closing statement. Happy to answer any questions you may have regarding the project and, Mr. Fry, if you want to talk about some modifications, we're happy to talk about modifications. But right now I haven't had anybody seriously engage us in talking about modifications.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. First of all, Karl, just for your edification, when you ask, is there something we can do, if you -- if you deemed that this was appropriate, you also can make a motion that, instead of 12 stories, it can be six stories. I don't know. You can --

COMMISSIONER FRY: I realize that. I realize that. I wanted him to bid against himself, exactly as he said.

COMMISSIONER SCHMITT: Oh, okay. I just want to make sure.

I have a question. Mr. Yovanovich, I've heard the words in opposition to this that this was a very drastic proposal. I also heard the term the "parade of horrors."

The perception, I believe, is that the residents somehow think that if this stays C-3, it will never be developed, and that it's going to remain vacant or probably sold off. In your estimation -- and you're talking with your client. If, in fact, it isn't rezoned to residential, the proposal you made is not smoke and mirrors. That is a proposal that is viable and actually could be built and could -- the developer could make a decision to move forward with that proposal.

MR. YOVANOVICH: Well, the developer will have no other option but to move forward with a commercial development on that property. One thing that's not going to happen is you're not going to get that yacht club thing that was proposed 25 years ago. That ship has sailed. It's not going to happen.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: You're not going to get one mom-and-pop restaurant on that piece of property. You're going to get an attractor. And I don't believe -- I know they said it, but based upon prior testimony, I don't believe they really want an attractor on that island, my opinion.

So, yes, will it get built, yeah. We've laid it out for you. We've got four restaurants.

We've got an ice cream shop. We've got a lot of -- we've got a lot of, you know, little retail to attract people to come, you know, buy stuff, eat, listen to music, drink at the restaurant/bar, have a good time, and it will be busy.

COMMISSIONER SCHMITT: Well, just to carry on with that. And I found it very interesting. And, again, as I said on the record, I was not aware of the purchasing. But let's go back. If the developer has owned this 30 years, somewhere in that neighborhood.

MR. YOVANOVICH: Twenty-six-ish; '96.

COMMISSIONER SCHMITT: Yeah, 26, 30 years. Let's say they paid in a total -- what was the value on there, three million? I can't remember.

MR. YOVANOVICH: I think she had somewhere close to five.

COMMISSIONER SCHMITT: Okay, four million. Rule of 72. You're familiar with the rule of 72?

MR. YOVANOVICH: I learned it a thousand years ago.

COMMISSIONER SCHMITT: Yeah. Seven percent, you double your money in 10 years. That's just a rule of thumb.

MR. YOVANOVICH: I understand.

COMMISSIONER SCHMITT: Or at 10 percent, you double your money in seven years. But let's go with the double your money in 10 years. That property, then, today is somewhere in the neighborhood in excess of probably 24- to \$30 million. You would believe that you would be entitled -- or not entitled. But I'm just throwing that figure out. That's the value of that property today. So a developer -- this developer regardless of what he paid for it -- and that was put on the record. But it will be a development that will be developed as an attractor, conceivably two or three restaurants, probably over-the-water type -- four? Four restaurants.

MR. YOVANOVICH: Four restaurants. That's what we've laid out, four restaurants.

COMMISSIONER SCHMITT: Over-the-water type of seating, an attractor, whether it's the battle of bands every Friday night or whatever. We are faced on this small island with an attractor that I would be -- related to -- I'm just -- even Tin City, but Bayshore or other type of --

MR. YOVANOVICH: Celebration Park.

COMMISSIONER SCHMITT: Yes, yeah, Celebration Park, or -- I'm trying to think of the one up in -- north of us with the dock facility.

MR. YOVANOVICH: Oh, is it either Punta Gorda or Port Charlotte?

COMMISSIONER SCHMITT: Punta Gorda. Punta Gorda where it's a real attractor, stores and restaurants and other type of things. I mean, that's really what we're looking at here.

So, for the record, it is -- if it's C-3, in your estimation, this is not going to lay vacant. This is going to be developed as C-3?

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: Okay. I have a couple of questions for staff and a follow-up to that. I heard the term thrown around that this was "spot zoning." Is this spot zoning, in your estimation?

MR. BOSI: A rezone of five acres is not uncommon within Collier County.

COMMISSIONER SCHMITT: Okay. So it is not spot zoning, okay.

MR. BOSI: No.

COMMISSIONER SCHMITT: That term was thrown around, and I didn't hear anybody dispute that.

Mr. Yovanovich and staff, we -- I have posed the question to both, and maybe even Nancy, because she did the rezoning report. You cited that the only way you think they could get the additional density is because -- so they -- to provide affordable housing.

MR. BOSI: That has been the county's policy. If you ask for additional density above what the GMP is providing for, affordable housing is --

COMMISSIONER SCHMITT: How many affordable housing complexes exist on waterfront property in Collier County?

MR. BOSI: That I'm not aware of. I'm not sure, sir.

COMMISSIONER SCHMITT: I'd probably say zero, because it's just not feasible. The cost of the land, the cost to build, you could not put in an affordable housing project at -- unless you had more density than what even the petitioner is asking for, because somehow they have to buy down the cost of the other units to be in the affordable housing. That's why I kind of was -- to me was sort of a red herring that -- this affordable housing argument. Nancy, do you know? How many affordable housing complexes are in Collier County on waterfront property?

MS. GUNDLACH: I would have the same answer as Mr. Bosi.

COMMISSIONER SCHMITT: Okay. I guess maybe when Pelican Bay goes into affordable housing or some of the other high-end residential areas on -- so go ahead.

MR. BOSI: I would say the suggestion for affordable housing on site is probably impractical. A contribution to the Housing Trust Fund or some other --

COMMISSIONER SCHMITT: Right.

MR. BOSI: -- allocation to advance affordable housing because of the additional demand that these units would place upon the workforce or the county could be appropriate.

MR. YOVANOVICH: Sure.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: Nobody raised any of these issues with us.

COMMISSIONER SCHMITT: Okay. That's all I have for Mr. Yovanovich. Thank you.

One other thing. You did -- you did clarify the intent of the Tarpon Club and, for the record, it is open and accessible to the public if they join?

MR. YOVANOVICH: Yes. The club we're going to put on this island -- let's get rid of the name because I think the name is confusing.

COMMISSIONER SCHMITT: I don't know if it's the Tarpon Club or whatever you're going to call it.

MR. YOVANOVICH: Let's just call it, whatever it is, anybody can be a member.

COMMISSIONER SCHMITT: Right.

CHAIRMAN FRYER: Thank you.

Before I call on Commissioner Vernon, who's signaling, I want to express my earnest hope -- and I'm going to do everything I can in my power as your chairman to try to make this happen, but I may not succeed -- that we be done with this matter by 1:00 p.m., we take our lunch. I've also been informed that this room will need to be vacated. We have a hard stop at 5:00 p.m. for a technological update that's taking place. So just for everybody's forward planning, that's what we're up against.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. Follow-up on this modification issue Mr. Fry asked about. Would your client -- what's the actual height --

MR. YOVANOVICH: The actual height --

COMMISSIONER VERNON: -- proposed?

MR. YOVANOVICH: -- is 168 tippy top.

COMMISSIONER VERNON: Okay. Would you guys --

MR. YOVANOVICH: Zoned is 148.

COMMISSIONER VERNON: Would you consider actual height less than 150?

MR. YOVANOVICH: Let than 150, sure.

COMMISSIONER VERNON: How about less than 130?

MR. YOVANOVICH: I have to do that math in my head.

COMMISSIONER VERNON: Well, let's switch it to zoned. What's the zoned height?

MR. YOVANOVICH: Zoned height is 148.

COMMISSIONER VERNON: Would you consider zoned height less than 130?

MR. YOVANOVICH: Zoned height, 130. I have to -- give me a second to do the math

in my head. I think the answer's yes.

COMMISSIONER VERNON: I'm trying to make it easy for you. You want actual or you want zoned?

MR. YOYANOVICH: Either way. So I'm just subtracting in my head what that is. So, yeah, the answer is, yes, we could.

COMMISSIONER VERNON: Zoned height less than 120?

MR. YOYANOVICH: I think that's -- I could stagger, so yes for some buildings.

COMMISSIONER VERNON: Let's talk about the tallest building. Can you go less than 120 for all the buildings?

MR. YOYANOVICH: And, Mr. Vernon, I'm doing the math in my head. Just give me -- bear with me, okay.

COMMISSIONER VERNON: Take your time.

MR. YOYANOVICH: Zoned height you said?

COMMISSIONER VERNON: Zoned height.

MR. YOYANOVICH: At 120?

COMMISSIONER VERNON: For the tallest buildings.

MR. YOYANOVICH: Yes.

COMMISSIONER VERNON: One ten?

MR. YOYANOVICH: Now I'm in trouble for the tallest building.

COMMISSIONER VERNON: What's the for-sure number you couldn't go below? A hundred?

MR. YOYANOVICH: For the tallest buildings?

COMMISSIONER VERNON: For tallest building, zoned height, could you go -- can you say definitely you're not going to go below 100 based on what you know from your client?

MR. YOYANOVICH: Yeah, I definitely can't go below 100.

COMMISSIONER VERNON: All right. But you maybe get close to 100? I'm not committing you. Yes?

MR. YOYANOVICH: For the tallest building.

COMMISSIONER VERNON: For the tallest building zoned height.

MR. YOYANOVICH: Yeah, maybe.

COMMISSIONER VERNON: Maybe 100, okay. Density, can you go below 20?

MR. YOYANOVICH: Could we talk about overall number. The overall number's 108.

COMMISSIONER VERNON: Okay. Can you go below 100, overall number.

THE COURT REPORTER: I can only get one at a time.

MR. YOYANOVICH: I'm sorry. We can go below 100, yes.

COMMISSIONER VERNON: Can you go below 90?

MR. YOYANOVICH: No.

COMMISSIONER VERNON: Can you go below 95?

MR. YOYANOVICH: I could go -- I can go to 90 if that's where your question was.

COMMISSIONER VERNON: So maybe 100 feet zoned height tallest building, maybe. I'm not committing you, and maybe as low as 95 on density total.

MR. YOYANOVICH: (Nods head.)

COMMISSIONER VERNON: Thanks.

CHAIRMAN FRYER: I want everyone to recognize that the existing dry marina, I believe, is zoned 50-foot zoned height, and then there's 35 feet, I believe, on top of that in the form of a clock tower. So for that reason, I would far prefer that we're talking about actual height rather than zoned height.

Commissioner.

COMMISSIONER KLUCIK: Mr. Chairman?

COMMISSIONER SCHMITT: For the record, make sure people understand. Zoned height is everything above the first habitable floor, from the first habitable. So you have

BFE -- and, again, Jamie, what's the BFE out there right now? Fifteen, 16 feet?

MR. FRENCH: Probably 12.

COMMISSIONER SCHMITT: Twelve. Just out of curiosity. Okay.

So you have BFE, which is base flood elevation, then you have what you can build. So, typically --

COMMISSIONER HOMIAK: I think it's 24.

COMMISSIONER SCHMITT: You think BFE is 24 out there?

UNIDENTIFIED MALE VOICE: Nine feet.

COMMISSIONER SCHMITT: No, it's not nine feet, sir. That's incorrect, nine feet.

So, anyways, that's the -- and the appurtenances are typically not counted, but they are visually. I mean, so it's -- that's what you're referring to?

CHAIRMAN FRYER: Yeah, correct. That's correct.

Commissioner Vernon, you're still --

MR. YOVANOVICH: Mr. Fryer, just -- the actual height would be 128 at that number. One twenty versus -- the zoned would be one -- yeah, it would be another 22 feet, I believe, on top of that.

CHAIRMAN FRYER: Well, I guess what I'd need to hear is a conversion of -- the questions that Commissioner Vernon was asking from you zoned height to actual height.

COMMISSIONER VERNON: I think what he's just --

MR. YOVANOVICH: I'm just trying to tell you. I was just trying to tell you --

COMMISSIONER VERNON: It's probably a little less than 125 feet. If you went to 100 feet zoned height, you'd probably be a little less than 125 actual height, roughly.

MR. YOVANOVICH: Roughly, yes.

COMMISSIONER VERNON: Does that answer your question?

CHAIRMAN FRYER: I think so. So right now they're at 85 feet. So that's another 40 feet above where they are actual height.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Yes. Mr. Yovanovich, I'm just trying to figure out how we get past your density issue, because even -- so let's say we all came to a height that worked, and I don't think we're there yet anyways, but let's just say we did get to a height less than what was proposed, and we -- and there's now some lower height. Then we still have the density issue, and I don't -- I don't understand how you get past that given the authoritative interpretation of Mr. Bosi.

MR. YOVANOVICH: Well, I do.

No. Mr. Bosi didn't say -- what Mr. Bosi says, he disputes with me what I could do as a matter of right today or ask for.

What Mr. Bosi said is he agrees that the density I'm asking for is, in fact, compatible. He won't give it to me because I'm not doing affordable housing. That's what Mr. Bosi said.

So you have to get comfortable with does it have to be affordable housing to get to a compatible density that Mr. --

COMMISSIONER KLUCIK: Right. Is there some -- so the benefit -- again the benefit, then, that would -- that you think should persuade the decision makers, the benefit to the county, to the public, to the community is what? You know, since it's not affordable housing, what is the actual benefit that you think should --

MR. YOVANOVICH: A couple of things. One, you're getting a residential project where you're supposed to have a residential project, because the Growth Management Plan does not want this to be a commercial attractor.

Mr. Bosi has agreed that this is not a commercial attractor site from what the Comprehensive Plan today wants it to be. So that's one thing.

The traffic generated from what we're proposing, now that you're down to 95, if Mr. Vernon's number is there at 95, is even less traffic impacts than what commercial could be.

So you reduce traffic. You don't have a noisy project. You don't have a project that has four restaurants on it. You get the two culverts that we're talking about building to help improve the water quality out there, and you get an upsized sewer system. So when the community is ready to convert and get off of septic systems, they don't have to pay any part of that line and the pump stations associated with bringing a system large enough for the islands to convert and get off of septic.

COMMISSIONER KLUCIK: Okay. All right. So then moving on. Thank you for those answers.

So then we have height. So my question then is, so you -- do you agree that your client doesn't have any right to ask for the height -- to be granted the height that the petition is requesting; that that's absolutely not a right to actually get that approved?

MR. YOVANOVICH: Well, let's get past -- Comp Plans don't deal with heights usually, okay. They usually just deal with density. I don't agree I don't have the right to come in and ask for the height I'm asking for --

COMMISSIONER KLUCIK: No, no, no. Wait. Let me rephrase my question. I'm very specific.

Does your client have a right right now to build something at the height that the petition is asking, and does it have a right to -- does it have a right -- if it applies, do we have a choice, or we are obligated to say yes to that application to go this high?

MR. YOVANOVICH: I know you're not going to like this answer, but I'm going to tell you that under C-3, the zoned height is 50 feet. The property adjacent to you at -- adjacent to this is RMF-16. It has a zoned height of 75 feet.

I believe I have the absolute right to come in on behalf of my client and ask for the height I have today because I have the absolute right to rezone property consistent with the Growth Management Plan. Got to get the Growth Management Plan amendment for the density I want, okay. But if that happens, then I have the right to come in and ask for whatever height I want to ask for provided it is compatible.

COMMISSIONER KLUCIK: Right, okay. Yeah, no, no. And I -- yeah, so you have -- I don't doubt that your client has the right to ask for all sorts of stuff. But the issue is they don't have a right to build that high, period. They don't have a right to build -- under any circumstance, they do not have a right to build at the height of the current application, and so --

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: -- because of that, I don't -- I can't see how that works at that high, and I also don't see -- even coming down some, I don't know how much of a difference that is, you know, whether it's 150 feet high or 120 feet high. At the end of the day, I don't think it makes, you know, a damn bit of difference to the people who are opposed to it.

MR. YOVANOVICH: I think you're right.

COMMISSIONER KLUCIK: Right. And so my question is, why is that something that is, you know, good public policy to -- you know, for us to recommend it to the commissioners and for the commissioners to then, you know, approve it? Why is that good public policy when there is such widespread opposition to that height?

I understand you couldn't negotiate. I get that, because there was no willing party to discuss it, but then that puts you in a lurch where you're asking -- you are required to bid against yourself. And I'm actually -- if you're not willing to put something on the table for, you know, a height and a density, then I don't know how -- you know, I don't think it's our job to figure it out for you. And I'm -- you know, I would be voting no because you're not -- you're not making any amendment.

And that's -- your applicant is absolutely within its right to -- you know, through you to, you know, stand fast and just carry on, and, you know, whatever procedures you think, you know, might get you to the finish line. I understand that. Maybe you know the commissioners are going to vote, you know, one way or the other. You feel good about -- whether you know or not, you

feel good about the prospects, you know, at the commission level. I understand all that. I'm just telling you right now, unless you come up with a number -- those two numbers that are different and then we get to think about that --

MR. YOVANOVICH: Okay.

COMMISSIONER KLUCIK: -- I would be voting no.

MR. YOVANOVICH: And I -- can I have three minutes to talk to my client --

CHAIRMAN FRYER: Sure.

MR. YOVANOVICH: -- so I don't get the math wrong?

COMMISSIONER SCHMITT: I'd make a proposal -- because we haven't even debated amongst ourselves yet.

CHAIRMAN FRYER: True.

COMMISSIONER SCHMITT: And we have a lot of discussion. Would it be feasible to break for lunch now, maybe 30 minutes. You decide what the -- let him confer with his client, and we come back --

CHAIRMAN FRYER: I think --

COMMISSIONER SCHMITT: -- and then we discuss amongst ourselves?

CHAIRMAN FRYER: I think that's a reasonable proposal. What does the Planning Commission think?

COMMISSIONER HOMIAK: Thirty minutes?

CHAIRMAN FRYER: Well, how much time do we need; forty minutes?

COMMISSIONER SHEA: Thirty.

CHAIRMAN FRYER: Thirty?

COMMISSIONER HOMIAK: A little more.

CHAIRMAN FRYER: Thirty-five?

COMMISSIONER SCHMITT: Hour and a half.

COMMISSIONER HOMIAK: A little more, a little more.

CHAIRMAN FRYER: How much do you need?

COMMISSIONER HOMIAK: Forty.

CHAIRMAN FRYER: Okay, 40 it is.

COMMISSIONER HOMIAK: Terri and I need 40.

CHAIRMAN FRYER: All right. We will stand in -- 40 plus 40's 80 so that's 1:20; am I right? 1:20? We stand in recess until 1:20.

(A luncheon recess was had from 12:40 p.m. to 1:20 p.m.)

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

We're back in session. And where we left off, we were hearing from Mr. Yovanovich.

MR. YOVANOVICH: And I think Mr. Klucik wanted me to put numbers on the table, I think is where we were; am I right, Mr. Klucik?

CHAIRMAN FRYER: Mr. Klucik, did you want to be heard at this time?

COMMISSIONER KLUCIK: No. I just wanted to test my mic.

CHAIRMAN FRYER: Oh, okay, good. And before I forget it, I have -- I've been admonished. We just can't have multiple people speaking at once, and that applies not only out there but also up here, and the other thing is we can't have people who haven't been recognized to speak. So if you're out in the audience, I'd appreciate it if you would refrain from speaking. It just makes it next to impossible for the court reporter to try to get everything down when multiple people are speaking at once.

So I'm going to do a better job on that, and I'm going to start rapping this gavel here a little bit as necessary to maintain order.

With that, Mr. Yovanovich, go ahead.

COMMISSIONER FRY: Mr. Chairman?

CHAIRMAN FRYER: Go ahead.



COMMISSIONER FRY: I just have to point out that Terri does have two hands. So I do believe it would be reasonable that she can record two people at one time as a minimum.

MR. YOVANOVICH: Spoken like a man who's leaving.

CHAIRMAN FRYER: All right. So, Commissioner Klucik, you are testing your mic, and so we're going to go to Mr. Yovanovich.

MR. YOVANOVICH: Okay. Thank you for the break. We would like to propose staggering the buildings, and I guess I should put the site plan back up.

COMMISSIONER SCHMITT: That's a good idea.

CHAIRMAN FRYER: Are you talking about wedding cake?

MR. YOVANOVICH: Well, staggering the heights of the three buildings.

CHAIRMAN FRYER: Oh, different heights.

MR. YOVANOVICH: Yes, yeah. If we could put that back up, Mike. Am I on? Do I have to click in? Yeah, my bad, my bad. Sorry.

We would propose that this would be the tallest building. We'll call that Building 1.

COMMISSIONER SCHMITT: Which one you at, Rich? Okay. Got it.

MR. YOVANOVICH: Okay. That would be -- it equates to 10 residential floors over two of parking, which would be an actual height of 125 -- I'm sorry -- zoned height 125, actual height 144. So basically you're taking both down about 24 feet; 125 zoned, 144 actual.

CHAIRMAN FRYER: 144?

MR. YOVANOVICH: Yes. Building 2 -- is that right, Joe? Come here, please. Building 2 -- I'm sorry. Building 2 would be 105 zoned, 124 actual.

COMMISSIONER SCHMITT: How many floors?

MR. YOVANOVICH: That's eight.

COMMISSIONER SCHMITT: Eight plus 2.

MR. YOVANOVICH: Eight plus 2. And then this building, Building 3, will be nine plus two, which is 116 zoned, 135 actual, and reduce the density to 90, from 108 to 90. And hopefully we'll -- when we get to the Board we'll show some exhibits to show how it looks with the staggered heights. I'm assuming that's something the Planning Commission is inclined to look at.

COMMISSIONER FRY: How many units?

MR. YOVANOVICH: I said to 90.

COMMISSIONER FRY: Ninety.

MR. YOVANOVICH: Sorry.

CHAIRMAN FRYER: All right. Sir, anything else on rebuttal?

MR. YOVANOVICH: I think that was where we left it off, and I think you were still questioning. Mr. Vernon was cross-examining me and -- effectively, I might add.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: I just want to thank you for doing that. I just -- you know, the more I thought about it, the negotiating -- you know, I just -- it seems like we're doing well by trying to get to something, you know, that is a number that -- the numbers that are good for the applicant, but I just think the process of doing that like it's an auction is just -- it just seems strange to me, so I appreciate that you put that forth --

MR. YOVANOVICH: Sure.

COMMISSIONER KLUCIK: -- because I think it helps us, you know, as a point now to have more discussion, and I appreciate that. I think it will help us in our deliberations and our discussions.

MR. YOVANOVICH: I had hoped I'd be standing up here with some people with me saying, yeah, that makes sense. We didn't get that far.

CHAIRMAN FRYER: All right. Anything further, sir, at this time?

MR. YOVANOVICH: No, unless you have further questions of me or our team.

CHAIRMAN FRYER: All right. No one is signaling at this point.

I'm going to make a brief statement about process here going forward. I, honest and true, believe that we up here have heard everything we need to hear. I think we're ready to deliberate and to vote. There was some discussion about allowing Mr. Brookes to speak and, certainly, if we were going to do that -- and we will do it if a planning commissioner calls him up, but he would be time limited, and Mr. Yovanovich would get the last word. But, honestly, I personally do not think it's necessary.

So having said that, I've got two Planning Commission -- one Planning Commissioner signaling now, and that's Commissioner Shea.

COMMISSIONER FRY: Are we in deliberation now?

COMMISSIONER SHEA: Yeah, that's the question.

CHAIRMAN FRYER: We can deliberate whenever we want.

COMMISSIONER SCHMITT: Are you going to close the public hearing, then?

CHAIRMAN FRYER: I mean, we closed public comment.

COMMISSIONER SHEA: I thought we did.

CHAIRMAN FRYER: Yeah, we closed public comment.

COMMISSIONER SHEA: We were in rebuttal. Do we close rebuttal? Do we have to do that?

CHAIRMAN FRYER: Yeah. Commissioner Shea?

COMMISSIONER SHEA: I come from a very simple background, and I'm kind of a black/white person, so I try and simplify everything.

I think the role of this committee, or this commission, is to be the caretaker of the Growth Management Plan, and the Growth Management Plan we hear proposed changes all the time, and usually they're to the benefit of the community. I don't see the benefit -- I'm sure this facility's going to be gorgeous. It's going to be gorgeous. There's no doubt about it. But I don't see -- I support the staff recommendation in terms of the density, and I would vote no on it. And I know I'm oversimplifying it. It's much more complicated, but my mind isn't that complicated.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: So being my last meeting I decided not to babble endlessly, and I've been jotting down some comments, so...

I think that -- this is my last meeting of a four-year term, and there's something different on this matter than any application that's come before us before, and that is that it's -- there have been many that have been a commercial conversion to residential. In all other cases, including One Naples, which I think is -- you know, has some similarities, but not totally, residents always objected on the basis of traffic. You know, there's too much traffic. The traffic's terrible. We don't want any more traffic. This will generate more traffic.

Even though the application was -- the conversion to residential reduces traffic, they're almost arguing in the favor of the applicant. That is not the case with this application. Traffic is not your objection.

Now, perhaps you've been coached. Perhaps you're just smart and understand the system. But even though traffic is not the objection, the neighbors are -- and this is the other unique thing -- more united in opposition to this than any issue I've seen in four years. And I do -- I will say One Naples, as an example, a huge group that had petitions and postcards, you know, similar to yourselves. They had representation, but there were a few -- there were neighbors. There were some high-density condos next door, and they had their support, and they had some business owners that had support, so that diluted it. Same thing in my neighborhood. We had a project for Naples Senior Center, and the residents were -- majority were opposed, but they had some key close neighbors that would be seemingly the most impacted, but they were in favor of it. They saw it. So they diluted the opposition.

I do understand that we did get, I think, one person or one couple that said they were in favor of it. But I think our job up here, we cannot rely -- we have to base our findings on what

we're presented, not what we assume to be the case, that there's a secret contingent of people that are afraid to speak out.

If there are business owners on Isles of Capri that feel they'd be negatively impacted by the commercial or they're in favor of this, they had their chance to speak, right? You folks took the chance to speak, and every single person spoke against this. So I find that unique.

Staff is unequivocally -- or unequivocally opposed to the application as being way too high and way too dense to be consistent with the GMP.

You know, I've sat through -- in most cases staff has approved an application, and we're presented with a recommendation for approval. In this case it's for denial. It's pretty rare. And I think -- I believe staff does a great job. I have great respect for Mr. Bosi, the legal interpretation that he is the official judge of this type of thing for the county, and I understand there is some gray area. And Mr. Yovanovich is an absolutely excellent attorney. I'll say that for the record, Rich. And I have sat across the table from Rich and negotiated with him. And I'm struck by the fact you folks decided not to, but I understand it, because I came from being a president of a neighborhood association who chose not to negotiate.

And there was too much difference, and they didn't feel -- I'm pretty clear that you're not happy with what was just presented, 90 units, 120, 130 feet tall. I just have a feeling that that's not enough of a leap for you to be -- to be in -- in support of this.

Part of this issue, which I think is a big thing, has been a question that I have is that we always have people come in and say, well, I didn't know this or I relied on this zoning or what I expected to be built next to me. And I think a big question is, what can a person rely on? Can they rely on anything when they buy a property?

This property, yes, we can say the GMP thinks it should residential, but it's zoned commercial. So when you guys bought your properties, it's pretty clear that everybody thought it was C-3. Now, in some ways that's detrimental to you because a C-3 use would be more traffic to you, but what I've noticed is that you are -- seem to be wide-eyed, realistic, you understand, and you still have been clear and concise that you'd rather have the C-3 even if it's not built right away. You're aware it's been vacant for a long time, you're aware you're not enjoying the benefit of businesses in that location, and that you may not.

Now, they have said they can build quite a commercial project that would be an attractor. You all seem okay with that and, to be honest with you, that matters. That matters to me. I do think we should have sensitivity to the neighbors and your rights as well.

So there's no debate. This is a fine developer. This is one of the top developers in the area. So this project, if built, of any kind would be a top-quality project. But I also observed the residents really are not going to get to enjoy it. It's a private residence for high-net-worth individuals, as most of the high-rises are that are on the water. It's a private yacht club. Yes, you can join and have a boat there or eat in the restaurant. But, really, you as residents, without joining that yacht club, you lose any benefit from that property, and that's where -- that speaks to my assessment of highest and best use and really compatibility, which we talked about.

I think it should compatible, and complementary was the other term. I don't see how this is complementary to you folks. And I say part of this is I rely on your ability to decide for yourselves what is complementary.

So I don't buy an argument that says, well, they just don't understand that the traffic would -- would bother them. I think you know that it might, and you take -- you're willing to take the risk, which is what I think is important.

So they also have offered a couple of benefits. And I do believe there's real tangible benefit in those benefits, but I've also noticed that you're pretty unequivocal in the fact that you don't see the value and you're willing to do without those benefits despite whatever impacts it might have on you moving forward, not knowing what will end up there.

I think there are many undeniable cases where a conversion like this from commercial to residential makes sense. I just don't think in this case there has been a case presented that shows a

tangible benefit to you or to the county from this, other than those two side benefits that they've mentioned.

And I'm not able to ascertain the value of those. I'm not the person who can judge the value of those culverts or whether they'll be built without their contribution, whether you'll be successful in getting the grants and that type of thing or what they have to put in for the sewer. That's not for me to know or to decide. I just know that you don't see the great value in them, and I don't think it's enough for me to -- you know, to be in support of this.

So I kind of agree with your conclusion that the developer benefits. I think the benefit -- the developer will benefit greatly from this. The people that buy units in there and join the yacht club will benefit greatly from it, but for you as Capriers, as you call yourselves, I'm not seeing a benefit for you, at least one that makes any sense to you.

Now, to compatibility we say -- we always say there's no such thing as precedent, and I think that's one of the most laughable things I've heard in my life. Every single case the applicant brings is based on what was done before it, what was done elsewhere as precedence for why it's acceptable here.

The fact that there's a 50-year-old, 23-unit-per-acre development that is sitting next to this property is now a basis that this is -- that their density, way above what the staff thinks is acceptable, is compatible. The fact that there are places anywhere in the area, the county, where there's a high-rise near a single-family home, now the high-rise is compatible to your area.

So compatibility, I think, is a very questionable and subjective justification, or a term, but I think complementary, you know, it should benefit. It should enhance or benefit the surrounding area. I'm not seeing that, and I certainly am clear that you guys are not seeing that.

Also notable to me is that -- actually, I think I've already said that.

What stops me from being able to vote yes on any compromise that's not way below what has been presented is the fact that I do believe we as homeowners, people that invest in properties, should be able to rely on something, right? This is zoned C-3. You bought assuming it was C-3. If it's converted to residential or any other use, that's -- that is okay, that's what this process is all about, but it should have some demonstrated value to you and to the county at large. I'm not seeing that value.

So I will be voting no to this application, and I really -- I concur with staff. And I hope that it's not a case where what the neighbors believe and what they believed when they bought a property, that that ceases to matter, because I think that's -- I think that would be a big loss for us if that's the case.

So I have great respect for the developer, for the applicant, for the team, but I just can't see myself supporting this unless it were 75 feet high and four units per acre, real close to what the GMP would allow according to your interpretation, Mike. Thank you.

CHAIRMAN FRYER: Thank you.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Yes. Thank you, Karl.

I put this in the box of "be careful what you ask for, you may get it."

I do go to the Capri Fish House. I do visit Gypsy Cafe. I know what it's like to go down there during season. I know you can't even -- the Capri Fish House, if you -- the parking, first, certainly isn't big enough. You have to park across the street. You're parking across the street from the fire hydrant -- or correction -- fire station. And even then, there's not enough parking.

And similar with Gypsy Cafe. Gypsy Cafe finally bought the piece of property across the street, and they converted it into a parking lot.

I'm disappointed that we've not heard from the businesses that are on the Isles of Capri right now. I think people have expressed that those businesses could care less, but I do believe that it would be detrimental to those businesses.

I think what the developer proposed is certainly a pretty significant compromise. I just don't think that this should remain C-3. It is -- would be disaster for Isles of Capri. It just -- the

road network, the road going up into Isles of Capri, it just, to me, is -- to remain C-3 would be a disaster both for the community, the noise, the traffic, the noise light discipline, it would just be a disaster.

I will -- if -- wait and see in there's going to be a motion, but I would support the current proposal as proffered -- recently proffered by the applicant, 10 plus two, eight plus two, and nine plus two. So I would vote yes to convert it from commercial to residential.

CHAIRMAN FRYER: Thank you. At this time no other planning commissioner is signaling.

COMMISSIONER VERNON: I --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Mr. Klucik, and then Commissioner Vernon.

COMMISSIONER KLUCIK: Yes. And I apologize. I should have asked this earlier of Mr. Bosi. So I would like to, with your permission, to ask him a question.

CHAIRMAN FRYER: Of course.

COMMISSIONER KLUCIK: Mr. Bosi, the new revised application -- and if you already answered this question, I apologize that I didn't recall you doing so. Would you -- would staff support that with the revised numbers?

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

As it's proposed with the modification, it's a 24-foot reduction from what was originally applied. Staff does not feel that that brings enough compatibility in context to the surrounding area. So, no, staff would actually support something a little bit lower than what was compromised at.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: And can you state on the record what that -- what those numbers would be?

MR. BOSI: We had said that we could support a 75-foot zoned and 100-foot actual.

COMMISSIONER KLUCIK: And what density?

MR. BOSI: Staff is -- staff is comfortable with the density. If they provided for a contribution or an allocation towards the affordable housing, the density is consistent with what the density is there on the island, or there within the commercial island.

The adjoining property at 24 units per acre establishes that that type of density is not detrimental to the business island, and the rest are zoned commercial. So the intensity is much greater than residential. Staff's not concerned about the intensity.

COMMISSIONER KLUCIK: And is it your -- is it your understanding that the applicant has now added affordable housing to its -- to the amended version?

COMMISSIONER SCHMITT: No.

MR. BOSI: Staff did not hear any addition of affordable housing to the amended version that was provided by the applicant.

COMMISSIONER KLUCIK: So even in its amended form, or we'll call it that for shorthand, you would recommend against it, even with the numbers that -- without having the affordable housing, you would recommend against it?

COMMISSIONER SHEA: Absolutely.

MR. BOSI: Staff, as I've stated, would not support the revised application.

COMMISSIONER KLUCIK: Okay. So then I'm going to ask my colleagues, you know, is that -- is that the sticking point, the fact that there's no basis -- and we all know that -- from what -- from the discussion -- not we all know. It seems as though -- it's strange to think that waterfront affordable housing would be part of a proposal in Isles of Capri. And so it seems like that's the sticking point because you can't -- you don't have a way, based on the interpretation, to go to that density under the -- you know, what we've heard for the proposal. So I think because of that, I don't think I can support what I'm seeing.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Thank you, Mr. Chairman.

I don't think I have anything new to add to what Paul and Karl have already said, but we've spent a lot of time on this. So just for the benefit of everybody in the room and everybody listening as well as the County Commissioners, because that's going to go to them, I assume. You know, because I've been a lawyer for 30 years and because of my -- the way I was taught, you listen to all the evidence before you make any decision, and I really work hard to do that.

But I did go out and visit the property, I said it at the last meeting, and I visualized where I was standing and those three towers, and I could tell you, it just didn't -- you know, withholding judgment, I said, this is not a -- this does not favor the applicant, because it just -- it just seemed very out of place.

And I don't think it's that big of a benefit to the residents. I think it's inconsistent. I think it's incompatible, and that's based primarily on the evidence that I saw during the two days but also the site visit.

Staff's not supporting it. Most of the community -- I can't say all, but most of the community, including a developer there, is not supportive of it. I will say the tone seems to be -- and, again, it could be just good coaching or good -- but the appearance seems to be you're not "I'm against everything no matter what." You seem to say "I am against this."

Then, obviously, I tried to take Rich where he was willing to go in terms of reducing this thing because I do think there's probably something that I could support. I'm not passing judgment until I see it. But when they came back with actual height of Building 1 at 144, it didn't -- that didn't really move the needle for me. I think it would have to be a lot more significant. I'm not willing to say at what level, but I think 144 is not close to something I would support.

And that -- that's -- I think that's all I have to add. Again, I concur with a lot of -- Karl was pretty detailed, and it was very good. And I agree with what Karl as well as Paul said.

CHAIRMAN FRYER: Before I call on Commissioner Fry, who's signaling, I thought I would take this opportunity to express my point of view.

I will also be voting against this as revised. The Future Land Use Element Policy 5.6 requires new land uses to be compatible with and complementary to the surrounding land uses. Even as revised, this proposal, in my judgment, falls way short of those standards. And so since I can't vote for the GMPA, I can't vote for the LDCA, and won't vote for the EAC.

Commissioner Fry.

COMMISSIONER FRY: Just to add on to what Chris said or, I guess, to build on it, if I was sitting out in the audience, I'd be wondering about the process that's taken place here where they came forth with an application for X and then, through a horse trading, you know, we got it down to here. I remember long ago that used to be the way we did affordable housing, I mean, a few -- couple of years ago. It wasn't -- there was a policy but there wouldn't be -- it would not be built into the applications, and we would be in this meeting, and we'd go, well, how about if you give us 20 units, you know, first right of refusals to essential workers, right, and we did that for a while. And then the process got tightened up where applications are now coming with affordable housing built in, and we're not having to do this auction\horse trading type of a thing. And my personal opinion is, I hope we could get to -- we could move in that direction on applications like this.

This is a big deal. I think the residents have a right to know what's actually being applied and what the bottom line is, and it shouldn't be up to us up here to be negotiating something in a short amount of time after a two-day hearing, you know, to try to get to something in the middle. I just don't think that's the way this process should work on behalf of the citizens of Collier County.

CHAIRMAN FRYER: Thank you. Anyone else want to be heard? You can always --

COMMISSIONER HOMIAK: I'd like to make a motion to deny.

CHAIRMAN FRYER: It's been moved. Is there a second?

COMMISSIONER FRY: Second.

CHAIRMAN FRYER: Further discussion, please?

(No response.)

CHAIRMAN FRYER: If not, all -- the motion in question is -- and this is -- we have three matters before us. We've got the GMPA, the LDCA, and the EAC. So is -- your motion and the second is on all three?

COMMISSIONER HOMIAK: Yes, but if the GMPA doesn't pass, the others can't vote on them anyway.

CHAIRMAN FRYER: Well, we could vote on them, but it would be contradictory.

COMMISSIONER HOMIAK: Okay. Well, I don't think the height or the density is compatible --

CHAIRMAN FRYER: Okay.

COMMISSIONER HOMIAK: -- and it's not in the -- and you guys said it all, so there's nothing more to say.

CHAIRMAN FRYER: Okay.

COMMISSIONER HOMIAK: Do you want me to read the numbers of both into --

CHAIRMAN FRYER: Not necessary.

COMMISSIONER HOMIAK: Okay.

CHAIRMAN FRYER: Any further discussion on this?

(No response.)

CHAIRMAN FRYER: If not, the motion is to deny on all three. All those in favor, please say aye.

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

CHAIRMAN FRYER: Opposed?

COMMISSIONER KLUCIK: Aye. (Delayed audio.)

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: All right. It passes 5-2.

COMMISSIONER FRY: 5-2.

CHAIRMAN FRYER: 5-2.

COMMISSIONER SCHMITT: Was he delayed?

COMMISSIONER KLUCIK: No. I was -- I voted -- I voted for the motion to deny.

CHAIRMAN FRYER: Thank you. Sorry. Thank you for the clarification. So it's 6-1 to deny.

Thank you, applicant.

COMMISSIONER VERNON: Mr. Chairman, before everybody leaves.

CHAIRMAN FRYER: Please go ahead.

COMMISSIONER VERNON: I know this is a really unpopular thing to say, and I know some people are offended that I say go negotiate with the applicant, but I really think you're making a mistake if you think, well, you won the battle -- you know, you've heard the saying, you win the battle, you lose the war. So I would encourage you to communicate civilly and see if you can accomplish something. Nobody's making you do something, but talking is always good, and I think they made some moves today.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: I just want to add for the residents, thank you. My reason for voting not in favor, again, because I think C-3 zoning is a disaster for this -- for this island.

It is going to be developed. There's absolutely no question, it's going to be developed. And it has been a site designated for some kind of a yacht club. You call it whatever it is. It was

always designated for that. For those that are unfamiliar, when it was Backwater Nick's, whatever they called it back then, when the hurricane destroyed it, it was destroyed beyond repair. I have no idea why the developer never rebuilt Backwater Nick's. Only I -- my understanding was just because of the -- they couldn't rebuild Backwater Nick's without greater -- greater than 50 percent of the building was destroyed, which means they had to rebuild the entire building, restrooms and everything else. So it sat there for years as the developer contemplated what to do with the property.

I would -- as my colleague stated, I think it's in the interest of the community to negotiate some agreement with the developer because it is going to be developed just as the land adjacent is going to be developed. Whether it's 75-foot residential or 100-foot residential, it will most likely be developed in some combination of a mixed-use development. Whether it's going to be like the Mercato on Marco Island. But it's to your best interest, I think, to think about the future and just think about the traffic. We did not go into great detail about the traffic. It was stated that traffic would be far more severe commercial, and it will be. So I -- I just hope you guys -- you all understand what you're asking for, so thank you.

CHAIRMAN FRYER: Thank you, Commissioner Shea.

COMMISSIONER SHEA: I just wanted to follow up again to the residents and say, thank you. It's been a long, arduous program, but I can tell you, it helps us a lot to hear both sides of this. And it's -- and you're only over the first step. You haven't got to the next big one. All I -- if you still believe -- and you need to put that same effort forward that you put forward with us to communicate with us your feelings, show up, you're only -- you only won a battle. The war has yet to come, so...

CHAIRMAN FRYER: Thank you.

Commissioner --

COMMISSIONER SCHMITT: They also need to understand it's up to the petitioner. The petitioner can move this forward to the Board of County Commissioners.

MR. YOVANOVICH: Of course.

COMMISSIONER SCHMITT: A denial doesn't --

CHAIRMAN FRYER: That goes without saying.

COMMISSIONER SCHMITT: So the fight isn't over. Thanks.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: The applicant has indicated they are going to the County Commission. We just voted 6-1 for denial of this. So I guess I would -- I would ask, if we're suggesting that the residents negotiate, even though they just got a 6-1, we understand that anything can happen in the County Commission, and they're the decision makers. We're an advisory board. I would hope that the applicant would go back to the drawing board and try to find something that's much closer to something that would be profitable for you but also acceptable, and I think we've been pretty clear we don't think this is compatible or complementary to your neighborhood. I hope the County Commission agrees with that and requires that, if it does pass, it is somewhere much closer to what would be acceptable. So I think it's a two-way street. You talk to them, but hopefully they'll show a willingness to try to find something that would still work for them but be much closer to what would be acceptable to you.

CHAIRMAN FRYER: Commissioner Vernon?

COMMISSIONER VERNON: Yeah, I agree. And I just -- I think the word "negotiation" worries people. Talking collaboratively, looking for what's acceptable, and see if you can bridge the gap on what's unacceptable. So it doesn't feel like I'm going to hand you an envelope, and you're going to hand me an envelope. It's a discussion. There's probably -- among you there's probably some great ideas that nobody's thought of yet.

CHAIRMAN FRYER: Thank you. No one else is signaling at this time so, without objection, we're going to declare that the Isles of Capri matter is concluded.

MS. ASHTON-CICKO: Can I just confirm that your motion included your sitting as the



Environmental Advisory Council?

CHAIRMAN FRYER: Yes.

MS. ASHTON-CICKO: Okay. Thank you.

CHAIRMAN FRYER: I think we were pretty clear on that.

All right. So that's concluded, and I'm going to call the next matter.

\*\*\*The next matter is PL20220004350. This is the Golden Gate Estates variance distance notification Land Development Code amendment. And the matter's purely legislative in nature and, thus, no need for swearing in witnesses or ex parte disclosures. And I'll call upon staff to make its presentation.

Mr. Johnson.

MR. JOHNSON: Thank you, Mr. Chair. Just let me queue up my PowerPoint.

Good afternoon, ladies and gentlemen. For the record, Eric Johnson, LDC planning manager.

Today's proposed amendment is to Section 10.03.05 of the Land Development Code. This would also require a companion Administrative Code amendment.

I have a quick PowerPoint presentation. I just want to put some things on the record to make sure we're all clear on what's going on here, if that's okay.

CHAIRMAN FRYER: Go ahead.

MR. JOHNSON: So variances. The proposal here is to reduce the mailed notification requirements from one mile to 1,000 feet, and that would be for variance applications only. And this would be the Golden Gate Estates rural and urban -- rural and urban Golden Gate Estates sub-elements of the Golden Gate Area Master Plan, GGAMP for short.

And so variances, as you know, are for any dimensional development standard, including some of those listed on the screen, the height, area and size of a structure, offsite parking facilities, you know, the minimum requirements for that, size of yard setbacks, that kind of thing.

There's eight standards from which the Planning Commission evaluates each request for a variance, and they're here on your screen. There's A through H. Basically, an applicant would have to establish a hardship positively to demonstrate that.

A little bit of history about the variance process. In 1986, the mailed notice requirements stipulated 300 feet. Eighteen years later, that's when the code was changed, and also the mailed notification requirements were changed to identify urban, 500 feet, and not designated urban 1,000 feet.

In 2018, the Board reviewed a white paper that included providing notices along -- which directed staff -- ultimately directing staff to provide notices along entire lengths of dead-end estates avenues or streets where a project makes direct impact if length is greater than 1,000 feet. Almost a year later -- or actually a year later, there was a change to the GGAMP, which included Policy 4.24 in the rural sub-element and then Policy 3.24 in the urban sub-element. And, basically, summed up, it's the county shall initiate review of written public notification in the LDC, so forth and so on, consider increasing the specified distance, so forth and so on, located on dead-end streets.

Staff brought forward an LDC amendment in 2001 that was approved by the Board of County Commissioners which changed the mailed notice requirements from one mile to -- from 1,000 feet to one mile -- or it changed it to one mile. So anytime you're a property in the rural and urban Golden Gate Estates sub-element of the GGAMP, your mailed notice requirement is one mile.

So here is the proposed text for the LDC. It's very minor. You can see in the underlined blue that in the -- for areas designated in Section 10.03.05, b as in bravo, c as in Charlie, it excepts the variance applications so that it would be a 1,000-foot notification requirement instead of a mile.

What does this mean? Breaking down 10.03.05, you can clearly see that we have three distinct paragraphs that kind of tell us what are we talking about. Like, what designated area and what's the notification area.

In the urban designated areas, it's 500 feet. For all other areas, it's 1,000 feet, and then in the rural and urban Golden Gate Estates sub-elements of the GGAMP, it's one mile.

So here's the Future Land Use Map. There's a lot of colors. Basically summed up, there's four designations in the Growth Management Plan. It's the urban designation, the ag rural designation, the Estates designation, and the conservation.

What does this mean to us? In the urban designation, which I highlighted on the left side of the slide, it's 500 foot. Those are all the subdistricts that are associated with the urban designation. And this is what it looks like graphically.

Here is the agricultural -- the rural designation and also the Estates designation, conservation designation. That's the 1,000 mile. That directly relates to lowercase b, and that's what it looks like graphically.

So what does the Golden Gate Area Master Plan, when you combine the urban and the rural sub-elements, urban's on the left, rural's on the right. That's where the mile comes into play. So if you're a property within this area, your notice -- mailed notice requirement is one mile, except as proposed it would be 1,000 feet for the variance applications.

And you can see here with the blue and the pink together, that's the area of the rural and urban combined. And I wanted to point out that the Estates designation of the rural includes the mixed-use district as well as the commercial district, the agricultural rural designation in the overlays, special features, and you could see where the legend is for the urban. So this is where it's currently one mile, and the proposal here is to reduce it to 1,000 feet.

So the reason why I brought that up is because I just wanted to make sure that the Planning Commission understood that when we're talking about these rural and urban sub-elements of the Golden Gate Area Master Plan, that we also mean it's the Estates designation as well as the other designations, as well -- well, yes, that's true, and also the districts. So I just want to make sure that everyone was aware of that.

In all transparency, I live in the rural settlement area, which wouldn't be captured on the Estates designation. So if a person who lived in the, say, Orangetree or Orange Blossoms Ranch, their mailed notification would be -- for a variance application, would be reduced from one mile to 1,000 feet, so that includes that as well.

So this is the staff recommendation, that you would recommend approval of the PL to reduce the mailed notice requirements from one mile to 1,000 feet for variance applications only.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: Eric, can you go back to the slide that showed the different decisions by year, the evolution of this. What struck me is the January 2018. So I live in Urban Golden Gate Estates on a road that's almost a mile long. I'm a third of the way down. So 1,000 feet past me is about six homes. There are 20 homes past me to the end of my dead-end street. So I would have fallen in -- and there's, you know, Logan, Santa Barbara, they all have the streets in the Urban Estates that have the same kind of mile-long roads, dead end. So they would have fallen into that category.

So I'm thinking, what if my neighbor -- what if I want a variance where my house is -- I'm going to use an extreme example. It's 10 feet from the road instead of 100 feet from the road. Only my neighbors six houses down are notified of that, and they're going to drive by my house every day. And this variance might be something that is visible to them and important to them.

So my question is, would that be -- in my opinion, that might be applicable today. That might be something that I would like to see in the code.

MR. JOHNSON: Understood. I mean, the impetus for this was that there was a variance application that was submitted, staff reviewed it, and it seemed, according to staff and as well as -- well, Mr. Bosi, you want to say something?

MR. BOSI: I just wanted to -- Mike Bosi, Planning and Zoning director.

This was Board directed. The Board had an application. An application was submitted.

It was in the Urban Estates. It was next to a residential subdivision. There was close -- there was 2,000 individual letters that had to go out. The Board felt that was excessive for a variance. Normally a variance is something that -- it's confined to the local area, and they directed staff to bring back the modification variances for the Estates lots from one mile to a thousand. There's merits on both sides.

COMMISSIONER FRY: Well, I'm not suggesting to change it. I'm just saying that I do think you have a special situation with the dead-end streets in the Estates where everyone on that street should be notified. So to me that calls -- unless you're telling me -- and I would take this that these variances are so minor that people seven and eight and 10 houses down from me might not care about my variance.

MR. JOHNSON: May I butt in? Variances are, ideally, more of a local issue than, say, a rezoning or a GMPA amendment. The criteria for variances are shown on here on the screen. Obviously, the Planning Commission would have to determine if the request kind of fulfills each one of those criterion. But the idea behind the variance application -- and to your -- not contrary to your point it that it's a very local situation where it's not wide -- you know, impacting a lot of different people.

(Simultaneous crosstalk.)

COMMISSIONER FRY: Local on the same street.

MR. JOHNSON: Yes, yes, that is a good point to make.

COMMISSIONER FRY: That's not local?

MR. JOHNSON: It's local. Well, it's local to you, but it's not like, you know, hitting more than like, you know, thousands of different properties.

COMMISSIONER FRY: I understand.

MR. BOSI: And I do want to point out that this does not eliminate the requirement for the sign to be posted at the front of the property.

COMMISSIONER SHEA: Yeah, there is a sign.

COMMISSIONER FRY: Okay. All right. That makes a big difference to me.

COMMISSIONER SHEA: Karl, what about something --

MR. BELLOWS: Plus a newspaper ad.

COMMISSIONER SHEA: Something like one mile or 10 residents on either side? So you kind of try and attack the issue of lot sizes.

COMMISSIONER FRY: Well, I'm actually -- the fact that there's a sign out front, let's say that my neighbors six houses on either side of me and plus probably a street north and south of me get the notice, and then the people that are outside that area but on my street that might be impacted, they see a sign every day. To me that is enough. So I'm actually okay with the way it's worded knowing that extra information.

MR. JOHNSON: And I also want to point out, I mean, variance applications do go before the Hearing Examiner. So I know that I mentioned Planning Commission, Planning Commission. But that would also be applicable to the -- these criteria would be applicable to the Hearing Examiner as well.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: Yeah. Eric, go back to that slide where you have the two different colors. For clarity, then, for those watching, the pink would only be 1,000 feet. The green is one mile.

MR. JOHNSON: Negative. Everything in here would be 1,000 feet.

COMMISSIONER SCHMITT: Everything?

MR. JOHNSON: Everything on this screen. The Estates designation, which includes the mixed-use district and the commercial district, the agricultural rural designation, in the rural area, and the urban area it would be the Estates designation with those districts as well.

So the Golden Gate Area Master Plan, there's three sub-elements: Golden Gate City, urban, and rural. And the way it's written is that urban and rural sub-elements for variance

applications would be reduced from one mile to 1,000 feet.

COMMISSIONER SCHMITT: Yeah. The reason this went to a mile is because people felt they were not being informed, and it primarily had to go back to the -- well, variances, which sometimes are pretty controversial, but also for conditional uses. And mainly -- which was the -- a lot of applications for conditional uses for churches in the Estates area.

This is only applicable to variances, correct?

MR. JOHNSON: Correct.

COMMISSIONER SCHMITT: Because the other problem was the variances typically that come in were because of outbuildings, sheds, or other things that were built within the setback, that then they were notified either there was a code case or whatever, and they had to come back in and request a variance or, of course, dismantle the structure.

I don't really care. I mean, the thousand feet, to me, is fine. It was changed to a mile just to make sure people were notified and had an opportunity to object or otherwise. But the incident that was just brought up was -- you know, it got to be the point of stupidity. Gee, 1,000 letters to go out for -- I don't know what the variance was for. But I'm fine with the proposal. It's just that it's clear that we're now reducing it pretty significantly. What was once a mile -- it was 1,000 feet, went to a mile because of the complaints. Now we're going back to 1,000 feet.

COMMISSIONER HOMIAK: This is just for a variance.

COMMISSIONER SCHMITT: For a variance.

COMMISSIONER SHEA: Again, that's only for a variance.

COMMISSIONER SCHMITT: Only for a variance.

MR. JOHNSON: That's correct. Conditional uses, rezone --  
(Simultaneous crosstalk.)

COMMISSIONER SCHMITT: I second the motion.

(Interruption by the stenographer for clarification.)

CHAIRMAN FRYER: Yeah, please, everyone.

COMMISSIONER HOMIAK: I want to make a motion to approve.

COMMISSIONER SCHMITT: I second.

CHAIRMAN FRYER: All right. Thank you. Is there anything further from staff?

(No response.)

MR. JOHNSON: Nothing further, thank you.

CHAIRMAN FRYER: Do we have any members of the public who have registered to speak?

(No response.)

CHAIRMAN FRYER: Anybody in the room who has not registered yet wishes to speak, now would be the time.

(No response.)

CHAIRMAN FRYER: I'm seeing none. It's been moved and seconded that we approve this LDCA. Any further discussion from the Planning Commission?

(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: Okay. Thank you. It passes 7-0.

MR. JOHNSON: Thank you, everyone.

CHAIRMAN FRYER: \*\*\*And let me call the next matter. All right. This is PL20210003155, Santa Barbara/Whitaker RPUDZ. And the matter will also require a vote on our part as the EAC.

All those wishing to testify in this matter, please rise to be sworn in by the court reporter. (The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN FRYER: Thank you. Disclosures from the Planning Commission starting with Ms. Lockhart, please.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER FRY: Staff materials, public records.

CHAIRMAN FRYER: My case meetings, meetings -- materials, rather, of public records; meetings with staff; and communications with applicant's counsel.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER SCHMITT: I also spoke to Mr. Yovanovich about this.

COMMISSIONER VERNON: Discussions with staff.

CHAIRMAN FRYER: Mr. Klucik?

COMMISSIONER KLUCIK: Nothing to disclose.

CHAIRMAN FRYER: Thank you very much.

Mr. Mulhere.

COMMISSIONER SCHMITT: Mr. Chairman?

MR. MULHERE: I'm sorry.

COMMISSIONER SCHMITT: Can I make a just --

CHAIRMAN FRYER: Go ahead.

COMMISSIONER SCHMITT: -- for verification, if I could make a point. In the staff report, you made a statement about -- I'm looking for it now. Just to be clear for my colleagues -- I'm sorry -- the Planned Unit Development rezone petition may only be deemed consistent with the Future Land Use Element of the Growth Management Plan if the companion Growth Management Plan amendment is approved and is in effect. So that -- there is no companion GMPA.

MR. BOSI: No, there is no companion GMPA. The companion item is the affordable housing density bonus. Staff incorrectly referenced the GMP amendment. It's not a GMP amendment that's the companion. It's the affordable housing density bonus.

And in defense of staff, we so -- we so few have the opportunity to review increasing density by the channel that's promoted by our GMP and our LDC that we were somewhat stuck in the way of the individual GMP amendment. This applicant has chosen to go the way that is encouraged by our LDC, and we actually applaud that. But we, unfortunately, didn't pick that up in our review, so we apologize.

COMMISSIONER SCHMITT: Okay. Just to make sure that we're not dealing with the GMPA.

CHAIRMAN FRYER: Thank you for that clarification.

(Simultaneous crosstalk.)

COMMISSIONER SCHMITT: -- what was, in fact, the case.

CHAIRMAN FRYER: Thank you for that clarification.

Mr. Mulhere, you're on.

MR. MULHERE: Thank you.

Bob Mulhere, for the record, with Hole Montes here on behalf of the applicant. Also with me this afternoon is Mr. Yovanovich, and the applicant is Greystar Development East, LLC. Ana Pedrajo is here, right there; and Sergio Claire, who's a civil engineer also with Greystar Development; Jeremy Chastain works with me. I didn't get a chance to introduce him earlier, but I will do that another occasion, you know, individually to you.

CHAIRMAN FRYER: Thank you.

MR. MULHERE: Jeremy's a planner. I don't know if Norm or Ciprian -- oh, there he is. He sneaks in. This guy is sneaky, I'll tell you. Anyway, Norm is here.

George O'Brien is the architect that worked on the job, and Sima Ebrahimi is with Kimley Horn, who worked on the project; and Bethany Brosious with Passarella is here as our environmental -- not least -- last but not least is Bethany Brosious. So we'll move along here.

I know you've had a long day, but I don't think you've ever seen a petition from Greystar here. If you would indulge us just for a minute or two, I'd like Ana to come up and just introduce the company to you very briefly.

CHAIRMAN FRYER: Thank you.

MS. PADRAJO: Hi. My name is Ana Padrajo. I work with Greystar as a -- as a development director. Greystar is a privately held company based in Charleston, South Carolina. We are kind of a -- we're -- we've got three main branches of our business. We've got a big property management business that we do on our own account and also for third-party clients. We also have a development and construction business which is the part of the business that I work in. And we have a big investment and portfolio management business where we manage money and properties on behalf of large institutional clients like pension funds and endowments.

While we have never done a ground-up development in Naples to date, we have been proud members of the community on the property management side. I've got on the screen four of the many projects we've been involved in as a property manager. We're currently managing Allura Naples and Lago, and in the past we've managed Preserve at Meadow Brook and Inspira, along with Sierra Grande, Aventine, many other amazing communities on the multifamily side.

Since we've never done a ground-up development in Naples, I've also included a couple of projects that we are currently developing or have developed in the past in Florida. The first one is Elan South Tampa, which is four stories, surface parking in South Tampa, as the name implies, 350 units.

And in these pictures, I just wanted to show a couple of different architectural vernaculars. You know, we develop all sorts of projects, but we focus on Class A projects that the community can really be proud of. This is Elan Ruby Lake, a project we developed in Orlando, Florida, in the Dr. Philip (phonetic) market, also four stories.

This is an example of the sort of interior amenities that we offer in our communities. You know, all of our communities are highly amenitized indoor and outdoor with resort-style pools, fitness areas, co-working, club lounges. So we are proud of, really, all of our communities.

This is a project we built in Sarasota in the Rosemary district, Elan Rosemary. Again, just an example of kind of the interior quality of the projects that we've built. And I'm going really fast, because I know you guys have all had a long day. And here is the pool area of our Sarasota project, Elan Rosemary.

And then here is an example of the clubhouse rendering of the project that we're proposing on Santa Barbara and Whitaker. So you can see it's modern, crisp, coastal architectural vernacular. MSA Architect is our architect here.

And this is an example of the residential buildings. You can see there are three stories. You know, really nice, again, coastal, inspired by sort of Alys Beach area, architectural vernacular. Obviously this is just a draft subject to change based on our site plan review process.

COMMISSIONER SHEA: Can I ask her a question?

CHAIRMAN FRYER: Go ahead, Commissioner Shea.

COMMISSIONER SHEA: In your experience, have you done much on the affordable housing side, particularly in the income range here?

MS. PADRAJO: Yeah. So, actually, more and more our projects have involved a significant workforce housing component. We're not an affordable developer, so we don't pursue sort of the, you know, entirely affordable projects that rely on tax credits. But a lot of our projects, especially in Palm Beach County, have incorporated a 10 to 20 percent workforce housing

component, and our property management team is very familiar with it. In fact, we're managing Allura, which is the first project to have that component, I believe, in Collier County.

COMMISSIONER SHEA: Thank you.

CHAIRMAN FRYER: Thank you.

MR. MULHERE: So I won't spend a lot of time. Obviously, I think, you know where the location is. The slide shows you it. The property is bifurcated by Whitaker and along Santa Barbara. Most of the property is currently zoned PUD. There are two ag parcels, which are incorporated into the rezone. The request is -- the project size is 21.57 acres, so it's 216 multifamily dwelling units. That's about 10 units per acre. This shows you the location on the Future Land Use Map.

You can see the two ag parcels are right here and right here. Here's Whitaker and Santa Barbara.

CHAIRMAN FRYER: Those are -- those are Parcel No. 1, and they're bifurcated by Whitaker?

MR. MULHERE: Yeah. There's -- so Whitaker is right here. This parcel -- I'm going to show you that in a minute -- is part of the PUD, the existing Waterford Estates PUD as well as these two. This parcel is actually entirely in preservation. So the development area is on the north side and the west side and the east side of Whitaker.

CHAIRMAN FRYER: Unlike 2, 3, and 4, though, 1 is cut in half by Whitaker?

MR. MULHERE: Correct.

CHAIRMAN FRYER: I don't have a problem with it. I'm just trying to be sure I understand.

MR. MULHERE: So the base density in this location is four dwelling units per acre. It's within the residential density ban, so we can request up to three additional units per acre, and we're providing an affordable housing density bonus of 5.4 units per acre to get to the total 116.

And there's the affordable housing density bonus chart showing in yellow, highlighted in yellow, the category. That is 50 to 80 percent and I want to emphasize that because you don't often see 50 to 80 percent. You see 100 percent or below or 80 percent or below these days. This is 50 to 80 percent.

This is the master plan. I do want to point out a couple of things here. Norm helped us with what I think is a very excellent design into the project. And you'll see there are -- there's sort of a central lake on both development sides. As I said, this is a 4.6-acre preserve. These are wetlands, and we have been able to design the site to retain and protect those wetlands. So -- and Bethany, of course, worked on that part of the project. So you can see there's a -- there's a .69-acre preserve here and a .63-acre preserve here, and then the rest is over here. And because those preserves are separated, there is one deviation which allows us to separate those preserves, but we are protecting the existing wetlands on site.

This is a copy of the site plan. I know it's fairly busy, but I point out that you can see that it -- it mirrors the master plan and, again, a significant portion of the property -- I just want to look at the table here for a second -- 7.03 acres is in preserve, which is pretty significant.

We have a trip cap, as is customary these days in Collier County. And that's an expedited presentation for this, given the late hour. And I don't think there's anybody on Zoom, and I don't know if there's anybody here to speak. But if you have any questions, we have a team here to answer them.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: Oh, Bob, just one question. I noticed on one of the -- I don't know if it was the aerial or a site map that just south of this property was a larger retention pond.

MR. MULHERE: Yeah, the county retention for --

COMMISSIONER FRY: So that will remain intact as it is?

MR. MULHERE: Yes.

COMMISSIONER FRY: Thank you.

MS. ASHTON-CICKO: Bob, I did notice that the affordable language appears to be different from what I thought I approved. It doesn't reference the affordable housing agreement, so it doesn't have the template language that I would have distributed. So I'm just going to say that any --

MR. MULHERE: For the record, yeah.

MS. ASHTON-CICKO: -- any approval is going to be subject to modifying that section to reference the affordable housing in accordance with the template that we use when there's a companion affordable housing agreement. And just, also, for the record, when you make your motion, your motion will also include approval for the affordable housing agreement, which is required by the Land Development Code.

CHAIRMAN FRYER: Thank you.

And that brings me to a subject that I want to raise, and I don't necessarily have a strong opinion on it in this particular case, but I do want to make note of it and see if others are similarly concerned.

It's my understanding that the affordable housing agreement -- and Ms. Ashton says that that's also before us, which I thought -- that surprises me. It's not part of the ordinance, though, correct?

MS. ASHTON-CICKO: Correct. The direction we received from the County Attorney with the Deputy County Manager a few years back was that we would reference the agreement but it would not be included as an attachment.

CHAIRMAN FRYER: Okay. By referencing it, it's not incorporated by reference, is it?

MS. ASHTON-CICKO: No, it is not.

CHAIRMAN FRYER: Okay. And I believe at one time it was. And the provision in question, and I -- I felt a little stronger about this when I talked to Mr. Yovanovich than I do after further reflection.

In this case, there is a statement in the affordable housing agreement that specifies there are going to be 22 one-bedroom houses with a rental and 21 two-bedroom houses with a rental. That -- I don't feel strongly that that needs to be part of the ordinance as I would if we were talking about percentage of AMI. But I just want everybody to realize that if we're approving this, the ordinance and the agreement, I think this is the last time we would see the agreement. The agreement could be amended again without coming to us; isn't that correct?

MS. ASHTON-CICKO: Unless they change the mix of the density, then it wouldn't need to come back.

CHAIRMAN FRYER: Yeah. So I don't feel strongly as I did, Mr. Yovanovich, when we spoke about it. But I just want to point out the fact that although it sounds like we're being asked to approve the agreement, this will be the last time we will see that, and it's my understanding from Mr. Bosi that in years past -- and I think you alluded to this, Ms. Ashton. In years past, the agreement was part of the ordinance.

Would you say a word about that, Mr. Bosi.

MR. BOSI: Sure. Mike Bosi, Zoning Director.

It was part of the agreement. And what we had found, any modification to the agreement that would have to be signed off by the Board of County Commissioners was forced to go through the lengthy process of amending the PUD, and the time frames associated with that was not always commensurate with the magnitude of the change that was being proposed within the agreement; therefore, it was the decision from the upper administration that we should -- we'll decouple them, you know, have a reference but not make it as part of the ordinance.

CHAIRMAN FRYER: So if there were to be a change in the agreement, it would be by means of an agreement between the applicant or its successor and staff, and it might find its way on the consent agenda at the BCC, but we wouldn't hear it?

MR. BOSI: Correct.



CHAIRMAN FRYER: In this particular case, I don't have a problem with it.  
All right. Anyone else signaling?

(No response.)

CHAIRMAN FRYER: No. Anyone have questions or comments?

(No response.)

CHAIRMAN FRYER: Anything further from the applicant?

MR. MULHERE: No, sir.

CHAIRMAN FRYER: Okay. Staff, please.

MR. ORTMAN: Good afternoon, Commissioners. For the record, Eric Ortman,  
principal planner.

Staff has thoroughly reviewed this petition and recommends approval of it with no conditions. As you received an email, the transportation section of the staff report was from a different project. So we gave you the updated one. Unfortunately, the recommendation was not also updated. There was a reference to a trip cap which is related to the no longer relevant transportation section.

So staff recommends approval with no recommendations -- with no conditions.

CHAIRMAN FRYER: Thank you very much.

Any questions for staff from the Planning Commission?

(No response.)

CHAIRMAN FRYER: Seeing no one is signaling.

Commissioner Schmitt.

COMMISSIONER SCHMITT: Just to make sure there is one -- of course, the one  
deviation which staff recommends approval.

MR. ORTMAN: Yes, sir.

COMMISSIONER SCHMITT: That's the preservation intersection, which makes sense.

MR. ORTMAN: Yes, sir.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you.

All right. Thank you, staff.

Mr. Youngblood, do we have any registered speakers?

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

CHAIRMAN FRYER: Thank you.

Anyone in the room who's not registered but, nonetheless, wishes to be heard?

(No response.)

CHAIRMAN FRYER: Seeing no one, that concludes the public comment portion of the  
hearing, and we will have our deliberation at this point.

Commissioner Schmitt.

COMMISSIONER SCHMITT: I make a motion to approve PL20210001301 subject to  
the deviation that was cited that was approved. No other stipulations involved.

CHAIRMAN FRYER: All right. And that's a joint motion to cover the EAC as well?

COMMISSIONER SCHMITT: To cover the EAC as well, yes.

CHAIRMAN FRYER: Thank you. Is there a second?

COMMISSIONER SHEA: Can you read that again, the number. For some reason I  
thought you read another one.

COMMISSIONER SCHMITT: Oh, I did. I read the wrong one. Thank you.  
PL20210003155. Thank you.

CHAIRMAN FRYER: Thank you. And that's been moved and seconded.

COMMISSIONER SHEA: It's five oh, isn't it? I'm just trying to get the number right.

COMMISSIONER FRY: It's five, five.

COMMISSIONER HOMIAK: It's five, five.

COMMISSIONER SCHMITT: Five, five.

COMMISSIONER SHEA: So I've got the wrong piece of paper.

CHAIRMAN FRYER: Thank you. It's been moved and seconded.

Further discussion, Commissioner Vernon.

COMMISSIONER VERNON: Just a quick comment. Thanks, Bob, for your comment that it's 50 to 80 percent. I think that's -- I'm glad to see that. That's wonderful. And I like the little nuance -- I don't know that you intended to do it, but when you were asked about affordable housing, you responded by talking about workforce housing. I like that. You know, affordable housing, workforce housing, whatever we're going to call it, is super important around the country, but it's -- I don't know that you live here. It's more important here. It's crazy, and it's super important. So thank you.

CHAIRMAN FRYER: Thank you. The substantive motion on the LDCA --

COMMISSIONER HOMIAK: Does that include the affordable housing agreement on that, too?

CHAIRMAN FRYER: Yeah. Let's throw that in as well.

COMMISSIONER SCHMITT: Well, yes, but it's inclusive of the -- of the affordable housing agreement. The housing agreement is contingent upon the density that was approved, so...

CHAIRMAN FRYER: But -- okay. So what we've got in front of us is really three things. We've got the LDCA, we've got the EAC, and we've got the affordability agreement.

COMMISSIONER SCHMITT: This does not require EAC approval.

COMMISSIONER HOMIAK: Yes, it does.

CHAIRMAN FRYER: Yes, it does.

COMMISSIONER SCHMITT: Oh, it does. I'm sorry. Misread. Thank you.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, Mr. Ortman.

MR. MULHERE: Thank you.

CHAIRMAN FRYER: Moving right along here. And we'll have a 3:00 midafternoon break. That's in, like, 32 minutes.

\*\*\*Okay. Next matter, companions, PL202000025884, which is the 1680 Golden Gate Boulevard E Communication Tower CU and its companion, PL20210001301, 1680 Golden Gate Boulevard E Communication Tower variance.

All those wishing to --

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner Klucik.

COMMISSIONER KLUCIK: I just wanted you to know I have to depart.

CHAIRMAN FRYER: All right, sir. Thank you for letting us know.

COMMISSIONER KLUCIK: Okay, cheers.

(Commissioner Klucik is no longer attending the meeting via Zoom.)

CHAIRMAN FRYER: All people wishing to be heard 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: Thank you.

Disclosures, starting with Ms. Lockhart.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER FRY: Staff materials, public records.

CHAIRMAN FRYER: Public records, meeting with staff, and communications with no one.

COMMISSIONER HOMIAK: Nothing for me.

COMMISSIONER SCHMITT: Communications with himself, there.

CHAIRMAN FRYER: Yeah. Some serious ones.

COMMISSIONER SCHMITT: Staff material only.

CHAIRMAN FRYER: And, Commissioner Vernon?

COMMISSIONER SCHMITT: He's indisposed.

CHAIRMAN FRYER: Commissioner Vernon's indisposed?

COMMISSIONER SCHMITT: He's coming.

CHAIRMAN FRYER: Here he comes.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: No disclosures from Commissioner Vernon. Commissioner Klucik has departed.

So with that, we turn it over to the applicant. Is that going to be Ms. DeJohn? No?

MR. JOHNSTON: Sorry. James Johnston with Shutts & Bowen --

CHAIRMAN FRYER: Thank you.

MR. JOHNSTON: -- 300 South Orange Avenue on behalf of the applicant, and I had submitted a PowerPoint, so I'm trying to get that loaded up.

CHAIRMAN FRYER: Okay. All right.

MR. JOHNSTON: Great. Good afternoon. Again, I'm going to try to get through this pretty quickly based on the time.

This is a proposal for a 145-foot monopine communication tower for Verizon Wireless. It's actually a 140-foot tower with a 5-foot lightning rod. It's on a 100-by-100-foot lease area within the parent parcel on property south of Golden Gate Boulevard East.

This antenna -- before I forget, I have Bill Compton with me -- he is a Verizon RF engineer -- if needed for questions about the site, but this is needed by Verizon to fill its coverage and capacity gap in the area.

This tower will not be lit.

Staff had suggested a monopine design to help mitigate any impacts on the surrounding property owners, which we have agreed to, and we had submitted a revised sheet showing that, which I think has been provided to you.

CHAIRMAN FRYER: It has, and I just want to be -- get a confirmation from you. It's my understanding from staff that the three- or four-page materials that we got a few days ago is no different from the original except with respect to the monopine?

MR. JOHNSTON: Correct.

CHAIRMAN FRYER: Thank you.

MR. JOHNSTON: Correct. And, you know, obviously, this tower's designed to allow collocation. Further mitigation factors are an 8-foot-high masonry wall around the compound, 20-foot buffer -- landscape buffer around the walled compound, and there also is substantial existing mature tree canopy on the property that will remain outside of this 100-by-100-foot lease area.

It has an engineered fall zone radius of 40 feet, so that's on the parent parcel. And I know you have that in your packet, just showing the general layout of where it's proposed. The area to

the south is the required preserve area on the site.

Here is the monopine design that has been submitted. Again, the property is a 2.7-acre parcel which meets the code requirements. It's vacant and wooded in the Estates zoning district, which is why we require the conditional use approval.

And, again, it has a preserve area. We've done -- submitted the environmental reviews for the site, which have been accepted by the environmental services staff, and they've recommended approval.

Verizon needs this tower in this location to fill a coverage and capacity gap. Their closest tower is 3.2 miles away, and so as shown in the RF documentation that was submitted, this tower is in the middle of -- I think it's five existing towers, and it's needed in that area and at that height in order to fill that gap, and then also to help offload the other towers, because they all function as one system. And in looking for this site, there are no new existing towers or structures on which -- in the area on which the Verizon antennas could be located.

And what we had provided -- this is the Verizon search ring with the property in the middle with the star. This is showing the existing towers and where the proposed tower will be. As you can see, the closest is 3.2 miles away, and here the existing coverage and capacity gap before and with the tower. It will serve the area in the Estates district there.

The conditional use, we appreciate staff's detailed staff reports that they've submitted, and they are supportive and find that we meet the conditional-use requirements. Again, they attach two conditions of approval, which we are agreeable to, including the monopine design as shown.

We think that this tower is needed in the neighborhood by Verizon customers. It will also help improve e911 service. And as we get to a place where -- I think currently it's 80 percent of all 911 calls are made by wireless devices. We think it's important to have good-quality coverage in the area.

This is an unmanned facility that requires about one maintenance visit a month, so there are very few impacts on the surrounding roads and facilities. And I think this is consistent with, in size and monopine design, to a tower that was approved in the Estates area I believe last December. And so we think it's similar in what has previously been approved.

The variance is needed because the code requires a two-and-a-half-times tower separation from residentially zoned or developed properties. And, unfortunately, you know, we have 140-foot-tall tower. It would require 300 -- I mean -- yeah, 350-foot separation. And in the Estates zoning district around here there are very long and narrow lots. And in our search ring area, there are just not lots where you can meet that. We would have to have a lot I think at least 700 feet wide and -- in order to meet that. And so we cannot meet that requirement, and so we've asked for the separation reduction as indicated in the application and the staff report.

And, again, I think your professional planning staff has reviewed it and found that it meets the variance requirements, and we're in agreement with that. We think we mitigate the impacts with the monopine design as recommended by staff. The masonry wall that's required around the lease, the equipment, the landscaping, the existing mature tree canopy on the area -- or in the area and on the lot.

And this is just a final shot. This kind of shows what I was talking about. This whole area is very narrow lots, which make it really impossible for us to meet the separation requirements in that area for the size tower we need.

So, anyway, we're here to answer questions. We appreciate your time and --

CHAIRMAN FRYER: Thank you. I'll start off with a question. And you probably said this, and I didn't --

MR. JOHNSTON: Sure.

CHAIRMAN FRYER: -- I didn't hear you. What are your qualifications, again, sir? Are you a structural engineer?

MR. JOHNSTON: No, no, I'm sorry. I'm an attorney with Shutts & Bowen.

CHAIRMAN FRYER: Okay. Is there a structural engineer here who could speak about

safety issues and fall area?

MR. JOHNSTON: I believe we submitted a -- code requires us to submit an engineer letter, which we did.

CHAIRMAN FRYER: I understand.

MR. JOHNSTON: No, I don't have. I have an RF engineer, but I don't have a structural engineer here.

CHAIRMAN FRYER: Okay. It's very important, I think -- there are certain things that we cannot consider such as EMF radiation, but I think one of the things we still can consider, and I want to be sure we make a strong record on it that we have done so, is by reducing the side setbacks, that we are not endangering the safety of the occupants of the adjacent lots.

MR. JOHNSTON: Right. Understood. And your code recognizes that, and we had to submit a fall zone letter, which is an engineer letter signed and sealed by a Florida engineer saying this pole is designed to have a 40-foot radius fall. They're designed with hinge points and stuff so it will -- any fall zone will be on the parcel, parent parcel.

CHAIRMAN FRYER: Do you have -- can you express a degree of confidence with respect to your fall zone?

MR. JOHNSTON: Well, an engineer signed and sealed a letter where he put his licensure on the record supporting that fall zone, so yes.

CHAIRMAN FRYER: I don't have it in front of me. Did he express a degree of confidence?

MR. JOHNSTON: He signed and sealed --

CHAIRMAN FRYER: Like a 90 -- well, I know, but to what degree of confidence? 90 percent? 100 percent?

MR. JOHNSTON: 100 percent. He signed and sealed it.

COMMISSIONER SHEA: It's got to be 100.

CHAIRMAN FRYER: Okay. Thank you. All right.

Before you sit down, no one is signaling at this point. We're not ready quite yet to go to staff, but I'll ask staff, is staff satisfied that the safety issues have been thoroughly vetted and supported so that we are not, in any respect, in dereliction of our duty by approving this?

MR. BELLOWS: For the record, Ray Bellows, Zoning Service Section planning manager. Yes, I reviewed this with Laura DeJohn and with the applicant and the information presented by their engineer. We're convinced that it meets the county requirements and it's a safe tower.

MR. JOHNSTON: And we will still have to go through the building permit process and get that review by county staff.

CHAIRMAN FRYER: I understand. But just to be clear -- and I think you said this -- the engineer certificate certifies to a 100 percent degree of certainty that the fall will take place within the prescribed fall zone?

COMMISSIONER SHEA: Within the standard of care.

MR. JOHNSTON: Right. I mean, it is -- it is a -- signed and sealed where he puts his licensure at risk by saying that here's -- so --

CHAIRMAN FRYER: I just -- I'm asking you what the content of what he signed and sealed was.

MR. JOHNSTON: That it would be fall zone --

CHAIRMAN FRYER: All you have to say is yes or no.

MR. JOHNSTON: Yes.

CHAIRMAN FRYER: Thank you very much.

I don't have further questions, and no one is signaling at this point.

Thank you, Counsel.

MR. JOHNSTON: Thank you.

CHAIRMAN FRYER: We'll turn to staff.

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

A couple years ago, because of the overwhelming concern that's been expressed by residents within the Estates zoning district about lack of cell reliability, as the presentation that was made by the applicant, and it's been confirmed on a number of different applications, that 80 percent to 85 percent of all e911 or 911 calls come from wireless communication devices, cell phones.

So based upon your concern related to the fall zone of health, safety, welfare, that health, safety, welfare was the primary motivation behind the Board of County Commissioners opening up the Golden Gate Estates as to where these cell towers could go. Previously, they were only allowed to go on essential service facilities or on lots that were designated by the Golden Gate Estates for conditional uses, which were few and far between.

We have opened them up to the collector or arterial roads. The previous cell tower that was on Green Boulevard that was referenced was a monopine as well was provided for because of that LDC amendment. This is directly related to health, safety, and welfare, and it's going to -- we feel it's going to provide for much more reliable service for the citizens within the local area.

We've reviewed it against the code standards. We do admit that every single one of these that comes to you will have to have an associated variance. And the variance isn't for a side-yard setback. The variance is for separation requirements. And because of -- as you put the focus, the fall zone at 40 feet falls squarely within this parcel. So health, safety, and welfare is the primary motivation behind staff's review, and I believe the primary motivation behind the request. So staff is in full support of the application.

CHAIRMAN FRYER: Thank you very much.

No Planning Commissioner is signaling at this time, so I'll ask Mr. Youngblood, do we have any registered speakers?

MR. YOUNGBLOOD: Mr. Chairman, I have two registered speakers. Our first one is going to be William Compton, followed by Eric Mogelvang.

Is William here?

CHAIRMAN FRYER: Approach the microphone, sir.

MR. JOHNSTON: He's the RF engineer --

CHAIRMAN FRYER: Oh, he's your person --

MR. JOHNSTON: -- so he's just here to help me answer --

MR. COMPTON: Just in case you have questions.

CHAIRMAN FRYER: Okay. Well, you're the engineer for the applicant.

COMMISSIONER SHEA: RF. He's the invisible engineer.

CHAIRMAN FRYER: All right. Thank you. Thank you.

Any other registered speakers?

MR. YOUNGBLOOD: Eric, you're up, buddy.

MR. MOGELVANG: Hi. My name's Eric Mogelvang. I will let you know that I am also the property owner where this tower is going. But I'm going to speak more on a real estate expert. I've been in real estate for -- since 1999. I've been a licensed broker for probably 10 or 11 years. I own multiple properties out in Golden Gate Estates.

And when the issue came up about the fall, they solved it with the way the tower does break to that 40-foot range, I know. But just to add to it from a real estate perspective, I decided to take a look and see where could you put a tower with that type of fall distance, which I think was twice, two-and-a-half-times the height of the tower, which would be 300 or so feet, and I couldn't for the life of me find a parcel or a group of parcels to put together that were already vacant without homes that would be anywhere in the area where the cell phone tower is needed, and I say "needed" based on the other guy that spoke about, you know -- you know, when you're trying to call 911 and you have no signal, it's -- I think it's important to have a tower in this area. And it would be difficult to put parcels together to have that fall distance anywhere else in the area. So that's all I wanted to say.

CHAIRMAN FRYER: Thank you very much, sir.

Anyone in the room who has not registered to speak but wishes to speak, now would be the time to raise your hand.

Seeing no hands raised, we'll close the public comment portion of this hearing, and we will begin our discussions with Commissioner Schmitt.

COMMISSIONER SCHMITT: I make a recommendation to approve the variance as well as the conditional use, noting that there were two conditions that were approved by staff and that the applicant agreed to.

CHAIRMAN FRYER: Thank you. Is there a second?

COMMISSIONER HOMIAK: Yeah. One of the plans here, the site plans and things say "monopole" on them. They should be changed to monopine.

MR. JOHNSTON: Yes.

COMMISSIONER HOMIAK: One question is, what does BOAT mean, Golden Gate BOAT?

MR. JOHNSTON: I don't know.

COMMISSIONER HOMIAK: What's the BOAT stand for? Big old antenna tower?

MR. JOHNSTON: I did not name the site, so --

CHAIRMAN FRYER: That was a head scratcher.

MR. JOHNSTON: Sorry.

COMMISSIONER SCHMITT: Big old antenna tower, there you go, BOAT.

CHAIRMAN FRYER: All right. So we have a motion. Do we have a second?

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes 6-nothing. Thank you very much.

MR. JOHNSTON: Thank you.

CHAIRMAN FRYER: All right.

COMMISSIONER SHEA: That's five. Oh, there's Chris.

CHAIRMAN FRYER: Yeah, we're moving right along here.

\*\*\*Now we go to the final matter for today, which is PL20210001766. It's the San Marino RPUD consolidation.

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

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

CHAIRMAN FRYER: Thank you. Disclosures from the Planning Commission starting with Ms. Lockhart.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

COMMISSIONER FRY: Staff materials, public record.

CHAIRMAN FRYER: Staff materials, public records, meeting with staff.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

COMMISSIONER SCHMITT: I also spoke to Mr. Yovanovich about this item.

COMMISSIONER VERNON: No disclosures.

CHAIRMAN FRYER: Thank you.

Mr. Yovanovich, you have the floor.

MR. YOYANOVICH: Okay. Good afternoon. For the record, Rich Yovanovich on behalf of the applicant.

The team we have here today is myself; Fred with RVI Planning; our engineer, Jackie, who's in the back; Bethany is our environmental consultant; and Mr. Banks is our transportation consultant.

I'm going to try to do this quickly because I think you all have seen these before. This is really a consolidation of three existing PUDs and adding the Cracklin' Jack's property to one consolidated PUD. We're increasing the overall project density by just six units, which is consistent with the Growth Management Plan. We're following the Willow Run PUD development standards for the project, and we're just, essentially, unifying this project.

Stock Development is the developer of the project, so we're trying to unify the property into one larger PUD instead of three separate PUDs, and the Cracklin' Jack's property.

If you will recall, not too long ago the Hacienda Lakes PUD came through along our southern boundary. We have a deviation in there that would allow for what Hacienda already approved, which is for no buffer between a project that is up against the San Marino PUD boundary.

Staff is recommending approval of the project and all of the already existing deviations and the few that we're adding. I can go through a much more lengthy presentation, but since staff is recommending, and it's really a consolidation of already existing projects, we'll just make the team available to you for any questions you may have.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Why are you doing this?

MR. YOYANOVICH: Why are we consolidating?

COMMISSIONER VERNON: Why does the applicant want this?

MR. YOYANOVICH: Because he just wants to have one large unified development instead of having -- if you have the PUD boundaries where they are, then you have to have setbacks between those boundaries. So it's just consolidated into one larger project.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Rich, your slide said increase of six DUs. Was that total --

MR. YOYANOVICH: We're adding six --

COMMISSIONER FRY: -- DUs or six DUA?

MR. YOYANOVICH: DUA?

COMMISSIONER SHEA: DU.

MR. YOYANOVICH: Total dwelling units.

COMMISSIONER FRY: Oh, total 12.

MR. YOYANOVICH: Six more units than is there today.

COMMISSIONER FRY: Okay. There -- TDRs are part of this?

MR. YOYANOVICH: When we get above a certain base density, yes, we have to buy TDRs.

COMMISSIONER FRY: Okay. So the status of the TDRs is that none have been obtained yet. It's a future?

MR. YOYANOVICH: We have them --

COMMISSIONER FRY: Oh, you have them already.

MR. YOYANOVICH: -- in anticipation that we are going to exceed the base.

COMMISSIONER FRY: You already have all the TDRs that you need.

MR. YOYANOVICH: We -- I believe we are self-controlling our destiny with --

COMMISSIONER FRY: Meaning the owners using your own --

MR. YOYANOVICH: We've had --



COMMISSIONER FRY: -- Sending Lands or -- for the TDRs.

MR. YOVANOVICH: Correct. We've had TDRs, yes.

COMMISSIONER FRY: Got it. Thank you.

CHAIRMAN FRYER: Commissioner Shea.

COMMISSIONER SHEA: I just -- I think you answered my question, but there's really no difference than the cumulative rights to develop you already have.

MR. YOVANOVICH: Right.

COMMISSIONER SHEA: You're just making it into one, other than six dwelling units?

MR. YOVANOVICH: Correct.

COMMISSIONER SHEA: Okay.

CHAIRMAN FRYER: And Cracklin' Jack's is not part of the PUD, so...

MR. YOVANOVICH: They're in now. They were not. It was a separate piece they had -- it had straight zoning on it.

CHAIRMAN FRYER: Commissioner Schmitt.

COMMISSIONER SCHMITT: I just want to make sure that that's clear, Cracklin' Jack's, which after the bridge was condemned, the restaurant closed down, and it's been an eyesore for probably, what, two or three years. So in consolidating and picking up that piece of property and, of course, eliminating that eyesore is a great benefit.

CHAIRMAN FRYER: Thank you.

No one else signaling at this -- Vice Chair.

COMMISSIONER HOMIAK: Master plan on Page 2.

MR. YOVANOVICH: Oh, you know what? You -- I don't know if I got the answer. You asked me that question, and I -- Ms. Homiak, I'm going to have to make that calculation. I emailed out the team to -- the question was on Tract A on the master plan -- let me scoot through real quick. Whoops. Is it -- how much further, one more? Back?

Tract A is the already existing San Marino PUD, and on our master plan set we've neglected to call out how much of that existing parcel is residential versus preserve and open space, and we have not done that calculation. We have to do that calculation, and we'll put that on the master plan since it's an -- it's an already existing apartment complex. We'll put that on the master plan by the time we get to the Board, if that's okay with you, Ms. Homiak.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: It sounds like there's not a lot of leverage to talk about affordable housing, but as a good community citizen as the Stock Development is, it would seem like there would be a lot of opportunity for some affordable housing. And I'm asking. Obviously, we don't have a lot of leverage, but with the apartments and things, it seems like -- and the location -- it would be a good place for some affordable housing.

MR. YOVANOVICH: And if you will recall, Mr. Shea, we've brought forward several projects in this corridor with other developers. And I'm not in -- I'm not in a position today to provide affordable housing just to stick within the existing Growth Management Plan and add six units.

COMMISSIONER SHEA: Just to be a good guy?

MR. YOVANOVICH: I'm a great guy. I'm a great guy, but in this particular case -- we've done it on other projects, as you know, including Stock Development has as well.

CHAIRMAN FRYER: Thank you.

Commissioner Fry.

COMMISSIONER FRY: Rich, am I correct that Stock already owned the first three and then maybe acquired the Cracklin' Jack's property to add it in and consolidate it?

MR. YOVANOVICH: Actually, Mr. Torres' entity has Lido Isles and Cracklin' Jack's, and that's -- he's also the developer of Hacienda Lakes and some other projects in that area, but,

yes, Stock has Willow Run and San Marino.

COMMISSIONER FRY: Thank you.

CHAIRMAN FRYER: Thank you. No one else is signaling at this time.

COMMISSIONER SCHMITT: I just want to note for the record that there are 15 deviations, all of which staff recommended approval, and if I could get a nod from the staff, I guess. Yes? Okay.

MR. BELLOWS: (Nods head.)

CHAIRMAN FRYER: Thank you. And I should also note that EAC approval is also -- it's going to be required for this as well. Thank you.

Anything further, Mr. Yovanovich?

MR. YOVANOVICH: No.

CHAIRMAN FRYER: Okay. Staff?

MS. GUNDLACH: Good afternoon, Commissioners. For the record, I'm Nancy Gundlach, principal planner with the Zoning Division.

And staff is recommending approval of the San Marino PUD amendment.

And you had asked a question, Commissioner Homiak, about how much preserve is on Tract A?

COMMISSIONER HOMIAK: Residential.

MS. GUNLOCK: Oh, how much residential, okay.

COMMISSIONER HOMIAK: Well, both, because it would change from what's on the master plan.

MS. GUNLOCK: Okay. I thought I had the answer for you.

COMMISSIONER HOMIAK: Oh.

MS. GUNLOCK: I was really excited about that.

Okay. And it would be our pleasure to answer any questions you might have.

CHAIRMAN FRYER: All right. Thank you.

No one is signaling at this time, so we'll ask Mr. Youngblood about registered speakers.

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

CHAIRMAN FRYER: Anyone in the room wish to be heard on this?

(No response.)

CHAIRMAN FRYER: If not, the public comment portion of this hearing is closed. The matter's open for deliberation by the Planning Commission.

Commissioner Schmitt.

COMMISSIONER SCHMITT: I think it's a great proposal to consolidate. I appreciate the answer in regards to why are we doing this. It does create one unified plan, and it does help in the buffers that would have had to have been created between the different PUDs.

So I would recommend approval of the San Marino RPUD as proposed, 20210001766.

CHAIRMAN FRYER: Thank you.

Is there a second?

COMMISSIONER SCHMITT: And that includes the EAC --

CHAIRMAN FRYER: EAC.

COMMISSIONER SCHMITT: -- nomination as well.

CHAIRMAN FRYER: Thank you for that clarification.

COMMISSIONER VERNON: Vernon seconds.

CHAIRMAN FRYER: It's been moved and seconded.

Further discussion? Commissioner Shea.

COMMISSIONER SHEA: Well, this isn't going to -- I'm in support of it. I'm just saying I really would like you to look at -- there's a lot of -- a lot of units going in there. If there's anything on the affordable housing side -- but that's -- there's no contingency in my vote.

COMMISSIONER SCHMITT: Well, isn't -- San Marino was originally built as affordable housing rentals, some of them?

CHAIRMAN FRYER: It's eligible, right? It's eligible for affordable housing.

MR. YOVANOVICH: Any unit's eligible for affordable housing. I mean, after the vote, I can -- if you want to know the history of San Marino, I'll tell you.

COMMISSIONER SCHMITT: I could go through the history as well.

COMMISSIONER SHEA: You're worried it's going to change the vote?

MR. YOVANOVICH: No, I don't think it's going to change the vote. But, I mean -- just so you know, San Marino originally was going to be an affordable housing project, but because it was in the location where it is now, it was not eligible for affordable housing density bonuses.

COMMISSIONER SCHMITT: Correct.

MR. YOVANOVICH: So there's been changes to the code over time to allow that.

CHAIRMAN FRYER: Commissioner Fry.

COMMISSIONER FRY: Rich, will this be one consolidated gated community, or will it be multiple communities?

MR. YOVANOVICH: There will be multiple. There will be multiple, yes. You could see there's an interconnection provided for down by Parcel C.

CHAIRMAN FRYER: All right.

COMMISSIONER VERNON: And if you can't commit to affordable housing, would you consider reopening the Cracklin' Jack's so I could get some --

(Simultaneous crosstalk.)

MR. YOVANOVICH: I haven't been there very often, but I've been there enough.

CHAIRMAN FRYER: Thank you.

Let's see. Where are we? We've asked about -- well, we've closed public -- there's been a motion and a second. It included the EAC. So any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

COMMISSIONER FRY: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SCHMITT: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously, which is 6-0.

MR. YOVANOVICH: If I may, now that we're done. I do want to thank both Mr. Fry and Ms. Homiak for their service on the Planning Commission. I've enjoyed working -- I don't even know how long Ms. Homiak has been on this.

COMMISSIONER HOMIAK: 2008.

MR. YOVANOVICH: 2008 and Mr. Fry used to beat me up on the private side and then came up here -- now is on the dais beating me up. And I've enjoyed -- I've enjoyed working with you over the years. And enjoy your freedom, both of you. Thank you for your --

CHAIRMAN FRYER: Thank you for the good words.

COMMISSIONER FRY: Nobody beats up Rich Yovanovich, for the record.

CHAIRMAN FRYER: Any old business to come before us?

(No response.)

CHAIRMAN FRYER: If not, any new business?

COMMISSIONER FRY: Yes.

CHAIRMAN FRYER: Do you have new business or are you messing with me?

COMMISSIONER FRY: I have a final comment.

CHAIRMAN FRYER: Oh, Commissioner Fry, your final comment, sir.

COMMISSIONER FRY: I would just like to thank staff for the generous treatment that

I've received in my time on the Board. I will say -- I'll tell everybody here, it's been an absolute honor and privilege to be able to sit up here, to be able to hear these applications, all the details, and be a small part of a decision-making mechanism that steers Collier County. And the quality of the people that sit up here, that's made it -- it's been worthwhile just because of the quality of the staff and also the people up here.

So I just want to thank everybody for what's really been a very fulfilling four years, and I feel very privileged to have had this experience. So thank you.

CHAIRMAN FRYER: Thank you for your kind words.

COMMISSIONER HOMIAK: I've enjoyed working with all of you very much, and I'm going to miss you guys, too.

CHAIRMAN FRYER: Well, we're going to miss you both. Thanks so much. Public comment on matters that were not on our agenda?

(No response.)


CHAIRMAN FRYER: Apparently, there is none of that. So, without objection, we'll adjourn.

\*\*\*\*\*

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 2:58 p.m.

COLLIER COUNTY PLANNING COMMISSION

  
EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on 11/3/22, as presented  or as corrected \_\_\_\_\_.