

July 6, 2023

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
July 6, 2023

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
Joe Schmitt, Vice Chair
Robert L. Klucik, Jr. (attending remotely)
Paul Shea
Randy Sparrazza
Chuck Schumacher
Christopher T. Vernon

ABSENT:

Amy Lockhart, Collier County School Board Representative

ALSO PRESENT:

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

PROCEEDINGS

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

Good morning, everyone. The July 6th, 2023, meeting of the Collier County Planning Commission will please come to order.

Everyone rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: Before I ask the secretary to call the roll, we have one commissioner who has requested to participate by telephone, and so, pursuant to our rules, we need to ask Commissioner Klucik to give us an extraordinary circumstance so that we can approve his participation.

Commissioner, can you just tell us something that causes you to --

COMMISSIONER KLUCIK: Yes. I actually had to rearrange my practice schedule for my business. I'm going to be attending the funeral of Tom Monaghan's wife up in Michigan. Marge Monaghan died to July 3rd, and as you know, he was the founder of Ave Maria University, Ave Maria School of Law, and of the Town of Ave Maria.

So I had to just kind of re-shift my schedule around, and it's just -- I can't take the time away today to be -- to drive into Naples, so...

CHAIRMAN FRYER: Understand completely. May I have a motion?

COMMISSIONER SCHUMACHER: Motion.

CHAIRMAN FRYER: Second, please.

COMMISSIONER SCHMITT: I second -- second the motion.

CHAIRMAN FRYER: Okay. So it's been moved and seconded that Commissioner Klucik may participate remotely due to extraordinary circumstances. Any further discussion?

(No response.)

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

COMMISSIONER VERNON: Aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No verbal response.)

COMMISSIONER SPARRAZZA: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

Welcome to the meeting, Commissioner Klucik.

Secretary, please call the roll.

COMMISSIONER SHEA: Commissioner Vernon?

COMMISSIONER VERNON: Here.

COMMISSIONER SHEA: Commissioner Shea is here.

Chairman Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER SHEA: Vice Chair Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER SHEA: Mr. Sparrazza?

COMMISSIONER SPARRAZZA: Here.

COMMISSIONER SHEA: Mr. Schumacher?

COMMISSIONER SCHUMACHER: Here.

COMMISSIONER SHEA: We have a --

CHAIRMAN FRYER: And Commissioner Schmitt -- or Commissioner Klucik, I mean.

COMMISSIONER SHEA: Oh. Commissioner Klucik, I'm sorry.

COMMISSIONER KLUCIK: Yes. Present. Thank you.

COMMISSIONER SHEA: Mr. Chair, we have a quorum.

CHAIRMAN FRYER: A full house, I believe.

COMMISSIONER SCHMITT: Full house today.

CHAIRMAN FRYER: Wow. All right. Thank you very much, Secretary.
Addenda to the agenda, Mr. Bellows.

MR. BELLOWS: We have no changes.

CHAIRMAN FRYER: Thank you.

Planning Commission absences. Our next meeting is on August 3rd, 2023. Does anyone know if he or she won't be able to attend that meeting?

COMMISSIONER SCHMITT: I will not be at that meeting. I'll be out of town.

CHAIRMAN FRYER: And I will also not be at that meeting. I'll be out of the country.

And I spoke briefly with Mr. Bosi about the prospects for that meeting, and there have been some, perhaps, changes in the anticipated agenda, so it may not be -- it may not be a -- it may be appropriate for us to cancel that meeting.

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

As I had indicated, we had originally had five individual petitions that were set for that meeting. We did get a request from the applicant for the Lutgert combination of GMP amendment and commercial PUD. They are looking to provide for some further neighborhood interaction, so they requested to be moved to October -- not October, but September 7th, I believe, is when they're going to be going.

And then the other three petitions were related to the -- related to the East Naples Zoning Overlay GMP and Zoning Overlay. We have been notified by the State of Florida Department of Economic Opportunity that they are concerned about the raising of density within the Coastal High Hazard Area, because a lot of the East Trail is within the Coastal High Hazard Area. And we are working with them to try to satisfy those objections, so I think we're probably going to be delayed on that as well. So as of now, I think if we canceled the meeting, we're not going to be creating any sort of backlog that we're going to have -- we'll struggle to overcome.

CHAIRMAN FRYER: Thank you, Mr. Bosi. Is there any discussion on this? If not, I'd entertain a motion that we cancel our August 3rd meeting.

COMMISSIONER SHEA: So moved.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

CHAIRMAN FRYER: If not, all those in favor of canceling the August 3rd, 2023, meeting, please say aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No verbal response.)

COMMISSIONER SPARRAZZA: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

That meeting is canceled.

Now let's look at the August 17 meeting, which would be our second monthly meeting for the month of August. August 17, 2023, anyone know if he or she will not be -- I guess I can just say "he" today.

COMMISSIONER SCHMITT: The 17th?

CHAIRMAN FRYER: The 17th.

COMMISSIONER SCHMITT: I'm good.

CHAIRMAN FRYER: Yeah. Anybody who cannot make it that they know of?

(No response.)

CHAIRMAN FRYER: All right. It looks like we'll have a quorum on the 17th, and I imagine we'll need it at that time.

Approval of minutes. Let's see. We have two sets of minutes before us, those of our May 18, 2023, meeting and those for our June 1st, 2023, meeting. We can vote on them with one motion unless we need to make corrections on one or both. Is anyone going to have any corrections to either of these?

(No response.)

CHAIRMAN FRYER: If not, I'd entertain a motion that we approve both sets jointly with one motion.

COMMISSIONER SPARRAZZA: So motion.

CHAIRMAN FRYER: Is there a second?

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Any further discussion on the minutes?

(No response.)

CHAIRMAN FRYER: All those in favor of approving both sets as of minutes, please say aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No verbal response.)

COMMISSIONER SPARRAZZA: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously. Thank you very much.

BCC report, Mr. Bellows.

MR. BELLOWES: Yes. On June 27th, the Board of County Commissioners approved the Big Cypress SRA on the summary agenda as well as the conditional use for the church located at 1338 Collier Boulevard. Both of those are on the summary agenda; the PUD amendment for Tree Farm, that was approved on the regular agenda by a 5-0 vote, and the rezone from C-3 to C-5 for the self-storage facility located on the East Trail, that was approved 5-0.

CHAIRMAN FRYER: Thank you, Mr. Bellows.

Chairman's report, none today.

Consent agenda, none today.

***Public hearings, we have one. The first and only rezoning matter before us today is PL20220001142. It's the Cocohatchee Bay PUDA.

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

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

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

CHAIRMAN FRYER: Thank you.

Ex parte disclosures from the Planning Commission beginning with Commissioner Vernon.

COMMISSIONER VERNON: No disclosures.

COMMISSIONER SHEA: Public records.

CHAIRMAN FRYER: In my case, conversation with representatives of the applicant, meetings with staff, and matters of public record.

COMMISSIONER SCHMITT: I had a conversation with Mr. Yovanovich, discussed this, and it also goes back to my time on staff as well when this came through the original rezoning, but there's no conflict in that, but it was just a matter of certainly I recall the entire aspect of the rezoning that included all of the controversial issues around -- surrounding the original petition.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SPARRAZZA: Staff materials and a conversation with Mr. Yovanovich.

COMMISSIONER SCHUMACHER: Just the agenda packet information only.

CHAIRMAN FRYER: Thank you, Commissioner.

Commissioner Klucik.

COMMISSIONER SCHMITT: You're probably on mute, Robb.

CHAIRMAN FRYER: Commissioner Klucik, disclosures on Cocohatchee?

COMMISSIONER KLUCIK: Yes, sorry. I had the mute button on.

CHAIRMAN FRYER: That's okay.

COMMISSIONER KLUCIK: Yes. So staff materials and my normal meeting that I have with staff before our commission meeting.

CHAIRMAN FRYER: Thank you very much.

All right. Without further ado, we'll begin with the applicant's presentation. The Chair recognizes Mr. Yovanovich.

MR. YOVANOVICH: Thank you, and good morning. For the record, Rich Yovanovich on behalf of the applicant and petitioner.

The project team consists of myself as the land-use attorney. Mr. Mulhere and Ms. Summers are the planners for the project. Karen Bishop also works on the project; she's ill and will not be here. Norm Trebilcock was our transportation consultant. Jay Westendorf is our civil engineer, and Tim Hall is our ecologist for the project.

The Cocohatchee PUD -- most people probably know it as Kalea Bay now, which is the development that's actually occurring within the Cocohatchee PUD -- was originally approved in December of 2000.

There were -- and I'll get into this a little briefly. There were -- there was a proposed amendment a few years later dealing with the Bald Eagle Management Plan which resulted in a Bert Harris claim being filed and a Bert Harris settlement agreement being entered into for the proposed -- for the project.

So this is a little bit of an interesting entitlement process. We have a PUD on the property, and we have a settlement agreement on the property. You will be considering the PUD amendment, which is to add 10 units to the project. The project was originally approved at 590 units, and you're being requested to add three stories to the most northern tower, which is --

CHAIRMAN FRYER: Excuse me. I should have said this earlier, but we're also going to be asked to act upon as an EAC on the environmental part. Sorry to interrupt.

MR. YOVANOVICH: No worries.

So we entered into a settlement agreement. So you will be considering an amendment to the PUD, and then the Board of County Commissioners will consider both an amendment to the settlement agreement as well as the PUD amendment so they're both consistent documents. You have in your backup the proposed amendment to the settlement agreement.

The project, as it stands right now, has three of the five towers completed. Work is currently under construction. And what we're here to talk about today is the final, fifth building, which was originally approved at 17 stories over parking, and we're requesting to go to 20 stories over parking, which is consistent with the other four buildings in the project.

A lot of the focus of the Bert Harris settlement agreement had to do with the golf course, which is on the east side of Vanderbilt Drive and the north side of Wiggins Pass. There was a tremendous amount of concern regarding that remaining open space and not being developed with homes on that property. So as part of the settlement agreement, there was a commitment that there would be a deed restriction placed on the property that basically one-fifth, one-fifth, one-fifth, one-fifth until the final tower was approved, a deed restriction limiting development on the property to a golf course or two single-family homes.

So we are also amending the declaration, because part of the project is now going to provide for the opportunity for essential services. Currently, that plan is for a fire station to be located on U.S. 41, and we'll show you exactly where that is.

So there are some -- there are three parts to this request, only one of which is in front of you, but we wanted you to be aware of the different changes to other documents related to this project.

The golf course is under construction and is anticipated to open I'm assuming next season, not this season.

The property is outlined in blue. It is a large piece of property, but only a small piece of the property is actually being developed.

As I mentioned, our request is to add 10 dwelling units to the overall project to go from 590 units to 600 units, increase the building height for Building 5, add the essential service use, and modify the developer commitment and deed restriction on the property.

We also -- through the NIM process, Tarpon Cove had concerns regarding access in an emergency, because it only had one access point on Wiggins, and we are providing for an emergency access for them as requested at the NIM.

This is an older PUD so we're adding the standard trip cap commitment to the PUD to not exceed 236 two-way p.m. peak-hour trips. And as I mentioned, there is an amendment to the settlement agreement to increase the density from 590 to 600 but to also convey a 1.61-acre parcel to the County for -- and it will be improved with a parking lot for boat trailer parkings for the -- there's a ramp right across the street, a boat ramp right across the street. So this is being added to the settlement agreement, and we have the obligation to design, permit, and construct it by a day certain within the settlement agreement.

I'm going to let Bob take over from here and go over the master plan to show some of the changes regarding access and some of the other particulars, and then I'll come back up again at the end, and we'll complete our presentation and respond to any questions you may have. If you could hold your questions until the end, we'd appreciate it, but, of course, you can interrupt us at any time.

Thank you.

MR. MULHERE: Thank you. For the record, Bob Mulhere with Hole Montes, a Bowman company.

What you have on the screen before you right now is the existing master plan, and circled in blue are the existing access points. And this is the proposed master plan. And circled in red, the larger red circle depicts the emergency access point for a new fire station, which we'll also provide access to Tarpon Point, you know, to the south, and you can see the note which says emergency access point -- final location of emergency access point to be determined by the end user, i.e., the fire district, during site permitting. But we've met with the fire district, and we generally know where that's going to be.

As Rich indicated, the PUD presently permits 590. We're requesting 10 additional units for a total of 600. The County's Growth Management Plan allows a base density of up to three units per acre, which would be 1,215, so we're under 50 percent of that number.

This exhibit -- this aerial exhibit shows the proposed tower, 500, that would be increased from 17 stories to 20 stories, zoned height of 200 feet, actual height limitation of 250 feet. And it also shows the essential service location, which -- right here is Tamiami Trail.

This is a little closer view of Tower 500 [sic], the subject tower. You can see that that's oriented -- the views are oriented to the south across the mangroves and the water to the southwest, and then the Arbor Trace building, which is right here, and that's oriented to the west, predominantly to the west. I have a couple of other exhibits that will show that.

This exhibit also shows the -- it's a little closer perspective, but this is the Arbor Trace building right here. And the views are primarily to the west, to the northwest. There are some views here looking directly in this direction. This building, as proposed, going from 17 to 20, will not impact those views.

This is an exhibit that shows the proposed zoned height and actual height going from what is now 17 stories but up to 200 feet, 20 stories and 200 feet, with an actual height of 248 feet, 11 3/4 inches. That's subject to final design. The PUD allows 250, yes.

COMMISSIONER SHEA: What accounts for a 50-foot difference? What's up above the zoned height? That's a big difference between actual and zoned.

MR. MULHERE: Well, it's how they're measured. So if you look at the -- let's start with the definition. Building height actual is the vertical distance from the average center line elevation of the adjacent roadway to the highest structure or appurtenance. So you do have structures that are above an elevator, override, those kinds of things that do go up above the maximum zoned height.

Plus you have a substantial -- at least 22 feet, 8 inches from the -- and I don't know what exactly -- I'll be honest with you; I don't know exactly what the average center line elevation is, but that's what it's measured from, and it's measured to the tippy top, whereas the zone height is measured from the FEMA elevation, required FEMA or DEP, whichever one prevails, to the highest point of a flat or Bermuda roof. So in this case it's a flat roof. So you can see that right here.

MS. ASHTON-CICKO: Excuse me, Bob.

MR. MULHERE: Yes.

MS. ASHTON-CICKO: There is a definition of "building height" in the PUD. Would you use that, please?

MR. MULHERE: Sure. Do you want to bring it up?

MR. YOVANOVICH: This project was a little bit unique. It had its own definition of building height. So it allowed for the two stories of parking below, and it's measured from the first habitual floor. So it's a little bit unique.

CHAIRMAN FRYER: And that's the case with the other buildings as well.

MR. YOVANOVICH: Correct, correct.

MR. MULHERE: Let me just -- I have a slide that -- so staff, Heidi and Mike actually emailed us yesterday and proposed for clarity a minor change, but to clarify the question of what is -- how the height is measured, because the PUD had this definition right here of "building height," and what's being proposed is to actually add the term "zoned building height," which is the vertical distance measured from the first habitual finished floor elevation to the uppermost finished ceiling elevation of the structure. So that would be consistent now with the County's definition of zoned height, more or less.

MS. ASHTON-CICKO: If I could just interject, though, so they can understand, this definition that's existing always was construed to be zoned building height, and there's another footnote that's being added that defines actual height, and that's why we had to make that clarification. So actual height is measured in accordance with, you know, the LDC and not based on that definition. It would have added, like, another 20 feet.

CHAIRMAN FRYER: Are there other PUDs from the past that had their own definitions of height?

MS. ASHTON-CICKO: This is an older PUD, and I really don't know. I don't know if Zoning staff knows, but...

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: The answer is yes, and as soon as you asked that question, I blanked on the name of the project to the south. There's -- on Vanderbilt Drive and -- yeah, on Vanderbilt Drive, there's another project by the same developer that had the same definition of height. Essentially, the Land Development Code would allow you to put two stories of parking underneath the building without calculating that in the height, and that's how those two PUDs were structured.

CHAIRMAN FRYER: As far as you know, this development and the one that you just mentioned are the only two that sought to use their own definitions of height?

MR. YOVANOVICH: Those are the only two I know of.

CHAIRMAN FRYER: That you know of.

MR. YOVANOVICH: I'm sure back then there were others that were also, because we did not have a definition of the zoned height at that time.

CHAIRMAN FRYER: Okay. Vice Chairman.

COMMISSIONER SCHMITT: Let me add to this. As my time as administrator of Community Development, this was -- and the project you mentioned, and, again, I can't remember the name.

MR. YOVANOVICH: Thank you. It's the Dunes.

COMMISSIONER SCHMITT: The Dunes -- was the catalyst that started this whole discussion

about height back and forth and back and forth. And, Ray, you remember this: 2002 and '03, the LDC and the clarification of zoned versus actual height, I believe the LDC even has a diagram, did it not, include -- it just kind of shows clearly how height is measured.

But, essentially, it -- for the layman, it's the first habitual floor, and many of these buildings, because of the base flood elevation -- and the first habitual floor is typically the second story, two stories of parking, because it's typically, what, 20-something feet out there right now for base flood elevation.

And so it's from the first habitual floor to the -- I guess, the average top of a flat roof. So is the -- is typically the zoned height. The actual height is from the center of road all the way to the top of the building.

MR. YOVANOVICH: Right.

MR. MULHERE: I did put on the visualizer the footnote that Heidi was referring to, which is right here, which specifically identifies the maximum zoned height pursuant to this definition and then the actual height of 250 feet.

So moving forward -- oh, sorry. So this shows -- this slide shows the proposed 20-story building. It shows the zoned height of the building at 200 feet. It shows the actual height at, as I said, 248 feet, almost 249 feet. Again, that's subject to final design. As you know, the PUD talks about 250 feet, so there's about a foot of room in there.

And then you have Arbor Trace over here, which is measured from the existing grade to the top of the penthouse at 165 feet, and you do have some additional architectural embellishments that go higher than that.

Okay. Current allowed 17-story building is taller than Arbor Trace, so no additional impact with the additional three stories, which you can see right here is the line for the existing building plus whatever roof embellishments would be on top of that.

This exhibit shows a conceptual design, about a 10,000-square-foot fire station, emergency services, which also could include EMS. And then there will be an emergency access opportunity to connect to the south. And the exact location hasn't been decided. It could be, for example, right here or perhaps over here. Oh, sorry, you can't see that. Right here or perhaps over here, but when the fire station is designed, the location for that emergency access -- right now there is only ingress and egress to that project -- from that project, so this will be a secondary emergency access for them.

And, again, this shows the location. 41 right here, proposed fire station in here, and emergency access right there.

The PUD p.m. peak-hour trip generation has a differential of seven additional trips, and we've introduced, as Rich indicated, a p.m. peak-hour trip cap of 236 p.m. peak two-way trips.

From a consistency with the GMP, you have -- in the staff report, as you always do for a PUD or PUD amendment, you have eight separate findings for your consideration with a PUD and 18 separate considerations for a rezone for your consideration. A PUD amendment is a rezone.

So there's a total of 26 different factors that you consider when reviewing a PUD amendment or a rezone. And in the staff report -- and we address these in our narrative and assessment that we submitted to staff, and staff addressed them in the staff report.

And that's a total of 26 separate findings, all of which have been found to be consistent and compatible, with the exception of one, which is Rezone Finding No. 18, which reads, such other factors, standards, or criteria that the BCC shall deem important in protection of public health, safety, and welfare, and that's because that is solely under the purview of the BCC, as indicated in the staff report.

CHAIRMAN FRYER: I believe that we do make recommendations, though, to the BCC on that.

MR. MULHERE: Absolutely. Yep.

So as I said, what we're requesting is fully consistent with the plan. You saw the density is less than 50 percent of what would otherwise be allowed at three units per acre. Yes, sir.

COMMISSIONER SHEA: What's the density if you take the golf course out of there?

MR. MULHERE: I don't know. Let me think about that. I've got to get to the master plan. You're talking about a net density? Well, just give me a second till I get to that master plan.

MR. YOVANOVICH: What's that size, 40?

MR. MULHERE: Fifty. Fifty-something. Hold on. I'll just get to it. 53.7.

MR. YOVANOVICH: 53.7?

MR. MULHERE: Yes.

MR. YOVANOVICH: Eleven, eleven.

MR. MULHERE: That excludes the golf course and the preserve. Your question was just the golf course?

COMMISSIONER SHEA: Yeah.

MR. YOVANOVICH: Eleven.

COMMISSIONER SHEA: Just the golf course.

MR. MULHERE: Okay. Well, then you need to add to your --

MR. YOVANOVICH: It's 11.

MR. MULHERE: He said 11.

COMMISSIONER SHEA: So it goes from one to 11?

MR. MULHERE: That's the net.

COMMISSIONER SHEA: Okay.

MR. MULHERE: Yeah. Of course, the County doesn't measure density on net density.

COMMISSIONER SHEA: I understand. But from a density standpoint, throwing that land in confuses me. I don't understand the full density with the golf course in it, so -- I recognize it's legitimate.

MR. MULHERE: Yeah. It creates open space. Yep.

I forget exactly where I was. Just give me a second. Slide 18, that's what I'm trying to get back to.

So as I said, in summary, the proposed amendment is compatible with the surrounding area. It's compatible with all of the appropriate goals, objectives, and policies of the Growth Management Plan, and consistent with those.

MR. YOVANOVICH: And as I mentioned, we are amending the settlement agreement, which is part of your agenda backup materials. We are building and designing, permitting, and constructing the parking lot, as I mentioned. It has to be completed by no later than May 1, 2026, and that's the property that will have the parking lot on it. This is the current conceptual plan. We're working with staff to finalize the plan for the ultimate design of the county parking. Parcel A will be the County's parking facility.

And the summary, it's we're simply adding 10 units to the west side of the project, adding three stories to the west side of the project, we're adding the ability to have essential services as part of the project, and we're amending the settlement agreement. Your staff recommendation is approval. We're asking the Planning Commission to follow the staff's recommendation and recommend to the Board of County Commissioners approval of the proposed PUD amendment.

And with that, we're available to answer any questions you have.

CHAIRMAN FRYER: Vice Chairman.

COMMISSIONER SCHMITT: Rich, can you go back to the parking -- that one. Now, the Parcel B is going to be retained and controlled by the developer?

MR. YOVANOVICH: The owner of the property, yes.

COMMISSIONER SCHMITT: And the commercial aspect of it is controlled, again, by the --

MR. YOVANOVICH: The property's zoned C-3, so it's straight zoning.

COMMISSIONER SCHMITT: C-3. Now, Parcel A, will that be conveyed to the County?

MR. YOVANOVICH: It gets conveyed to the County, yes.

COMMISSIONER SCHMITT: But the maintenance will be -- and operation maintenance -- or at least maintenance and care and all those aspects of it, who will be doing that?

And we talked about this on the phone, but I just want to make sure it's public record. Is that Parks and Rec's, or is that going to be the developer will maintain this?

MR. YOVANOVICH: Well, we have offered to the County that we would take care of that. We would like some quality control as to how frequently that area is maintained. So we've offered to the County to take care of that.

COMMISSIONER SCHMITT: But as far as access, you are going through Parcel B to get to Parcel A.

MR. YOVANOVICH: As part of the whole conveyance, there will be an access easement.

COMMISSIONER SCHMITT: So how will that be controlled?

MR. YOVANOVICH: It's free flow.

COMMISSIONER SCHMITT: It's free flow. So you can just drive in there, and then if there's a parking space, is that going to be typical to any of the other county parking --

MR. YOVANOVICH: Sure.

COMMISSIONER SCHMITT: -- where you have a parking sticker for that?

MR. YOVANOVICH: I don't know, Mr. Schmitt, if we've gotten that far along with Parks and Rec staff on that, on how they want to -- how they want to monitor parking on the County's portion of the --

COMMISSIONER SCHMITT: I just wanted to make sure -- and I'm looking to the County Attorney. Is this something we need to stipulate in regards to operation and control of this or just say it's conveyed to the County and it's under the manage- -- or at least in coordination with the developer through Parks and Rec, access and accountability or whatever, is taken care of through Parks and Rec in coordination with the developer? I don't know if that -- we somehow -- or will that be a separate agreement?

CHAIRMAN FRYER: I'm going to interrupt quickly, if I may, as a matter of procedure. There's a gentleman in the audience who has his hand up, and I wanted to address that so that his hand arm doesn't go to sleep. But the way we operate is -- you may put your hand down now, sir.

The way we operate is that the applicant will make a presentation, staff will make a presentation, and then we will call upon members of the public who wish to be heard, and that's the appropriate time. We will recognize you and give you time to speak.

COMMISSIONER SCHMITT: And I would ask, then, that they fill out a speaker slip so they're in the queue to speak.

CHAIRMAN FRYER: Indeed. And also we want to be sure that everybody who does speak, when that time comes, has been sworn in.

County Attorney.

MS. ASHTON-CICKO: The conveyance of the 1.6 acres that is the parking lot and the maintenance is all covered in the settlement agreement.

COMMISSIONER SCHMITT: Okay. I didn't see that.

MS. ASHTON-CICKO: But it does not -- it does not go into the details of the traffic circulation.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: Yeah. We haven't finally designed it, Mr. Schmitt, but that's part of the settlement agreement, not part of the PUD.

COMMISSIONER SCHMITT: Yeah. I guess my real point is I appreciate that the developer will at least maintain it from at least policing and -- of trash or whatever, because I just want to make sure that this is not -- if it's going to be the County Parks and Rec, that the County Parks and Recs understand their responsibility.

MR. YOVANOVICH: The agreement says, "Unless otherwise agreed to in writing by the County, Lodge, its successors or assigns, will be responsible for maintaining the parking lot on Parcel A."

COMMISSIONER SCHMITT: All right, good.

MR. YOVANOVICH: So it's already in the -- it's already in the agreement.

COMMISSIONER SCHMITT: Okay.

MR. YOVANOVICH: But the County has the option. If they choose to take over maintenance responsibility, they can.

CHAIRMAN FRYER: And that will be without any money changing hands?

MR. YOVANOVICH: Without any money changing hands.

CHAIRMAN FRYER: Okay. Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I have a minor question about this slide. How are the boaters going to get across the street once they park?

MR. YOvanovich: There actually is the ability -- they'll either go back onto Wiggins Pass and walk and cross --

COMMISSIONER VERNON: No, they won't.

MR. YOvanovich: -- or -- just so you know, you can go underneath -- there's an overpass on Vanderbilt Drive.

COMMISSIONER VERNON: Oh, okay.

MR. YOvanovich: You can go underneath that if you want to. Now, that is not going to be --

COMMISSIONER VERNON: Where is -- point to where they're going to get. See, I don't know what is west of Parcel A, the dark green. Is that going to be landscaping? What's --

MR. YOvanovich: That is -- that, I believe, is area that is intended to be preserved. So if people want to find their way through the preserve to get to the underpass, they can do that, but we're not right now planning to construct a sidewalk to encourage people to get to the underpass.

COMMISSIONER VERNON: Well, I'm just saying as a practical matter, at 7:00 a.m. and 4:00 p.m., you're going to have 50 boaters trying to navigate across the Vanderbilt Drive. They're not going to -- they're going to find a way to cut through.

MR. YOvanovich: I'm sure they will, but that's not what we're --

COMMISSIONER VERNON: And that's not --

MR. YOvanovich: We're not --

COMMISSIONER VERNON: -- not a good idea is what I'm trying to say.

MR. YOvanovich: Well, we can talk to County staff on how they want to address preventing that from occurring.

COMMISSIONER VERNON: You see what I'm saying, Mike? I mean, they're all going to be leaving and coming at the same time, just about, and you're going to have a big crowd of them just jaywalking across the street.

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

Understood. And I think we're going to have to have, obviously, further conversation with Parks and Rec staff with the applicant.

The one issue that I would say, that we can't put anything -- a stipulation within the PUD because this parcel is being provided for -- conveyed to the County per the settlement agreement, which is separate from the PUD. But I think we can have a clear direction, and we can have some further conversation with the Board of County Commissioners indicating the Planning Commission's concern about how the boating -- the boating public will be able to access the Cocohatchee River Park Marina, and by that time at the Board of County Commissioners meeting, Parks and the applicant could have further conversation so they can be able to address that point specifically.

COMMISSIONER VERNON: Yeah, I think it's great we're getting extra parking for boaters. That's -- but I just see that coming, and it seems dangerous to me.

MR. YOvanovich: Well, there's -- assuming people are willing to walk probably an extra 100 feet, they can get to an existing sidewalk and get to a signalized intersection to safely cross the street to get to their destination, which is right here. I know human nature, some people won't, but hopefully they will.

COMMISSIONER VERNON: Well, if it's on the northwest corner of the property that -- right there -- right there, yeah, but if they have to go all the way back to the northeast corner of the property, they're not going to walk all the way.

MR. YOvanovich: I'm assuming that when we get to the final -- the final design of the site, we can put an access -- pedestrian access point, as you're encouraging.

COMMISSIONER VERNON: Make it easy.

MR. YOvanovich: Yeah.

CHAIRMAN FRYER: Commissioner Sparrazza.

COMMISSIONER SPARRAZZA: Good morning. Thank you.

Might the County and/or developer consider some type of a pedestrian crosswalk system, the type we've seen on Marco and wherever, that a pedestrian hits a light, the flashing lights come on just to start alerting people that there could be pedestrians around somewhere within that intersection of Wiggins and Vanderbilt that may encourage folks to go up to the crosswalk area?

Just looking at alternatives. I know it's not designed -- it's not in the final stage, but we all know human nature, as we've discussed here, and if they're looking for a quick way to get across, let's work proactively to encourage safety at that corridor.

MR. YOVANOVICH: I'm sure staff is listening, and when we get to the actual design, which is outside of this process, we will be doing a Site Development Plan. I'm sure County staff, Parks and Rec staff, will be looking at those options.

COMMISSIONER SPARRAZZA: Great. Thank you, staff, for consideration.

CHAIRMAN FRYER: Anyone else wish to be heard with a comment or question for the applicant at this time?

COMMISSIONER VERNON: Yeah, I had one question, and I probably missed it. I was 4th of July'ing instead of meeting with staff.

So can you go to the one that highlights the fire station? Okay. So the road -- the road that you see there, is that going to go all the way to Vanderbilt?

MR. YOVANOVICH: This road right here?

COMMISSIONER VERNON: Yes.

MR. YOVANOVICH: That road, if you go up there, you'll see it is already cut out as part of the golf course. So there will be -- there will be a -- there will be an access road. Let me try to get back to the --

COMMISSIONER VERNON: The access road won't go to --

MR. YOVANOVICH: It will not go all the way --

COMMISSIONER VERNON: Vanderbilt. It will go to the golf course.

MR. YOVANOVICH: It will go to the golf course maintenance area, I believe. So, yeah, it will go towards -- it will not provide access all the way to Vanderbilt.

COMMISSIONER VERNON: Right. So emergency vehicles can't go west. I mean, they can go to the course, but they can't go to Vanderbilt.

MR. YOVANOVICH: They can't get all they to Vanderbilt Drive, no, sir.

But if the County ever wants to extend that, they have right-of-way as part of the PUD.

CHAIRMAN FRYER: Anybody else have questions or comments for the applicant at this time? If not, thank you. We will now turn to staff for its presentation.

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

We have no formal presentation. As we've indicated within the staff report, we reviewed it against the Growth Management Plan as well as the surrounding built area in terms of consistency and what's being proposed in relationship to what's also being offered in terms of benefit to the public and an evaluation of the pros and cons of both those sides.

Staff has made a recommendation of approval to the Planning Commission based upon not only the emergency -- the emergency service station but the additional parking for the boating public that we know is in short supply, and we're always looking to increase that amount of that commodity.

As indicated, with the golf course, the density is still at 1.13, so it's consistent with our limitations of density within the Coastal High Hazard Area.

With that, staff would entertain any questions that the Planning Commission may have.

CHAIRMAN FRYER: Planning Commission, any questions, comments for staff? Commissioner Vernon.

COMMISSIONER VERNON: This may be better for Rich, but one of you, were there any changes -- was there one NIM?

MR. YOVANOVICH: Yes, sir. There was one NIM, and we did make the change to provide that emergency access to Tarpon Cove.

COMMISSIONER VERNON: Okay. That was my question. Any other changes?

MR. BOSI: And I forgot -- and we discussed it earlier. We looked at one of the -- the display that I had put on just for the clarification of the building height is zoned building height. As we're proposing, the applicant has agreed to it. I think we spoke at pretty good length this morning, but that was a modification to staff's approval that that condition be added to the PUD.

COMMISSIONER VERNON: And any other changes as a result of the NIM?

MR. YOVANOVICH: There were a lot of -- there were a lot of questions or comments wanting to know how the golf course was going to work and operate, and the other request that we just go away and not ask. We did not accommodate that request.

COMMISSIONER VERNON: Thank you.

CHAIRMAN FRYER: Thank you. Does the officer from North Collier have a word or two to say? If not, I have a question.

MR. YOVANOVICH: He is here just to show that they're supportive of the application and the petition, but if you have questions, I'm sure he's available to answer questions.

CHAIRMAN FRYER: I do. I do.

Oh, Mr. Bosi.

MR. BOSI: One last thing, our recommendation of approval is also to the EAC regarding the environmental review as well.

CHAIRMAN FRYER: Oh, good point. Thank you very much.

Welcome, sir. I didn't mean to put you on the spot. I have a couple of easy questions. Is there anything you want to say first before I go forward?

LIEUTENANT LINTZ: Well, other than good morning, Commissioners, and we're glad to be here.

CHAIRMAN FRYER: And your name, sir?

LIEUTENANT LINTZ: Sean Lintz, for the record, North Collier Fire District.

CHAIRMAN FRYER: Thank you.

How far along are the discussions -- have you reached a point of a contract or a letter of intent to put a firehouse there?

LIEUTENANT LINTZ: We've had discussion about a letter of intent, but we are -- we're just breaking ground with this conversation.

CHAIRMAN FRYER: Okay. All right. But how high a priority is this for North Collier to have a station there?

LIEUTENANT LINTZ: It is a high priority, sir. It's definitely a legacy move for us. Our community needs it. We've identified a response, you know, need for this area, so we definitely need this station there.

CHAIRMAN FRYER: Great. Just out of curiosity, how far away is Engine House 43?

LIEUTENANT LINTZ: 43's on Vanderbilt. Obviously, you know, the access is only through Vanderbilt on Bonita Beach Road, but it is a challenge to get over to 41 for us.

CHAIRMAN FRYER: Okay. Yeah. I mean, it makes perfect sense to me. I just -- this was mostly curiosity on my part.

LIEUTENANT LINTZ: Sure.

CHAIRMAN FRYER: And how about EMS? Have you had conversations with leasing -- about leasing?

LIEUTENANT LINTZ: We have had some conversations. Chief Eloy Ricardo has had conversations with Chief Butcher. I'm not sure where they are with that. But, again, just kind of in the groundbreaking of that.

CHAIRMAN FRYER: Okay. All right. But could you say just, you know, off-the-cuff, is EMS as interested in occupying that station with new apparatus as you are?

LIEUTENANT LINTZ: I would hope they are. You know, we're always willing to partner up with them, and, you know, we love having them in our house.

CHAIRMAN FRYER: Okay. That -- was it 10,000 square feet?

LIEUTENANT LINTZ: I believe that's what's proposed, Commissioner.

CHAIRMAN FRYER: That's a pretty big engine house, isn't it?

LIEUTENANT LINTZ: Yeah, I mean, for living quarters, engine bays, that sort of thing, but I believe that's what's being proposed.

CHAIRMAN FRYER: Okay. But there will be -- there will be a sufficient number of bays for an EMS vehicle to be there?

LIEUTENANT LINTZ: Correct. We will supply room. If, you know, Chief Ricardo and Chief Butcher decide to, you know, engage in conversation with that relationship, we will definitely accommodate.

CHAIRMAN FRYER: Okay. That's all I have, but before you stand down, Commissioner Schumacher, do you have a question for this officer?

COMMISSIONER SCHUMACHER: Yes, sir.

Good morning.

LIEUTENANT LINTZ: Good morning, Commissioner.

COMMISSIONER SCHUMACHER: Thank you for being here, and thank you for your service as well.

LIEUTENANT LINTZ: Thank you.

COMMISSIONER SCHUMACHER: The County has a future right-of-way for a road to go to Vanderbilt. Is that something that you could see as being an immediate need, while they're developing this fire station, to also put in that roadway back there to Vanderbilt?

LIEUTENANT LINTZ: I'm not sure how the layout and the buffers do work on this, and -- but, obviously, we'd love to have access to Vanderbilt if we could get it, if we could work that out.

COMMISSIONER SCHUMACHER: Keep you off of 41 and having to go to Wiggins to make that right to go back there?

LIEUTENANT LINTZ: Correct, correct. But, you know, again, the 41 front is very important to us. As you know, the development up there, a lot of age in place, you know, different developments up there. And, again, it's a challenge for us to get down -- Firehouse 43, as the Commissioner mentioned, for us to be able to get our response times to Bonita, to Wiggins Pass to get over to 41. We're doing it. As you know, we will, but this would certainly improve our community needs in that area.

COMMISSIONER SCHUMACHER: Okay. Thank you.

CHAIRMAN FRYER: And I thank you for your service, too. Thank you, sir.

LIEUTENANT LINTZ: Thank you, Commissioner.

CHAIRMAN FRYER: Let's see. Staff has nothing further to present, I take it.

MR. BOSI: Correct, sir.

CHAIRMAN FRYER: And so at this time, I'm going to ask Ms. Pedron in the back to inform us what we have in store for us by way of registered speakers.

MS. PEDRON: Good morning, Mr. Chairman. We have a total of six in-person speakers. Our first speaker is Mark Loewe, followed by Michael Brady.

CHAIRMAN FRYER: Okay. And either podium can be used. So if your name's been called, go to the first podium, and if you're at the ready, be proceeding toward the second podium so that we can move through expeditiously.

MR. LOEWE: Good morning, Commissioners. My name is Mark Loewe. I'm the property manager for two condominium associations at Arbor Trace. That's the property that, as we've seen, abuts the north of Kalea Bay.

My supporting documents are found in the agenda package Pages 653 to 656. And the reason I'm here today is to talk about just one of our concerns at Arbor Trace, and that is flooding.

I petitioned the County Commissioners to delay any more requests to amend the PUD until the Kalea Bay's water management plan is reviewed and updated. During Hurricane Ian, the parts of our community closest to Kalea Bay suffered or experienced flood waters coming from Kalea Bay.

During the hurricane, I stayed at the tower building, and I personally witnessed that the flood water coming from the Kalea Bay was greater than the flood water coming from the gulf behind the

tower. Those -- our residents who live in the mid-rise and also the tower could have seen the same thing. As a result, Arbor Trace suffered over \$2 million in preventable damage to vehicles, garages, landscaping, and even an environmentally protected area called the Cypress Dome.

No doubt Aqua Shore on the south side has their own concerns about flooding, because they experienced a lot of flooding as well.

While no one can change the past, we can learn from it. Clearly, the water management plan of Kalea Bay failed. We all know that Lodge Abbott illegally filled in wetlands and paid a fine. In addition, they cut a hole in the mangroves in order to put in a dock.

I ask the commissioners, was the water management plan reviewed or updated after the acre of land -- wetlands was filled in? Was it reviewed or updated after a dock was built?

Would it make sense to build the promised berm that Kalea made to Arbor Trace back in 2006 now to prevent future water intrusion? Should the requested amendments even be considered until the water management plan is reviewed and updated? Should construction of Tower 5 be allowed to proceed without updating the water management plan?

During a recent meeting with Mr. Corse (phonetic) and Mr. Yovanovich, they admitted that the dock suffered damage, and they experienced some flooding between Buildings 2 and 3 where the channel was cut to build the dock. Clearly, it would not be prudent to amend the PUD without first having the water management plan reviewed and updated.

Therefore, I request of the Planning Commission to table any amendments to this PUD until that water management plan can be updated and reviewed and a berm is built to protect Arbor Trace from future water intrusion. Since it's been over 17 years since that promise was made, I don't think it's a delay -- a delay of a few more months would cause any harm to the developer.

I thank you in advance for allowing me to speak on behalf of the residents at Tower Trace and Collier County. We hope your decision today will take into consideration how future development affects existing neighborhoods.

CHAIRMAN FRYER: Thank you, sir. Would you please restate your name? I missed it.

MR. LOEWE: Mark Loewe.

CHAIRMAN FRYER: How do you spell that?

MR. LOEWE: L-o-e-w-e.

CHAIRMAN FRYER: - w-e, thank you.

Vice Chairman Schmitt.

COMMISSIONER SCHMITT: I have a question for Mr. Loewe. I don't know if this is specific for you, but you touched on an issue about updating the water management plan. Is the resident engineer here for the project? I want to ask a question, because I don't want to lose this subject.

MR. YOVANOVICH: No, he's not here, but, you know, obviously, we're going to go through a site -- we already have a Site Development Plan approved for the project.

COMMISSIONER SCHMITT: Well, my question has -- in detail, then, as far as -- first of all, the request was to stop any construction of the fifth tower until the water management plan is updated.

I turn to the County Attorney. I don't think we have any authority to do that, nor the County. Some I -- though I understand your request, they have every right to put up that building. I don't see how the County -- unless they suffer another Bert Harris Claim or some other claim of legal concern, I don't think that can be done, number one. So I'll ask that question.

CHAIRMAN FRYER: I'm going to put everyone on notice that we would respectfully appreciate you putting your telephones on mute.

MR. GOLDSTEIN: My bad.

CHAIRMAN FRYER: Okay. Everyone, please put your telephones on silent.

County Attorney.

MS. ASHTON-CICKO: The County does have ordinances in place regarding the displacement of water onto other property. That's in our Code of Laws. I see that Ms. Cook is coming up, because her staff will be reviewing the SDPA and --

COMMISSIONER SCHMITT: Yeah. Well, I understand that --

MS. ASHTON-CICKO: -- in light of the comments --

COMMISSIONER SCHMITT: -- but as far as stopping construction --

MS. ASHTON-CICKO: Oh, stopping construction. No, no. I thought you meant adding something to the PUD.

COMMISSIONER SCHMITT: No. The other piece I'll ask -- I'll ask Jaime, but as far as stopping construction, I don't -- without it being some kind of a take or some other type of legal action, I don't believe this county has any authority to stop the construction to the authorized constructed height as it's now allowed, and that's 17 stories.

So -- but with regards to the water management plan, will there be a requirement to go -- now go update the Environmental Resource Permit through the Southwest Florida Water Management District, or will they still be able to develop under the existing permit from 2000 -- whatever it was -- the year 2000, 2003?

MS. COOK: The project -- the South Florida Water Management --

CHAIRMAN FRYER: Give us your name, Ms. Cook.

MS. COOK: Oh, I'm sorry. Jaime Cook, director of Development Review for Growth Management.

The ERP was updated in July of 2022, so it is a current permit that includes all of this development, the golf course, the high-rises, and the rest of the development they are doing.

Additionally, going back to the stopping construction part, there is a Florida statute that says local jurisdictions are not allowed to hold up zoning petitions --

COMMISSIONER SCHMITT: Correct.

MS. COOK: -- for state and federal permits.

COMMISSIONER SCHMITT: Correct. That's exactly -- and I understand that, my background both in federal permitting and in local.

But the water management plan, to be clear, has been updated?

MS. COOK: It has been updated, and by adding three stories to this building would not be increasing the amount of pervious area on the site.

COMMISSIONER SCHMITT: That's my next question. Regardless how many stories, the footprint of the building remains the same --

MS. COOK: Correct.

COMMISSIONER SCHMITT: -- so, therefore, the water management plan, as approved through the South Florida Water Management District, remains the same. And for your information, yes, there is -- as the County Attorney stated, there is -- you cannot allow the water to move off of your property. You have to have some engineering and design -- it's through the South Florida Water Management District -- to have a property permitted through what we call the ERP, Environmental Resource Permit. Were you aware that the -- they filed and updated the water management plan? Because obviously you're not.

MR. LOEWE: No, I was not aware of that.

COMMISSIONER SCHMITT: It is a process that goes through the South Florida Water Management District. It's a public meeting. The public is allowed to participate in that and provide input, and it's duly advertised. I just don't understand what you're asking because, again, it's not within our purview. That's a state permitting authority, and it's in coordination sometimes through the 404 process, the Clean Water Act, which is managed and operated and controlled by the U.S. Army Corps of Engineers. And then the water management side of the house is deferred to the State.

So from the standpoint of regards to the water management plan and all the aspects of it, the base flood elevation, all that is current and is approved.

MS. COOK: Correct.

COMMISSIONER SCHMITT: Okay, thanks.

CHAIRMAN FRYER: Thank you.

Next speaker, please.

Thank you, sir.

MS. PEDRON: Our next speaker is Michael Brady, followed by Judi Palay.

CHAIRMAN FRYER: Thank you. Mr. Brady.

MR. BRADY: Good morning, gentlemen. My name is Michael Brady. I'm a resident of Arbor Trace, and I live in the Tower Point building.

The reason I'd like to speak today is because I'm very concerned about increasing the height of Building 5 on the property.

The plan that was approved, in my opinion, if you take out the golf course property, it's a huge density for that piece of property. And I think to increase the number of units that are going into Building 5 would be a dramatic mistake on the part of the County Commission.

And I request that you give serious consideration to sticking to the plan as it was approved. Although I would be opposed to that plan, it's done, and I believe that it should remain as it was approved and no amendment to the height of that building.

I thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MS. PEDRON: Our next speaker is Judi Palay, followed by Rhonda Saunders.

CHAIRMAN FRYER: Thank you.

MS. PALAY: My name is Judi Palay. I am a former resident of Glen Eden and now live across Vanderbilt Drive at Arbor Trace.

I wish to begin by asking several questions of our County Planning Commission. In June of 2008, there was a legal signed document which was a settlement agreement, quote, to protect the public interest, unquote. Have you read the document? What is the purpose of it if it is being ignored?

Have you seen Kalea Bay? I had submitted some pictures. I don't know whether you have them. I had submitted them earlier to you.

And I ask if you're able to identify. One of the pictures is a prison in California, which looks just like Kalea Bay.

What were the promises made to us when we purchased our properties? Well, before the formal settlement agreement, and the big one, we don't ever want to look like Miami Beach.

How have these buildings changed our landscape? FYI, Aqua, to one side, is 11 stories. Arbor Trace, the other side, is 17 stories.

You can see the pictures there. Thank you.

Theirs would be a total of 23 stories. Do they fit into the architecture near them? Have they changed our traffic patterns? Our wildlife? Our air quality? At least four years of sand and dirt added, trees removed, our noise levels.

Making these buildings larger by 60 feet, skewing the buildings, which, in turn, change distances between buildings, blocking the views from the lanais of Aqua, how would these affect the light for Arbor Trace?

And No. 10 of the signed agreement, quote, Building 5, as shown on the revised Bald Eagle Management Plan, shall be increased from 15 stories to 17 stories but shall not exceed 175 feet in building height, unquote.

The settlement agreement was hammered out so that all sides would be dealt with fairly. Up to this point, the agreement has basically been ignored by administrative staff.

Are you aware that any changes made now will become the standard for Collier County?

Regarding the golf course, the settlement agreement states, quote, as each residential condominium building receives the first certificate of occupancy or temporary certificate of occupancy, Lodge shall record restrictive covenants on one-fifth of what is known as the golf course parcel, and when all five covenants are recorded, they will restrict the use of the entire golf course parcel to two residential units and the uses described in the PUD for the golf course development area.

These restrictive covenants shall each provide that if the golf course is ever discontinued or abandoned for any reason, then all of the golf course parcel including, without limitation, the entire golf course development area except for those portions allowed for the two residential units shall remain

forever as green open space and be limited in perpetuity to the uses expressly allowed in Paragraph 5.3 of the amended PUD preserve parcel.

Any revisions to these restrictive covenants will require a supermajority vote of the Board of County Commissioners. And, suddenly, the golf course parcel has room for a whole golf course, of course, a deal with the County for a parking lot to hold 100 cars, and, voilà, okay. One problem is solved. Lawnmowers going on at 6:00 or 6:30 in a residential area, a fire station requested by whom, also in a residential area?

CHAIRMAN FRYER: Ma'am, I'm going to ask you to wrap it up. You're at five minutes. Take another 30 seconds or so.

MS. SAUNDERS: May I yield my part of my time to her?

CHAIRMAN FRYER: Yes, you may.

MS. SAUNDERS: I will.

CHAIRMAN FRYER: All right. You've got five more minutes.

MS. PALAY: Thank you.

Where did that come from? I had been told that land had already been purchased for a future fire station. And, by the way, I do want to point out that I know where the fire station is currently, and one can go right up Woods Edge Parkway to get to 41. I use that all the time from where I live.

We were here first. We are trying to protect our neighborhood and our home values. We are asking our officials who are supposed to represent us to do just that. Please stop this overreach.

During season we cannot even make a turn out of our driveway, and why only measure the traffic in July when traffic is at a minimum?

Please protect us. Uphold the settlement agreement, as has not been done, for the neighborhood, our infrastructure that cannot support more, and, most importantly, our environment.

Thank you for listening. And now, what might you help to do to rectify this situation? And, by the way, as an aside, I totally agreed with the decision in 2008 to not add to any builder or developer's cost by having them contribute to affordable or workforce housing, but much has changed since then.

When condos are selling in the millions, shouldn't there be some responsibility to help with the housing needed to accommodate people in the service areas needed for our nurses, teachers, lawn and house maintenance, for example? After your buildings are completed, then what?

And I'd also like to give you-all a copy of -- this was a brochure that we did in 2014 when we asked you to please consider the growth. We have a problem now with bikers on that road sharing it with boats, sharing it with extra traffic. There is a very serious problem, and, unfortunately, I'm afraid that it's going to mean somebody's going to get seriously hurt by all of the traffic that we now have. So I'll ask that these be distributed to you.

CHAIRMAN FRYER: Thank you very much.

Vice Chairman Schmitt.

(Applause.)

COMMISSIONER SCHMITT: Yeah, I just have a question.

CHAIRMAN FRYER: Let's talk about ground rules here real quickly. Please, when you don't have the floor, we ask that you be silent. Everyone's going to have their opportunity to speak, but as a courtesy to us and a courtesy to the other members of the public, let's treat this as though it were a full judicial proceeding. It's a quasi-judicial proceeding.

Thank you very much.

Vice Chairman.

COMMISSIONER SCHMITT: I have a question.

You stated "in regards to the settlement agreement." As I understand it, it was if/or. If they do not construct the golf course, then it would be in preserve, but there was never -- clarify for me in what you read -- and I recall reading as well, but I don't believe there was any restriction that prevented the golf course from being built.

MS. PALAY: No. But if the golf course is no longer going to be, it goes back to what the original was.

CHAIRMAN FRYER: Correct.

COMMISSIONER SCHMITT: Correct, okay. I understand that. But they're building the golf course, so that's a moot point now, correct?

MS. PALAY: But four years from now, they could cancel the golf course and decide that they're going to come back to you and ask you to build -- at one point it was sixty-some houses that they wanted to build on that piece of property. In lieu of being able to build housing on that property, they were given the extra buildings on the west side.

COMMISSIONER SCHMITT: Yes. And I recall, but I --

MS. PALAY: Correct.

COMMISSIONER SCHMITT: But if they do not build the golf course, it stays in preserve, according to the settlement agreement.

MS. PALAY: Or if they close the golf course, it remains green space in perpetuity.

COMMISSIONER SCHMITT: And I don't think there's any objection to that. I just don't know what the issue is here.

MS. PALAY: Okay. Let me go back to 2014 when Glen Eden came over and talked to you-all about the problems there. One of the major issues that we have is that they said that there was not room for 18 holes, and they asked for space on the west side to be able to put the golf course buildings, et cetera. Suddenly, we have 18 holes and a fire station and space to be able to put all the golf course equipment and parking, I assume, that's suddenly able to fit in that same amount of land.

And if you drive by there, it's really tragic. All of the trees are down. We had a gazillion animals that live there, including bear, including -- I can't even begin to tell you. I don't even know how many tortoise nests were there. They don't exist there anymore. That land has been flattened, and all of the trees and everything that was there -- and we need those trees -- we need them for sound. We need them for protection -- we need them for the berms, et cetera. They're all down; it's just a stack of wood on the golf course.

COMMISSIONER SCHMITT: Okay.

MS. PALAY: So if it ever goes back to not being a golf course...

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: I want to be sure that we stay on topic here. And correct me if I'm wrong -- maybe I am -- but I don't believe that there is anything in the perpetual easement or restrictive covenant that regulates the height or density or intensity of the buildings on the west side.

MS. PALAY: Oh, it did, and I read it to you.

CHAIRMAN FRYER: In the perpetual agreement? Or in the settlement agreement?

MS. PALAY: In the settlement agreement.

CHAIRMAN FRYER: Okay. But that's not perpetual.

MS. PALAY: But the deal was that if they built the golf course, they were limited to the number of units that they could have on the west side. They've met that and then some.

CHAIRMAN FRYER: I just want to point out that -- I mean, I don't want to get overly technical here, but if there had been a concern about height and density regulations being changed by the parties to that contract, the two parties, the County and the developer, that should have gone into the perpetual easement, and it would have been perpetual. But when it goes into a contract, the parties of that contract can alter the contract.

COMMISSIONER SCHMITT: Right.

MS. PALAY: Yes, you're correct. However, what good did it do us to hammer out a settlement agreement that hasn't been adopted or abided by? And it was for the protection of our area. Those buildings that are up there don't fit into the neighborhood. We're not all of those high-rises, so we're trying to protect our --

CHAIRMAN FRYER: I understand --

MS. PALAY: -- value and our neighborhoods.

CHAIRMAN FRYER: I understand your points, and I'm absolutely sympathetic to your point of view --

MS. PALAY: But --

CHAIRMAN FRYER: -- but the problem is is that the document that is to be amended is a two-party document, and if the two parties agree to amend it, that can happen. If this were a perpetual easement of some kind, that couldn't happen. That was the time to eliminate height -- to limit height and intensity and density.

MS. PALAY: Well, I believe that that's what we thought the settlement agreement did.

CHAIRMAN FRYER: I understand.

MS. PALAY: And the two parties obviously don't include all of us who are on Vanderbilt and who are affected by this.

CHAIRMAN FRYER: Correct. That's correct.

Thank you, ma'am.

MS. PALAY: Thank you.

CHAIRMAN FRYER: Next speaker, please.

MS. SAUNDERS: I'm going to yield the rest of my time.

CHAIRMAN FRYER: You have. Thank you. Thank you very much.

MS. PEDRON: Thank you. Our next speaker is James Goldstein, followed by James Fil.

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

MR. GOLDSTEIN: My name is David Goldstein, G-o-l-d-s-t-e-i-n.

CHAIRMAN FRYER: Thank you.

MR. GOLDSTEIN: My colleague, Mark Loewe, has spoken briefly already about the water situation. And I understand your point that an amended plan was filed and approved in 2022. But in point of fact, that plan didn't work. And it's clear that it didn't work because we had flooding as a result of Ian. Now, I think it's time to go back and review the plan. It didn't work. That is not the major point of my discussion, though.

I am the president of Tower Trace, one of the entities that, together with our two condo associations and our management service company, comprise Arbor Trace, and I'm speaking on behalf of all these entities in opposition to the request to increase the height of Building 5 to 20 stories and the number of units to 600.

Why are we here or discussing this? In 2006, the last time Lodge Abbott sought and eventually obtained an amendment to the Cocohatchee PUD, Rich Yovanovich, the esteemed attorney for Lodge Abbott, said on the record to the BCC, It is our commitment to limit the density to 590, and we will not come in and ask for an amendment to increase that density. That is, in fact, a commitment, and that's a quote, which is why I again ask, why are we here today?

One of the major issues in the prior proceedings, which extended over several years, was the height of the Kalea Bay towers in general and the fifth tower in particular.

It is clear from the record that the reason for limiting the height of the fifth tower to 17 stories while increasing the height of the other towers was done in recognition of the fact that the Arbor Point building, which is adjacent to Building 5, is 17 stories high.

I recently met with Mr. Yovanovich, and among other things, I asked him why Lodge Abbott was asking for the exact thing that they committed that they would not request.

His answer was: Circumstances change.

And point of fact, the only significant change in circumstances since the approval of the prior amendment to the PUD is that there's been a significant increase in the selling price of units in Kalea Bay.

Lodge Abbott would like to take advantage of that increase by building and selling an additional 12 units consisting of 10 from the proposed increase from 590 to 600 and two from the elimination of the two single-family homes that were to be built on the golf course parcel.

We estimate that the 12 additional units in Building 5 will sell for a minimum of \$60 million. That is a change of -- only change in circumstances that I see. Increases in prices in Tower 2, a unit that sold for a million 695 in 2020 was resold for 4 million.

Another unit sold by the developer in 2020 for 2 million and fifty was resold for 4 million 995. The increase in value is the only reason Lodge Abbott is seeking to add 10 units to Kalea Bay.

If, in fact, the Planning Commission or the Collier County Board of Commissioners approved the proposed amendment, Arbor Trace will have to consider litigation against Lodge Abbott and the commissioners because, clearly, we were an intended third-party beneficiary of the original settlement agreement. That's the only reason that you have that difference in heights between Buildings 1 to 4 and Building 5 was out of the consideration of the height of Tower Point.

For all of these reasons, well, Lodge Abbott made a commitment to the Commission to limit the units to 590, to limit Building 5 to 17. For the Commission to allow these changes would be undermining the authority of the Planning Commission and the County Commission.

For all these reasons, we urge the Planning Commission to deny the proposed amendment at least with respect to increasing the approved number of units and stories.

Thank you.

CHAIRMAN FRYER: Mr. Goldstein?

MR. GOLDSTEIN: Yep.

CHAIRMAN FRYER: Was there a provision in the settlement agreement calling out your neighborhood or any neighborhood as an intended third-party beneficiary?

MR. GOLDSTEIN: Not specifically, but if you look at the record leading up to the approval of the settlement agreement, it was clearly done in recognition of Arbor Point. I'm sure Mr. Schmitt can recall that, okay.

It's clearly -- why else would the fifth building have been a different height than the other four, except in consideration of the Arbor Point building?

CHAIRMAN FRYER: Thank you.

No one is signaling now for questions, so we'll go to the next registered speaker.

Thank you, Mr. Goldstein.

MS. PEDRON: Our next speaker is James Fil, followed by Douglas Fee.

MR. FIL: Hi. James Fil, F-i-l.

I'm a resident in Falling Waters North Preserve, which butts up against the new access road/firehouse to the golf course.

I walk three days a week down to the boat ramp, and I've seen some disturbing changes. Let me qualify this first by saying I'm a golfer, and I love golf, but during Hurricane Ian, half the golf course was underwater, if not more, and it's still demonstrated by the dead pine trees and other foliage.

And what I've seen now with the building of the golf course is the elevation is raised significantly from what was -- and I'm not sure what the correct term is, floodplain, watershed, but that area saved our community and other communities a lot of flooding.

Now that that area, which is the golf course, is being elevated, not to mention the addition of paving for parking and buildings, where is that water going to go?

Now, the lady said there was a plan that was approved. I'm a common-sense guy. I don't see where that water's going to. It's got to go somewhere. And with the golf course being elevated, who proposed this change to -- was it Southwest Florida Water Management? Was it Collier County? Was it both entities? I would love to see that report and have someone explain it to myself and my neighbors, where is that water going to go?

Thank you.

CHAIRMAN FRYER: Thank you very much.

Next speaker, please.

COMMISSIONER SCHMITT: I have a question.

CHAIRMAN FRYER: Oh, I'm sorry. Vice Chairman.

COMMISSIONER SCHMITT: I just wanted to respond again. In regards to water, as stated by the County Attorney -- and it's clear even -- every legal opinion in our LDC that the developer cannot allow water to encroach onto other neighboring property, or they are subject to the liability that that water may create from a standpoint of damage or elsewhere. So that's clear that they have to take care of the water that is on their property and has to be conveyed how. That goes through what I described earlier as an ERP, the environmental resource permit, and that goes through the South Florida Water Management

District.

You are -- you can go online to the district, and you can ask -- or you can ask a representative of South Florida Water Management District to explain to you the process and how -- or whether there was any type of violation or anything that was not -- you believe not considered properly through the permit process. That is a public process. That's a public process as far as the permit -- going through the permitting aspect of it.

If you don't get an answer from there, I would recommend you contact the Big Cypress Basin, which is technically part of the South Florida Water Management District.

We don't manage that. That's a state agency, and they're responsible for the water management. All staff does is to evaluate -- or verify that the permits have been submitted and approved. I don't know if that answers your question.

MR. FIL: No, I appreciate your explanation. I'm just -- again, visually, the land has been raised significantly.

COMMISSIONER SCHMITT: Yes. And then they have to take care of any displacement of water, but they cannot displace that water onto neighboring property. They have to convey it and control it through their property.

MR. FIL: And, again, sir, I respect what you're saying, but common sense tells me you take low lands --

COMMISSIONER SCHMITT: Yes.

MR. FIL: -- and raise them up, I don't know, 4 feet, 10 feet -- not 10 feet -- but that water has to go somewhere.

COMMISSIONER SCHMITT: Okay.

MR. FIL: And maybe Southwest Florida Water Management can explain that to me, but common sense tells me it's going to be a problem.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MR. FEE: Good morning. My name is Doug Fee. I live in the neighborhood.

We've been talking about Cocohatchee Bay since 2000. That's when it came before the neighborhood many years ago.

As has been spoken, there was a Bert Harris lawsuit. That lawsuit involved all of us, every taxpayer in this county. I believe it was to the tune of \$280 million.

At the time, the suit was dropped because there was a negotiated settlement. We relied on the Planning Commission and the County Commission. They are us. We are them, okay.

There is an agreement, and it is pointed out that it's between the County and the landowner. There were two years, three years of negotiations that went into that settlement, and there were many of us in the neighborhood who were involved.

We had petitions at the time to the tune of 2,000 people in our neighborhood surrounding this property that was very much involved, and here we are today. In front of us is the settlement agreement. You can call it whatever you want. It's an agreement, and we feel, we, the residents, that there were two main things that came out of the settlement. One, that density would not be asked for again.

As has been said by other speakers, specifically Mr. Yovanovich told the commissioners we will not be seeking density, okay. Keep that in mind. What we have here is 10 units, but that was a promise made and a promise that we, the residents, look for you to try to uphold, okay.

The second thing is because we had all the units on the west side of Vanderbilt Drive -- that's where they were -- we were concerned about the golf course, and that's why this settlement agreement put to bed the fact that we had green space and golf course so that we wouldn't have to worry about the development of that side.

We certainly know and understand that development, great neighborhood, know a lot of the people in Kalea Bay, but those are two things that we, the residents in the area, count on.

You can say no to this, okay. You have the ability, with the residents behind you, to say, You

made the deal. You have a settlement. There's no reason for you to go down that road because, quite honestly, if you're willing to allow them to build 10 more units, it will not take long before they want 100 or 200 more units. And we, the residents, we went through that, okay.

So you have the ability. Planning commissioners, you are us. You are us. And the legality of it is it's different than just a rezone. This is not just a PUD rezone. It's a settlement agreement. You have to represent us as well as the interests of the development. I understand that.

The second thing I want to say is there are lots of "end around" in front of you. You have a proposed change in zoning out here at 41 to an essential service. Right now it is baseline golf course. That is very minimal in its intensity, density, whatever you want to call it. That needs to be in a rezone. That needs to have a hearing. It needs to allow the residents of Falling Waters to the north and Tarpon Cove to the south -- they need to know what are the specifics?

I don't see how you can do a rezone and a settlement here allowing a fire station or any other essential services, okay.

There is a parcel of land that was purchased many years ago up in the commercial area off of Old 41. The North Naples Fire District owns that parcel. It would allow them to build in a commercial zoning. This is golf course and residential, okay.

The other thing about this is you have a road that will service North Naples. It's called Veterans Memorial. It goes over to Livingston Road. It's going to service a high school. It comes over to 41 where the Mercedes dealership is, and it may, someday, proceed over to Vanderbilt Drive. There is reservation in the PUD right now of 100 feet and 67 feet in the north PUDs. That is an extremely important road.

The neighborhood, yet, has not bothered to ask the County, when will you be extending the roadway network over to Vanderbilt Drive? But mark my word, it's coming.

So you as planning commissioners, you need to take into consideration what you're doing today as it relates to the development of that road, okay. They want to call it a private road. In fact, it's been cleared. It should be at the standard that's across 41. It should be at the elevation. It should be setting itself up for the eventual four-laning or whatever they want to do to Vanderbilt Drive, okay. I don't know if it is or it isn't, but that's part of the planning.

The other thing about it is down here at the parking lot, that parking lot being donated should not be part of this rezone or the settlement. It's -- it's a separate piece of land. It's in a different PUD. So why is it not subject to some future zoning even if the County wants to make it a county park? That needs to be heard at a meeting, not in this type of a meeting.

There are so many issues, okay, that -- the density and the height on that building, when we went through negotiation for the Bert Harris, there were 90 units. They were exactly where that fire station was, 90 affordable units. Through the negotiation, they were allowed to move them over to the west side. It made sense. It made sense economically to do that.

They actually got to build the buildings wider, and all that was negotiated, and it is what it is, and we like Kalea Bay. But that fifth building was supposed to be a transitional building to Tower Point.

CHAIRMAN FRYER: Mr. Fee, you've had seven minutes. Would you please try to wrap it up?

MR. FEE: Okay. I just want to say that, for the neighborhood's sake, if you check the record, there are petitions that have thousands of signatures. They do not want this rezone, this settlement agreement, open.

Just one more point, and that is I believe the developer will come up and say, but the settlement agreement allows there to be the same amendment. Well, possibly it says it in there, but I don't believe it's meant to undo all the promises that were made to the residents.

Thank you very much.

CHAIRMAN FRYER: Thank you. We're going to have a mid-morning break at 10:30, but, Vice Chairman, you have a question or comment?

COMMISSIONER SCHMITT: I would just ask staff, the issues that Mr. Fee brought up in regards to the -- I don't know what I want to call it, illegality of the rezoning, I think that's the word I'll

use, he said that there should be requirements for the other aspects of the request, both the parking lot and the fire station that goes through separate rezoning.

Could you make a comment as to the validity of what's on the books today and whether it is in any way, shape, or form some kind of violation.

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

As for the safety service facility, essential service facility, that is being added to the PUD as part of this process. It was duly noticed, it was advertised, will go to the Board of County Commissioners after a recommendation from the Planning Commission.

The other parcel of land, as indicated, is a C-3 zoning parcel, allows a parking lot, allows convenience stores. So there's no need for a rezone of that other parcel. That is addressed within the settlement agreement. That does not come into play for this individual PUD. That is not something that is being considered by the Planning Commission to be added to the Cocohatchee Bay PUD. That is a separate parcel with separate zoning. It's only addressed within the settlement agreement.

COMMISSIONER SCHMITT: Correct. So no separate rezoning action. What's on the table today is legitimate, and with -- with all constraints, it complies with both our -- the application process complies with both our Land Development Code and Growth Management Plan.

MR. BOSI: That's the determination staff has --

COMMISSIONER SCHMITT: Okay. Thanks.

CHAIRMAN FRYER: Thank you. It's 10:29. We'll stand in recess until 10:40.

(A brief recess was had from 10:29 a.m. to 10:40 a.m.)

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

Ladies and gentlemen, let's return to session, please.

Ms. Pedron, do we have another in-house registered speaker?

MS. PEDRON: Mr. Chairman, we do not have any in-person speakers at this moment.

CHAIRMAN FRYER: Okay. Let's go to who's on the phone.

MS. PEDRON: So we have a total of seven online registered speakers.

CHAIRMAN FRYER: Okay.

MS. PEDRON: Our first speaker is Matthew Lynch, followed by Bill Lambert.

CHAIRMAN FRYER: All right. Mr. Lynch, are you there, sir?

(No response.)

CHAIRMAN FRYER: Matthew Lynch?

(No response.)

CHAIRMAN FRYER: Well, we'll come back to Matthew Lynch.

Who's next?

MS. PEDRON: Our next speaker is Bill Lambert.

CHAIRMAN FRYER: Did you say Lambert?

MS. PEDRON: That is correct.

CHAIRMAN FRYER: Mr. Lambert, are you there, sir?

(No response.)

CHAIRMAN FRYER: Mr. Lambert?

MR. LAMBERT: Yes, I am. It just came up so I could unmute.

CHAIRMAN FRYER: All right. You have the floor.

MR. LAMBERT: Thank you.

CHAIRMAN FRYER: Go ahead.

MR. LAMBERT: Thank you. I'm the president of Falling Waters North Preserve. You heard from Mr. Jim Fil earlier. Just stating -- many of our residents obviously, through the development of the golf course, have -- you know, have seen what -- you know, with all the land being cleared and all that and our -- we have probably half and half on their feelings on the fire station, how they feel about it being there, but our big concern is restoration of some of the privacy and the noise that was formerly there, you know, protected by trees, and obviously the water concerns that they had as well.

So I just wanted to speak to that and raise that concern, and hopefully, as these projects move forward, we can be included to help address the concerns of, you know, our privacy and noise concerns from whatever happens to be built there, whether it becomes, you know, residents -- a couple residences, as was in the original PUD, or a fire station as is requested now.

Thank you.

CHAIRMAN FRYER: Thank you, sir.

Next speaker?

MS. PEDRON: Our next speaker is David Heebner.

CHAIRMAN FRYER: Mr. Heebner?

MR. HEEBNER: Yes, good morning.

CHAIRMAN FRYER: Did I pronounce it correctly, sir? Did I pronounce your name correctly?

MR. HEEBNER: Yes, you did. Thank you.

CHAIRMAN FRYER: Please go ahead.

MR. HEEBNER: Yes, I'm a resident of 320 Horse Creek Drive, and that is directly on the other side of Tract 10, the parcel that's been talked about being the parking lot for overflow from the marina.

I noticed recently that there's been a change adding a commercial building into that parcel. And, of course, the fear is that that is a 7-Eleven, which I believe the one gentleman referred to it as a convenience store. That building would be directly out the front doors of everyone at 320 Horse Creek Drive as well as building 300 on Horse Creek Drive, and of course the concern is that if it is a convenience store with diesel trucks and people flowing in and out of there, dumpsters, everything being in full sight of our buildings on Horse Creek Drive, which is right behind, as I said.

Also what was talked about a little bit earlier, you know -- I guess I would like an answer as to the status of that. Will there be a convenience store in there? And my hope is that you will please not approve that. Leave it as the parking lot that they had in the original plans for overflow for the marina, as well as pushing that whole plan closer to the corner of Vanderbilt and Wiggins so that if it is a parking lot for the marina, that it's enough room there to add in a multitude of trees and shrubbery to prevent us looking right into the back of a parking lot and, again, hopefully no convenience store there.

And other things that were brought up earlier I heard --

CHAIRMAN FRYER: Let me interrupt you, sir, if I may. The Vice Chairman maybe has a question or comment on your first point.

COMMISSIONER SCHMITT: Well, I do. Again, just for clarity, sir, the parking lot is not part of this zoning request, and it's not even before us for consideration.

I certainly understand and appreciate your comments, but that is not an issue that's before us today. It is part of the settlement agreement, but as was pointed out previously, the property is already zoned C-3 so it can have any type of C-3 building on that piece of property.

So the existing zoning allows -- I guess wouldn't -- staff, for a -- if they want to put a ship store or something else there, it's allowed by zoning.

MR. BOSI: A parking lot, a convenience store, a ship store, those are permitted -- Mike Bosi, Zoning director. Those are permitted uses in the C-3 district, so those could be developed as a matter of right through a Site Development Plan.

COMMISSIONER SCHMITT: Correct. So I just want to just address and from -- the concerns you raise are really not a matter for us in this rezoning process.

MR. BOSI: But I would indicate to the speaker that we do have a requirement within our Land Development Code when you have a commercial development that's being developed adjacent to a residential development, we require a wall and buffering, so it helps with the compatibility issues.

COMMISSIONER SCHMITT: Everything there would have to comply with the existing Land Development Code?

MR. BOSI: Correct.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you. Mr. Heebner, you can continue. Your time will be extended.

MR. HEEBNER: Okay. I guess the question, then, would be, you know, that wall, if there is a convenience store there, would that have a barrier for diesel trucks running in that parking lot?

CHAIRMAN FRYER: Well, we'll see if we can get an answer for that going forward, sir. Anything else?

MR. HEEBNER: I was just -- also, too, what -- you know, what changed from the original plan of just having it as a parking lot and now adding in a convenience store? As you look up and down Vanderbilt Drive for a couple miles in either direction, there's no commercial buildings anywhere along Vanderbilt Drive.

CHAIRMAN FRYER: Well --

COMMISSIONER SCHMITT: I think, sir, the existing zoning allows it. I don't know what else I can say. And, again, it's not -- we're not here dealing with what's already zoned and allowed for on that piece of property. I understand what you're saying. You --

MR. HEEBNER: When will that be discussed?

COMMISSIONER SCHMITT: Say again, please.

MR. HEEBNER: When will that be discussed and decided on?

CHAIRMAN FRYER: Is there anything before the County at this point on this subject?

MR. BOSI: No. As I've indicated, the parcel is zoned C-3. C-3 is commercial 3. It allocates a number -- a variety of uses. A parking lot, a convenience store, those are uses that are allowed by a matter of right. There are compatibility measures that are contained within our Land Development Code that will have to be satisfied to ensure the protection of adjoining residential. But that's -- that won't be up for discussion.

The settlement agreement indicates there will be a conveyance of land. A portion of that property's being conveyed from the owner to the county for the additional boat parking, and then what that individual property owner does within their remaining C-3 is within the property rights that are associated with that parcel of land.

CHAIRMAN FRYER: Thank you. And let me -- let me also add on, technically, the settlement agreement does not pass through us.

MR. BOSI: Correct.

CHAIRMAN FRYER: It was logical to append it to the agenda packet because it answered some questions that we would otherwise have had, and certainly as a Planning Commission, we're always free to recommend whatever we want on whatever matter that comes before us. But, obviously, this is not going to be on the consent agenda for the Board of County Commissioners.

So those of you who take issue with the amendment to the settlement agreement will have every opportunity to be heard by the Board itself that has the authority to grant an amendment or not grant an amendment.

And if we decide to make a recommendation on that, we can. But, you know, I'm not -- I'm not recommending that at this time.

All right. Anything else for Mr. Heebner?

MR. HEEBNER: I understand the zoning, you know, what it's approved for and everything like that, but I would ask you as a commission, you know, do the right thing and don't allow a convenience store to be placed right in front of probably 70 residents that would be looking right at that and very close by to our properties that we've worked a long time to be able to afford and live there and enjoy.

CHAIRMAN FRYER: Thank you. It's -- unfortunately, for -- I guess for you and for others who share your point of view, that's not before us. I mean, we're a reactive body, and we're going to deal with what is before us.

Anything else, Mr. Heebner?

MR. HEEBNER: That's it. Thanks for your time.

CHAIRMAN FRYER: Thank you, sir.

Next speaker.

MS. PEDRON: Our next speaker is Gary Brogoch.

CHAIRMAN FRYER: Is that individual ready to speak?

MS. PEDRON: Gary, can you hear us?

(No response.)

CHAIRMAN FRYER: Say that last name again, please.

MS. PEDRON: Gary Brogoch.

CHAIRMAN FRYER: Gary is the first name?

MS. PEDRON: That is correct.

CHAIRMAN FRYER: Terri? All right -- Gary. It sounds like the person is not ready to speak. Who's next?

MS. PEDRON: Our next speaker is Joan [sic] Pogue.

CHAIRMAN FRYER: Thank you. Ms. [sic] Pogue, are you there?

MR. POGUE: Yes. Thank you very much --

CHAIRMAN FRYER: You have the floor.

MR. POGUE: -- for allowing me to speak. I'm the president of the building association at 320 Horse Creek Drive. You just heard from Dave Heebner, one of my fellow directors, and now that I understand the zoning situation, I recognize we need to look to the Land Development Code for such protections as we think may be necessary to prevent -- to provide for privacy for our building, and we will do that.

I recognize we don't have any standing to speak to the issues before you today and your committee. Thank you very much for the opportunity.

CHAIRMAN FRYER: Thank you very much.

Next speaker, please.

MS. PEDRON: Our next speaker is Dale Myer.

CHAIRMAN FRYER: Bill Myer?

MS. PEDRON: Dale Myer.

CHAIRMAN FRYER: Mr. Myer?

MR. MYER: Hello. Can you hear?

CHAIRMAN FRYER: Yes, go ahead. You have the floor.

MR. MYER: All right. I just -- I will follow up with David Heebner and John Pogue's comments. I live in the same building that they do and understand.

I'm just a common guy that's retired and wants to enjoy my property and dread the thought of opening my front door every day and looking at the back of a convenience store, and that could be open for 24 hours a day. So thank you very much, and we'll have to follow up through other agencies.

CHAIRMAN FRYER: Thank you, Mr. Myer.

Next speaker, please.

MS. PEDRON: Our next speaker is Donna Scuteri.

CHAIRMAN FRYER: Ms. Scuteri.

MS. PEDRON: Donna, can you hear us?

MS. SCUTERI: Yes, I can.

CHAIRMAN FRYER: You have the floor.

MS. SCUTERI: Thank you. I was just listening in. I did not really have a comment, but thank you.

CHAIRMAN FRYER: Thank you for your interest in government.

MS. SCUTERI: Okay.

CHAIRMAN FRYER: Next speaker.

MS. PEDRON: At this time we have no more additional speakers.

CHAIRMAN FRYER: All right. Anyone in the room who has not registered to speak but wishes to be heard in this matter, please raise your hand. All right, sir, please come forward. Let us know if you've been sworn in and introduce yourself.

MR. HOBBS: I have not been sworn in.

CHAIRMAN FRYER: All right. Well, we'll take care of that. Come on up to the mic. The court reporter will swear you in.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

MR. HOBBS: I do.

CHAIRMAN FRYER: Your name, sir?

MR. HOBBS: I'm Richard Hobbs. I live in Aqua.

And, you know, I realize this is going to happen, but the one troublesome thing I see is the southeast corner. You know, it's just what these other gentlemen were talking about, the convenience store issue. This would change the whole flavor of the neighborhood to have cars going in and out to get a loaf of bread or a dozen eggs, and it will be going on all the time.

And with the parking lot, we're going to have an issue with ingress and egress anyway and traffic.

So I met staff, and, respectfully, we'd like to work with them a little bit. And that's the approach we're going to take. But I just wanted to support what the previous two gentlemen raised regarding that corner. I think it's going to be a problem. And it's going to be enough traffic anyway, but that's going to be an issue.

CHAIRMAN FRYER: Thank you very much.

MR. HOBBS: Thank you.

CHAIRMAN FRYER: Anyone else in the room who did not yet register but wishes to be heard, raise your hand. Yes, please, come forward and be sworn in.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

MS. DEGTAR: I do.

CHAIRMAN FRYER: State your name, please.

MS. DEGTAR: Jane Degtart.

CHAIRMAN FRYER: Spell that last name.

MS. DEGTAR: D-e-g-t-a-r.

CHAIRMAN FRYER: Thank you.

MS. DEGTAR: And I'm newcomer to the state, and we just purchased property in Falling Waters, enjoyed it very much until this emergency road started.

My lanai is facing this road. It's opened up the whole view. We bought this property because of this view that we enjoyed. Now what I see is the dusty road that covers my lanai. Every day I have to wash it with soap. We get a lot of dirt on my lanai.

It's opened up to 41. You can get -- there is no security. It's opened access to my back -- my back of my building.

So right now we experience this as -- not the future, but that's what I see right now. They cut all the trees. They put the road. There is no -- no coverage for us. So I don't know if this is -- this is what we're going to have. So I'm not sure -- what is the purpose of this emergency road? Who is going to be traveling on that? Because I'm going to see those cars from my lanai.

CHAIRMAN FRYER: All right. Thank you. Anything else?

MS. DEGTAR: This is a question.

CHAIRMAN FRYER: Yeah, I understand. We'll take it as a rhetorical question, but either the proponent or the staff may choose to provide an answer. Thank you.

MS. DEGTAR: Okay. Thank you.

CHAIRMAN FRYER: Thank you. Anyone else in the room want to speak on this?

(No response.)

CHAIRMAN FRYER: If not, we will close the public comment portion of the hearing and turn to the applicant for rebuttal.

MR. YOVANOVICH: How do I get our presentation back up?

COMMISSIONER SCHMITT: Yeah. Can you put the -- what emergency road are we talking about in this last one?

MR. YOVANOVICH: I'll show you where I think she means.

COMMISSIONER SCHMITT: Okay. Because I need clarity on that.

MR. YOVANOVICH: Ironically, it's where we left off.

What I believe she's talking about is right now, we cut -- as part of building the golf course where you see this circle -- and I can't get the arrow to go all the way up there -- there is -- on the master plan, there's a reservation for future right-of-way along our northern boundary. We've cut a road to build the golf course exactly where it's shown on the master plan, and I think that's where she's talking about. I think she's also talking about the fire station. In referring to the emergency road, I believe she's referring to the commitment to provide emergency access through the fire station property for purpose of Tarpon Cove and having emergency access out.

I think there -- either -- I don't know if she was aware when she bought her property that the PUD already provided for a road in what she's telling us is her backyard. So that's been on the record for probably 23 years now.

CHAIRMAN FRYER: Mr. Yovanovich, it might be helpful, if you would, elucidate who has the rights of use for emergency purposes.

MR. YOVANOVICH: Right -- well, the emergency purposes is only Tarpon Cove and coordinated through the fire department because their concern was their only way out is Wiggins Pass Road, and if that entrance ever got blocked, they wanted another way out.

So we worked with them to provide an emergency access that will be controlled. It will not be -- the fire station will open the road when the emergency happens. It won't be someone who has a clicker to use it as a back entrance to Tarpon Cove. So it will be very limited access. And obviously it will be for the fire personnel that work there. And, you know, when an emergency happens and they have to leave the station, they'll be --

CHAIRMAN FRYER: So ingress for first responders and potential egress for evacuation?

MR. YOVANOVICH: Yes.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: Is that road ultimately going to be paved?

MR. YOVANOVICH: Well, I'm sure the fire -- yeah. The fire district, I'm sure, is going to pave the road they need to get to their station, yes.

COMMISSIONER SHEA: Yep. But not all the way --

MR. YOVANOVICH: It's not going all the way -- I don't believe it's going to be all the way, no. But I don't know that for a fact. I'll have to check.

CHAIRMAN FRYER: Vice Chairman.

COMMISSIONER SCHMITT: The temporary road, then, once we get -- you get through with the golf course construction, it will be, then, properly landscaped and whatever it needs to be done sort of as I'll call it restoration of the -- what is now the temporary road. It will be more aesthetically pleasing?

MR. YOVANOVICH: We will meet all buffering requirements that we have along our northern boundary.

COMMISSIONER SCHMITT: Okay. All right. Okay. So it's -- we're talking about the time frame of now during the construction of the golf course?

MR. YOVANOVICH: Correct.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you. Continue, sir.

MR. YOVANOVICH: Thank you.

I think I'm going to just go in the order of the speakers. I think I wrote their names down correctly.

Mr. Loewe talked about an agreement that was executed between my client and the Arbor Trace community. I don't know that -- if he's aware or not, but in 2014, Dick Wilson with Arbor Trace worked with our client to come up with the appropriate landscaping plans along our -- their southern border and on our northern border. Those landscape plans were signed off by Arbor Trace in 2016. Those plans were actually implemented, which included removing exotics from their property as part of installing the landscape plans that were agreed to between the parties along the northern boundary.

As you know, we already have a Water Management District permit to address our water management. We all seem to forget that we had Hurricane Ian, which was probably, you know -- hopefully it's a once-in-a-lifetime storm, but we don't know. But it was clearly -- I've been here 33 years, and we've talked about the surge coming, and we finally got the surge, and we didn't get it as bad as we could. But that was Hurricane Ian. It came through. There was a lot of flooding all over Collier County.

We also lost a lot of trees on the golf course that, candidly, we wish we didn't lose. So we lost --

CHAIRMAN FRYER: Commissioner Vernon.

MR. YOVANOVICH: I'm sorry.

COMMISSIONER VERNON: Were you switching to a new topic?

MR. YOVANOVICH: No, I'm still on -- I'm still on Hurricane Ian.

COMMISSIONER VERNON: When you finish, I've got a question.

MR. YOVANOVICH: Okay. So we lost a lot of trees as part of that storm that were going to be remaining on the golf course.

If you drive by there, you are correct, it is basically barren land. But the community wanted us to build a golf course as part of the rezone process, and we're delivering a golf course as part of the rezone process.

Golf, with COVID, made a resurgence. It's very popular. The golf course is now a financially viable alternative, and it's been properly designed for it to be a very nice golf course. And I'm sure anybody who wants to pay the membership fee can inquire about getting a membership.

We did exactly what the agreement called for, and as the woman who spoke about that issue -- we put a deed restriction on the property, and she read to you that the deed restriction says it can be amended by a supermajority vote. So there was a provision in both the deed restrictions as well as the settlement agreement that if the parties want to amend it, they can.

We're going through that process. We've shared that with you. I don't think it's relevant to the planning decisions that the Planning Commission, you know, is to deal with, which is consistency with the Growth Management Plan and the Land Development Code, but you're always free to provide your input to the Board of County Commissioners as to how you see fit.

Before I go to the next topic, I'll --

COMMISSIONER VERNON: Thank you, Mr. Chairman.

You did discuss Mr. Loewe's comments. Very helpful. Thank you for that. But he specifically mentioned, in 2006, a berm, and you talked about a landscaping agreement, getting rid of exotics 2014/2016, but you didn't use the word "berm." Was it discussed, et cetera?

MR. YOVANOVICH: Yeah, the berm was actually discussed between the parties, and the berm was going to result in the killing of vegetation on Arbor Trace if we installed the berm. So the parties, Arbor Trace, decided that the landscape option was the option to go forward with.

So the parties did discuss that. Dick Wilson, on behalf of Arbor Trace, that was discussed. Mr. Loewe, I guess, wasn't aware of that. But I went back, after they provided us a copy of this agreement, to find out what was the actual permitting history for the northern portion of our property, and that was the information I was provided from my client's development representative at the time.

COMMISSIONER VERNON: Okay. Thank you.

CHAIRMAN FRYER: Thank you.

MR. YOVANOVICH: I don't -- I kept listening for how the agreement has been ignored, and if "ignored" means we're coming forward with the request to amend the agreement, then I guess it's been ignored, but they have yet to cite anything within the agreement that we haven't agreed to do. As we've been CO'ing the towers, we've been putting in place the deed restriction on the golf course property.

So I don't know what -- yes, we're asking for a change, but I don't think we have ignored the agreement. We've lived up to the agreement as it is currently written, and we are requesting a change.

You know, I did say what I said. But I went back and I read the minutes because I wanted to -- what was the context of what I said when I said it?

We were in a settlement agreement discussion, and the context was we were talking about making

sure that the golf course would remain a golf course, and we were putting the deed restriction in place to make sure that the golf course would be a golf course and there wouldn't be homes built on that golf course. In my mind, I was assuring them we would not come back and ask for homes on the golf course.

Now, that was my mind. People may have interpreted it differently. I said what I said. I'm not retreating from those comments. But we're here asking for an amendment to the contract.

CHAIRMAN FRYER: If I may ask a question with respect to what you just said. You said it was in the context of settlement discussions?

MR. YOVANOVICH: It was at the Board, remember, the settlement agreement.

CHAIRMAN FRYER: All right. So it was in a public hearing, but you were talking about settlement?

MR. YOVANOVICH: I went and read the transcript. You know, I want to make sure I understand the context of what I said when I said it.

CHAIRMAN FRYER: Okay. Let's please try to not speak over one another.

MR. YOVANOVICH: Am I talking over you? I'm sorry.

CHAIRMAN FRYER: You were.

MR. YOVANOVICH: I apologize.

CHAIRMAN FRYER: And so I wasn't able to hear exactly what you said, so I'm going to ask you to say it again.

MR. YOVANOVICH: Sorry. It was in the context of discussing the terms of the settlement agreement that was before the Board of County Commissioners. We were talking about how was the golf course going to stay a golf course, and we were going to do the deed restriction one-fifth of the property at a time, because we had five towers. So in my mind when we were talking about what were we doing, we were assuring that there was no construction of homes going to occur on the golf course property.

And in my mind, they wanted assurance we weren't going to come forward and ask for homes on the golf course property.

Now, it may have been interpreted different by other people. I can only tell you what I was thinking at the time by going back and looking at the record. But, nevertheless, we're here asking for an increase from 590 to 600. We are here because we have to. And, you know -- so that's what we're here to do, and that's what we're here to ask for. Again, not really relevant to the planning-level decisions that an amendment to the PUD is concerned with.

I also want to know, I --

COMMISSIONER VERNON: Are you moving to new topic?

MR. YOVANOVICH: No, I'm going to finish with this topic about what I said when I said it, because it was brought up.

COMMISSIONER VERNON: When you get done, I want to --

MR. YOVANOVICH: It was brought up by Mr. Goldstein that he had a meeting with me. Of course, he neglects to say there were other people in the room, including my client that, of course, was in the room. And they asked for the meeting, and we had a meeting with them. We talked about the berm in the agreement, the letter agreement. We got a copy of the letter agreement. I did the research on the letter agreement. And then we moved to what the real topic was. What was it going to take to get them to say they support the project or just not come and oppose it?

What Mr. Goldstein didn't tell you was he wanted us to donate \$5 million to their foundation. So compatibility does have a price, and that price was \$5 million, which was an increase from what you read in the NIM. That was an individual speaker who asked us for \$2 million. But Mr. Goldstein corrected me. He didn't speak on behalf of the Board. It was an individual resident, but obviously he had a great idea because the Board then came and asked us for \$5 million, and my client said, No way. We are not buying your silence as they requested in their meeting. So that's what happened at the meeting. And --

CHAIRMAN FRYER: That would also be in the nature of settlement discussions, would it not?

MR. YOVANOVICH: I don't know that we ever had a settlement discussion. He brought up and talked about what I said, and I'm going to complete the story --

CHAIRMAN FRYER: Okay.

MR. YOVANOVICH: -- about what happened at that meeting.

CHAIRMAN FRYER: But it sounded -- it sounded to me like it was in the nature of settlement discussions, but that's probably neither here nor there.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I'm not so concerned about what you guys discussed in a meeting, but I am concerned about what you said. 2000 -- when was that?

MR. YOVANOVICH: 2006.

COMMISSIONER VERNON: 2006, 15 years ago.

MR. YOVANOVICH: Seventeen years ago.

COMMISSIONER VERNON: Seventeen years ago.

And Mr. Goldstein quoted you. I haven't seen the transcript. Mr. Fee mentioned transitional building. Without seeing the evidence, kind of what I heard as a quote -- and I'm taking it that that was the accurate quote -- and not seeing the full context, but hearing those words, and Mr. Fee's comment that it's a transitional building, it seems to me that there was an intent at the time for that building to purposely be lower than the rest of the buildings, and it seems to me that the purpose was to protect the folks at Arbor Trace. That's what it seems to me.

Now, it appears that it didn't get into the settlement agreement.

MR. YOVANOVICH: Correct.

COMMISSIONER VERNON: But -- well, let me -- this is me talking, not me having a discussion with you.

It appears that it didn't get into the settlement agreement, what -- that specific part, and maybe it should have gotten in there. I don't know. And I'm not sure whether -- as the Chairman said, whether we're really addressing the settlement agreement here today. I understand it's off point, but I'm almost -- I almost feel like I should vote against this simply to highlight it for the Board of County Commissioners so that they can more specifically look at this.

You know, if this were a court of law and I was a judge, I'd want to see the evidence before I rule, but I might rule in your favor. But I'm concerned that -- that if I just vote for this, then it may get short shrifted at the Board of County Commissioners meeting.

MR. YOVANOVICH: I guarantee you --

COMMISSIONER VERNON: That's my concern. And maybe my comments -- to the extent the Board looks at this, these comments I'm making right now may cover my concerns. And I'll probably want to ask the staff. I don't know that you -- do you have any thoughts based on what I just said? And you may not, but I just want to see if you do.

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

What I would say is those concerns, we most certainly will carry them forward for the Board of County Commissioners for their concerns in terms of the position or conclusion as to the -- whether that was or wasn't the case that the northern building was limited to 17 stories. It sounds logical if they were the prime opposition. And the building that was closest to them was -- was at a shorter -- or at a reduced height than the other buildings. It sounds logical to me, but we haven't really derived a conclusion upon that.

COMMISSIONER VERNON: Yeah. I would like you to highlight that for the Board.

And, you know, I understand two parties to a contract can revise it, but it does hit home to me a little bit that we do represent the citizens, and that you made comments, the citizens arguably relied on those comments, and then the agreement didn't say quite that in writing, and we can change it. It's not in perpetuity, I understand that, but at the same time, I just -- I really want the Board to look hard at this even though, technically, I need -- maybe need to vote for this because of the true issue before us.

CHAIRMAN FRYER: Commissioner, I have a suggestion, because I have the same concerns you do. But here we are today, and I don't think the contents of the transcript of that meeting for the Board of County Commissioners has been fully satisfactorily put in front of us for a decision.

Now, it was referred to in the NIM, and I think to a significant degree, Mr. Yovanovich has

agreed with the interpretation, although the context is different. But what I think we can do -- if we decide that we're going to vote to approve this, we could add a formal recommendation in our decision to recommend approval to recommend that the Board of County Commissioners look at that transcript, inquire into it, and make a decision based upon what their thinking is on that evidence that we don't have before us, if that -- if that is the will of the Planning Commission.

COMMISSIONER VERNON: Yeah, they may find it relevant or not. That's their decision.

CHAIRMAN FRYER: Yeah, exactly. Go ahead.

COMMISSIONER SCHMITT: Just to follow up on that, I mean, that is the Board's decision, because it is the Board that will be agreeing to modify the settlement agreement.

So I have to say that's the requirement or -- I don't know if staff will do that as part of the staff report, but it's up to each commissioner to have the desire to go back and look and see what was said back in the settlement agreement.

I wasn't part of the staff on the original zoning, but I was part of the staff when the settlement agreement came, and then there were other issues with this as well, whether it was the Manatee Protection Plan, the Bald Eagle Management Plan, there were other things associated with this over the years. The only thing I ever remember on this was the -- how the buildings would be oriented on the property. I don't even recall the discussion of why one building was 17 stories. I -- it may have been implied that it was part of the settlement agreement, but I don't ever remember it explicitly stated, nor did I go back and look at the record. So I don't know.

COMMISSIONER SHEA: Are we in deliberation?

CHAIRMAN FRYER: I'm sorry?

COMMISSIONER SCHMITT: No, I'm just trying to clarify.

COMMISSIONER SHEA: It sounded like we are.

COMMISSIONER VERNON: No, that was my fault. I just wanted to get -- I want to get my thoughts on the record so that the staff could speak and so that Rich could speak. Before he got done, I wanted him to know what I was thinking.

MR. YOVANOVICH: I understand. And just so you know, it wasn't -- it would be an incorrect assumption to assume that Arbor Trace was the primary objector to what we were asking. It was a global objection. The people to the north of the golf course really wanted us to get rid of the affordable housing that was on the north part of -- that was originally on the master plan along the north part of the golf course.

So there were people who were on that side. There were others who wanted to see the golf course. And it was -- and there were people who lived on the south side of Wiggins. It was a community-wide discussion with no specific focus on this -- they are an intended third-party beneficiary of this global settlement that we had in place.

The Board will decide. It was mentioned in -- it was in the settlement agreement. We did have the height in the settlement agreement, just like we had the density in the agreement. That's why we have to amend the settlement agreement as part of this process, and the Board will decide whether they want to do it or not with -- based upon everything that we said at that hearing, and they may say, you know what? We still -- we want to amend it because it makes sense.

COMMISSIONER VERNON: That's kind of my thinking, and that's why I like what the Chairman said is I think we really need to highlight this for the Board so they don't get busy and give it short shrift, that they really drill down in this.

COMMISSIONER SCHMITT: I just to follow up on that, though. Mr. Yovanovich is correct. Back then there was a very, very active Vanderbilt Beach association. That played a huge part in every aspect of this project. And it was a very active and pretty vocal group from the whole Vanderbilt Beach area. So that was -- had a lot of, what do you want to call it, weight, I guess, or a lot of input into the whole process.

COMMISSIONER VERNON: I think that confirms my point is that this needs to be drilled down into further to figure out -- because I'm sure there was more stuff going on than just that one issue.

MR. YOVANOVICH: Correct. And like I said, I only brought it up because it's part of -- it's

part of the process that we're going through. I don't think it's relevant to the planning considerations that are before you, and we'll see what the Board ultimately decides it wants to do.

CHAIRMAN FRYER: Commissioner Schumacher.

MR. YOVANOVICH: Do you want to talk about that topic or --

COMMISSIONER SCHUMACHER: No. I just had a question kind of for the County Attorney. That new law that just went into effect on July 1 for the affordable housing that states that a commercial project could add in a mixed use for an affordable housing component that matches similar height of other buildings around it, does that kind of play into this at all with the fact of that agreement? Would it supersede that agreement? Is that something that later on -- because as it's written right now in this agreement, it stays a golf course or it goes back to green space. But in the future, if some other developer comes along, that statute's in place. Can they put up affordable housing there in that use? Because it's --

CHAIRMAN FRYER: I believe they'd have to convert it to commercial first --

COMMISSIONER SCHMITT: They'd have to convert it.

CHAIRMAN FRYER: -- and then go from commercial to residential.

COMMISSIONER SCHUMACHER: But I know right now, the way it states, it goes completely past zoning.

MS. ASHTON-CICKO: I think that the change that's presented to you today is not relevant as to that, and the reason why is you already have those buildings built on this site. So to the extent a property qualified and this was residentially zoned as defined under the statute or as interpreted under the statute, you know, it's already -- the height's already in place.

COMMISSIONER SCHUMACHER: For the other lot that's a C-3?

CHAIRMAN FRYER: We're talking about the golf course, though.

COMMISSIONER SCHUMACHER: I was just asking about the C-3 that's also on the corner of Vanderbilt.

MS. ASHTON-CICKO: I think the C-3 is pretty small, so to the intent they wanted to use the Live Local Act and try to put affordable housing there, I'm not really sure how much they could fit.

COMMISSIONER SCHUMACHER: I just wanted clarity on that. Thank you.

CHAIRMAN FRYER: Good.

Mr. Yovanovich.

MR. YOVANOVICH: With regard to drainage in the area, one of the critical components of constructing the golf course is a rather large pipe that is taking water from the north, through the golf course, and dispersing it into the right outfall. It's in the general vicinity of that circle right there. I hate this thing. But you see the circle I'm pointing to.

So part of the golf course will actually benefit the drainage in that area through -- and I'm sure they're not aware of that, but I just wanted to address the gentleman's concern about the golf course.

I think I hit all the comments I wanted to respond to.

You've heard the expert testimony of Mr. Mulhere and of your staff with regard to compliance with consistency with the Growth Management Plan and compliance with the Land Development Code. We do satisfy all of the requirements based upon the competent substantial evidence before you, and we are requesting that the Planning Commission recommend approval of the amendments to the PUD that are before you today. And with that, we'll answer any other questions you may have.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

MR. YOVANOVICH: Oh, I wanted to add one more thing. I'm sorry. I forgot.

CHAIRMAN FRYER: Go ahead. Go ahead.

MR. YOVANOVICH: The concern about the road I think that Mr. Fee brought up, going along the -- connecting -- somehow connecting to Veterans Memorial all the way from Livingston and all the way to Vanderbilt Drive, I could tell you that the right-of-way is set aside as part of the PUD, but I can also tell you that road is not in the County's long-range plan and not even in the County's financially feasible plan. So that road, I cannot imagine, is going to happen imminently or anytime soon. But it

is -- the right-of-way is there, and we're not asking to take that out of the PUD.

CHAIRMAN FRYER: Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I've already stated what concerned me the most, but I'm a little confused about all the discussion about the convenience store. Maybe --

MR. YOVANOVICH: Sure.

COMMISSIONER VERNON: You didn't present it. Nobody -- I don't know. It sort of came out of -- for me, it kind of came out of nowhere of a lot of people concerned about a convenience store. Can you just address that?

MR. YOVANOVICH: Yes. Let me try to -- the property is currently zoned C-3, which is commercial. And, yes, we can build a convenience store or other retail uses on that property. We haven't decided, finally, what's going to go there, but we have every right today to go through the administrative process of a Site Development Plan and build everything you see on here without having to make any amendments to the uses allowed on that piece of property.

COMMISSIONER VERNON: Okay. So, yeah, I mean, I think my fellow commissioner said this, but I just want to make sure I understand. It's not before us, and you can build it if you want to --

MR. YOVANOVICH: Right.

COMMISSIONER VERNON: -- and that's kind of the end of the story.

MR. YOVANOVICH: That is the end of the story.

COMMISSIONER VERNON: I mean, you'd have to go through some process to build it, but that's --

MR. YOVANOVICH: We'd have to do a Site Development Plan and a building permit.

COMMISSIONER VERNON: Okay. I just wanted to make sure I wasn't missing something on that.

MR. YOVANOVICH: That's it.

CHAIRMAN FRYER: Thank you. Any other questions or comments for Mr. Yovanovich on his rebuttal?

(No response.)

CHAIRMAN FRYER: No one is signaling at this time. So thank you, sir.

We will -- unless anyone wants to be heard on anything, not just rebuttal, before we go into our deliberation, now would be the time to do that.

Seeing no one signaling on that, we will take up the subject of our actions both on the PUDA and the EAC. I'd entertain discussion and ultimately a motion or go right to a motion.

Vice Chair Schmitt.

COMMISSIONER SCHMITT: I'm going to make a discussion, because some of the issues that were brought up, though extremely interesting to me just because of the cost -- but price and profitability, though very interesting, has nothing to do with the zoning, and I just wanted to put that to bed because that was an issue, somehow we were supposed to consider that as part of our deliberation, but that just is not an issue. And price is what it is, and price is what the market dictates. And it's -- profitability is not an issue as far as we're concerned.

The issue with increased number of units and density, yes, it was made a matter of record probably, as Mr. Yovanovich said, what, 17 years ago, but that's 17 years ago. And now we're here today, and the request is asking for the additional units.

As hard as I would -- well, I would consider -- I just cannot find anything from -- other than -- you could say you don't like it. You can say, "Hey, he put his word on the record 17 years ago," but from a Land Development Code, I just don't see anything here that says they can't do what they're -- they want to do.

It was brought up about the water management. The increase of three stories does not impact the water management that already exists. If the 17-story building was built, it's the same water management plan, the same water management permit. The height has nothing to do with it. I can't stop -- we can't, I don't believe, can stop the development of the golf course. That is, in fact, codified in the settlement agreement, and we're not here to vote on the settlement agreement. We can certainly stress as a board

the importance of that settlement agreement, what was stated in the settlement agreement, and ask that staff clearly identify in the staff report to the Board of County Commissioners and even provide, I would say, an extract of the record, because it is going to come up.

But from all aspects of it, from the standpoint of just simply applying the Growth Management Plan and the LDC and the criteria we are asked to use to evaluate the rezoning, I just don't see anything that I can sink my teeth in to say they can't proceed. I may not like it. I may not, certainly, if I were a neighbor, not like the additional height in the building, but I just can't -- I don't -- there's nothing that I can sink into, so I guess I'm looking for where my other commissioners are.

I'll hold on making any type of -- what do you want to call it -- proposal now from the standpoint of a recommendation. But right now I just don't see anything that I could sink my teeth in in regards to the GMP or LDC, so I defer to my colleagues.

CHAIRMAN FRYER: Thank you.

Commissioner Shea.

COMMISSIONER SHEA: I agree with everything that you said, Joe. It's a dilemma. It's a very complicated situation. And being a simple person, I simplify it down to one item, and that is we agreed to 17 stories. I don't like making deals and then just not honoring them, whether it was 17 years ago that the deal was made. In my mind, I'm going to vote against it just on -- I realize it's not in our charter. If I was following exactly what we're supposed to do, I'd approve this. But I'm going to vote against it just because the agreement was to keep it at 17 stories.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Yes. Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: I agree with what Mr. -- you know, Commissioner Schmitt said. I just don't see a basis -- even if I wanted to vote against it, I don't understand the legal basis that I would have. You know, I think if a petitioner comes before us and checks the boxes, then when we sit quasi-judicially, you know, we're limited, and therefore, I don't see any reason that I can vote any other way than in support of this.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I think our tone is a little different. Our perspective's a little different. But I think Commissioner Shea, Commissioner Schmitt, Commissioner Klucik, and I are -- and the Chairman, who are pretty much who we've heard from on this issue, are pretty much saying the same thing.

I'm probably going to vote for it because of my legal background and what Commissioner Schmitt said, that I don't really think I have a basis to vote against it; however, my heart is with Commissioner Shea.

And I would really like the Chairman's amendment to -- or Chairman's suggestion to be formally on the record, and we vote for what the commissioner -- or what the Chairman said rather than a simple yes, no, so that not only does the staff present this, not only does the staff follow Commissioner Schmitt's comment, that the transcript ought to be presented. But we really bring home the fact that we want the Board to look at it from the perspective that Commissioner Shea's looking at it, and that's kind of, "This is what was said," and -- you know, and Rich was doing a job for his client, so we shouldn't say, "Mr. Yovanovich said this." We should say, "His client said this." And so I'm probably going to vote for it only because I think that is what is quasi-judicially required of me.

CHAIRMAN FRYER: Thank you.

No one else is signaling at this point. Let me make a statement.

I am -- I do not believe I could vote against this based upon the comments that Mr. Yovanovich made, whatever they might have been and in whatever context they might have been made, because we just don't have the transcript in front of us, and I haven't heard enough to do that; however, I do have a concern. And if there be a motion to approve, I will vote for that, but I would like to see an ancillary motion or corollary or an attachment where we direct staff to present the excerpt of the Board of County Commissioners minutes or transcript pertaining to Mr. Yovanovich's statement about future density, that

that be supplied to the Board of County Commissioners with our recommendation that it determine what, if any -- and it may be none, but what, if any, legal significance those comments might have on the rezoning or the settlement agreement.

So that way I think we bring the matter to the attention of the Board without committing ourselves one way or the other. And I feel that it has a stronger sense of not being swept under the rug or overlooked because of the press of business before the Board of County Commissioners.

Commissioner Shea.

COMMISSIONER SHEA: I want to make sure I understand. The agreement said 17 stories, the signed, negotiated, that everybody spent a lot of time, right? I'm not referring to what Rich said or didn't say. I'm referring to what the agreement says is the basis for me saying I'd vote against it.

CHAIRMAN FRYER: Yeah, I understand.

COMMISSIONER SHEA: Okay.

CHAIRMAN FRYER: And my position is that we could always make comments, and I'm proposing that we mention the settlement agreement even though it's beyond the strict interpretation of our purview, because it's just the rezone that's, strictly speaking, before us, but as always, we can make recommendations to the Board of County Commissioners on anything that pertains to planning. That's our job. We're the Planning Commission.

So that is kind of where I'm going to be coming from.

Vice Chairman.

COMMISSIONER SCHMITT: Yeah. This is going to come down to -- I'll use the word we're "punting" to the Board of County Commissioners, because this one we really are, because the settlement agreement is the -- is the entire piece of this entire request, and that settlement agreement was between the Board of County Commissioners. Your elected officials, by the way, we're appointed by the Board. You elect your county representatives, and that's your county commissioners.

But that was an agreement between the County and the developer, and that's really the entire basis of this. I look at this simply from the standpoint of a planning commissioner, the request, and is it compatible with the LDC and the GMP, and does it meet all the review criteria. Staff supported it.

And with that, I'm going to make a motion that PL20220001142, the Cocohatchee Bay PUD amendment, be approved as proposed. I also add to that that when staff prepares the executive summary to go before the Board, that they clearly identify the issues that were raised by both the public and us as a Board to indicate and put into the record any of the transcript that -- so they can clarify what took place.

And I believe, if I'm not mistaken -- and Doug Fee knows. He was -- back in the days when Vanderbilt Beach was pretty active in this whole process, I think there were at least two meetings on the settlement agreement, if I'm not mistaken.

And so we just need to make sure that the commissioners have a clear understanding of the settlement agreement, and they have every right to amend the settlement agreement. I mean, that was an agreement -- a two-party agreement from the standpoint it was between the County and the developer, and the applicant has every right to come back and ask for a rezoning and an amendment to the settlement agreement.

So with that, I made my motion, and I defer.

CHAIRMAN FRYER: Thank you. Is there a second?

COMMISSIONER SPARRAZZA: I'll second.

CHAIRMAN FRYER: All right. Now, before -- before discussion, I'm going to ask the movant if he would accept a friendly amendment.

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: I'm going to try to get closer to your language.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: And simply to -- the way you said it is fine, but refer to the date of the Board of County Commissioners meeting and the excerpt in question, the comments of Mr. Yovanovich. And we're not indicating our opinion that those comments have any legal significance or not. We're just recommending that the Board consider it.

COMMISSIONER SCHMITT: I would --

CHAIRMAN FRYER: You accept that?

COMMISSIONER SCHMITT: -- accept that amendment -- adjustment to my recommendation.

CHAIRMAN FRYER: Thank you. Does the seconder support?

COMMISSIONER SPARRAZZA: Yes, I do.

CHAIRMAN FRYER: Thank you.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. Just to nuance it and hopefully not beat a dead horse, but here's what I'm trying to say to the county commissioners. I don't think we're punting. I think if we were the final decision-makers, I'd ask for a continuance so I could review further evidence and come back and see it.

COMMISSIONER SCHMITT: Yeah.

COMMISSIONER VERNON: And I think that's what I'm trying to get the Board to do.

So my concern is that if you've got a groundswell of opposition to this in 2006 and their representations and discussions on the record and the groundswell is satisfied, they go away. The County then speaks for them and negotiates a settlement agreement, maybe -- and I'm not trying to chastise the County 15 years ago, but maybe the County didn't do their job in properly getting in writing what should have been in writing. And so that's my nuanced concern, and that's what I want the Board of County Commissioners to really look hard at.

CHAIRMAN FRYER: Thank you. Any further comments?

(No response.)

CHAIRMAN FRYER: So it's been moved and seconded that the -- this was both EAC and the rezone.

COMMISSIONER SCHMITT: Yeah, that is both for the EAC and the rezone. So we vote separately, or we'll vote concurrently.

CHAIRMAN FRYER: Yeah.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: So the Vice Chairman moved, and it was seconded, to approve both the EAC and the rezone with the language amendment referring to the Board of County Commissioners meeting by date and that the excerpt will be attached to the materials going before the Board.

Any further discussion?

(No response.)

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

COMMISSIONER VERNON: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

COMMISSIONER SPARRAZZA: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

COMMISSIONER KLUCIK: Aye (delayed).

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Okay. And I think Commissioner Klucik was an affirmative vote. It was just electronic timing, and so the vote would be --

COMMISSIONER SHEA: I was a nay.

CHAIRMAN FRYER: I know you were.

COMMISSIONER SHEA: I said "aye" instead of "nay."

CHAIRMAN FRYER: I know. And so it passes 6-1.

All right. Thank you, applicant.

MR. YOVANOVICH: Thank you.

CHAIRMAN FRYER: Thank you, members of the public and staff and Planning Commission.

Let's see. We have two more matters to be heard, and my hope and expectation is that we can get through these before we have to go to lunch, maybe a slightly late lunch, rather than recess for lunch at some point. But what does the Planning Commission have to say about that?

COMMISSIONER SHEA: Keep going.

COMMISSIONER VERNON: Go forward.

COMMISSIONER SPARRAZZA: Move forward.

CHAIRMAN FRYER: Keep moving forward. All right. That's what we'll do. All right.

So then we don't have any further rezones before us. We have -- and I'm going to ask the folks who are leaving to please -- ladies and gentlemen, respectfully, could you please leave quietly? Thank you. Thank you very much.

***The first bit of old business -- the only item of old business is the CCPC continuance policy. It's legislative in nature, of course, and it -- it is taking up, again, a matter that we talked about, I believe, last in 2021. So I'm going to ask the staff to present that to us for our consideration, and I think, perhaps, action.

Mr. Bosi?

MR. BOSI: Mike Bosi, Planning and Zoning director. I'm just transferring the file over to the boardroom computer so we can get it on.

CHAIRMAN FRYER: Oh, thank you very much.

MR. BOSI: Again, Mike Bosi, Planning and Zoning director. At -- I believe the last time that the Planning Commission met and we had a request for a continuation, it brought up a prior discussion that we had related to updating the Planning Commission's policy regarding a continuation when an application -- an applicant would request a continuation.

And staff realized we had never brought that resolution to the Planning Commission for official endorsement. We have -- we found the draft, and we are bringing the draft to you for your individual review. The specifics of it really is contained on the second page. And I'm not sure if you want me to just read through it, or would you like me to hit the highlights of if a continuation is to be agreed upon by the Planning Commission?

CHAIRMAN FRYER: Well, let's find out what the Planning Commission wants to do.

COMMISSIONER VERNON: Highlights.

COMMISSIONER SHEA: Highlights.

CHAIRMAN FRYER: Highlights?

COMMISSIONER SCHUMACHER: Highlights.

CHAIRMAN FRYER: It seems like highlights --

COMMISSIONER SHEA: We've read it.

CHAIRMAN FRYER: Frankly, I -- yeah, we've all read it. Maybe we ought to just go to questions and comments, if that's all right. Let's do that.

COMMISSIONER SCHMITT: I recall this. We discussed this in detail. It comes down to the applicant. I think what made everybody aggravated at the one meeting is we didn't find out until we came in that there was a continuance, after reading through much of the -- many of the documents. That's a staff issue. You need to tell us something's been continued.

MR. BOSI: Yeah.

COMMISSIONER SCHMITT: And I want to make sure the burden's on you guys if something happens before we meet here. But if we walk in -- it was to be a vote is my understanding. They would pay a fee that -- currently \$500, which is the cost that they would incur, the staff incurs. That's probably more, I think. But would incur if there was a -- on a continuance, and then we would vote and agree or disagree to the continuance. I don't think it was anything more than that.

MR. BOSI: And I think the criteria that you were talking about is highlighted in 1, 2, and 3.

COMMISSIONER SCHMITT: Yeah. As long as it's justified for the continuance, whether it's for additional meetings with the residents or because there were errors made in the application or whatever -- and I think that's just a matter of presenting the facts, and then we would vote accordingly. I don't see any reason why we would not approve it if it was justified.

I think the other piece of this is to make sure that the commissioners are informed of a -- of a cancellation or a continuance.

Enough said. Thanks.

CHAIRMAN FRYER: Thank you. Anybody else want to comment? Commissioner Sparrazza.

COMMISSIONER SPARRAZZA: Yes. And if possible, as Joe alluded to, the sooner we know, the better. That's all.

CHAIRMAN FRYER: Yeah. That's always the case. Absolutely. Yeah.

COMMISSIONER SPARRAZZA: As it was said at the last meeting, we spent hours reading a particular document and trying to digest it. When we come here, we find out that it's been continued, but that's okay.

COMMISSIONER SCHMITT: Paul was happy to read through the 500 pages to come and find out.

COMMISSIONER SHEA: I have to do it again because I don't have the memory.

CHAIRMAN FRYER: All right. I think -- I think the draft we have before us is an accurate and complete statement of what the -- what the expressions of -- well, what the wishes were of the Planning Commission at that time. It was a different Planning Commission, but I think -- I think you've adequately captured what our concerns were.

There really -- there really are kind of two avenues that we can take here. If something comes up that there is patently no good cause, we can deny the request for continuance and have a hearing. The problem is, is we sort of take ourselves out of play when we do that.

COMMISSIONER SCHMITT: Right.

CHAIRMAN FRYER: And I think the Board depends upon us to provide input, to provide study and scrutiny when we make our recommendations. So requiring an applicant to make their presentation when they're not ready, it's going to be pretty quickly, and we're going to be out of the picture because we're going to go say, no, there wasn't adequate evidence presented, because they weren't ready.

So I -- I don't -- I can't imagine ever getting to a point where I would demand to hear on the merits something where the applicant wasn't prepared. But I think where we do have clout is to grant the continuance but schedule it for a time of our choosing rather than doing it two weeks from -- two weeks hence or four weeks hence or whenever. And in that respect, we continue to have jurisdiction over the matter until it's actually heard on the merits.

So that's where I find comfort in this approach. The issue that I -- the second point that I have is one that I want to you raise for discussion, and that is the amount to be paid in the event of a continuance.

And when I discussed this with staff and the County Attorney yesterday, it was mentioned that there has been an indication from the Board of County Commissioners that \$500 seems to be the right number, and that may or may not be the case. I agree -- I'm not sure who made the comment, but it seems to me to be pretty low. And when we talked about it, I think we were talking about \$1,000. The problem with that is that we probably don't have jurisdiction, without having this go to the Board of County Commissioners, to just up this to a thousand.

And the way this thing is set up now, it's set up for our action and my signature as chairman. And we could probably do that if the number's 500. If it goes to a thousand, we might want to restructure this to take it to the Board of County Commissioners.

Vice Chairman.

COMMISSIONER SCHMITT: Yeah. Could I make a suggestion? Though it says in paren, currently 500, we should specifically identify that it would be in accordance with the current fee schedule. The staff prepares a fee schedule maybe annually. I'm not sure how often you do it anymore.

Jamie, what do you do, every other year? I'm not sure. But you do a fee schedule, and that fee schedule is based on a lot of criteria and data and analysis to go behind -- that goes behind it to justify it, and it's the Board of County Commissioners that approves the fee schedule.

MR. BOSI: And staff would offer we revised it to 500 to be in line with the adopted fee

schedule.

COMMISSIONER SCHMITT: Yeah. I would add that it can move in accordance with the fee schedule based on when you-all propose to the Board of County Commissioners.

CHAIRMAN FRYER: Yeah, I like that.

COMMISSIONER SCHMITT: Yeah.

MR. FRENCH: For the record, Jamie French, department head for Growth Management and Community Development.

You're correct, Commissioner Schmitt. I think you were the last one to touch the fee schedule with regard to any fees.

COMMISSIONER SCHMITT: Really?

MR. FRENCH: In fact, this board has --

CHAIRMAN FRYER: Wow.

MR. FRENCH: -- been diligent and --

COMMISSIONER SCHMITT: That's like 12 years ago.

MR. FRENCH: -- we have reduced fees probably about three different times. We've never had a fee increase under my watch.

COMMISSIONER SCHMITT: Wow.

MR. FRENCH: And we have to the savings of better than \$8 million aggregately spread amongst all the permit and ratepayers.

We are an enterprise fund. Better than 90 percent of our budget comes from the fees that we collect. I would only add that, again, you are correct, sir, that the Board of County Commissioners sets the fee schedule. Staff does not. We make recommendations. And in the event that we bring a fee schedule forward, there's a great deal of work that goes into it to include third-party consultant at times to justify the fee to basically cover our costs and to make sure we maintain enough of that rainy day fund for that reserve fund balance and that we're adequately -- we're adequately equipped with a -- with enough money to keep us alive during the down times.

The State of Florida does address that, especially on the Building Department side, where it does say our reserve fund balance cannot exceed 50 percent of our budget.

So this is some new language since your departure years ago from the County that the State has added, and I'm sure that many of these departments, for lack of a better term, were -- their bankroll was getting pretty fat.

CHAIRMAN FRYER: Let me ask a question, if I may, and I'm looking now at the draft of September of 2021. Back then, we had talked about -- and the language was \$1,000 continuance fee together with any and all costs and readvertising the item if necessary. So are we saying now that the 500 is to cover the readvertising?

MR. FRENCH: They would be responsible for any readvertising costs. And thank you for bringing that up, Mr. Chairman. That was where I was going to go next.

CHAIRMAN FRYER: Oh, good.

MR. FRENCH: That is a \$500 administrative fee that would be paid to the County. We would -- we would ask that that be directed by you, so for some level of understanding from the petitioner that it's not excused.

I mean, staff does have the ability, for administrative mistakes, for lack of a better term, to not waive that fee, but that I can make the decision not to charge the fee if we mess something up. If -- in other words, if we brought something forward prematurely and it wasn't ready, then that would be at staff's request, but if the petitioner got up in front of you and said, I need more time, then I think the Planning Commission would be right to say, okay, you're going to pay the fee associated -- identified in the fee schedule.

CHAIRMAN FRYER: So the -- let's say a developer wants a continuance and we find good cause; they would pay 500 to the county and then to the *Naples Daily News*, or whoever, they would pay their fees?

MR. FRENCH: I would defer to the County Attorney's Office, because they are our gatekeepers.

They do an excellent job in making sure that we stay within those statutory guidelines with regards to advertising. If a readvertising would be required, that would be at the cost of the developer.

CHAIRMAN FRYER: I understand. But I'm just wondering if it's required whether the developer pays it to the County and the County pays it to the *Naples Daily News* or the developer pays it directly to the *Naples Daily News*.

MR. FRENCH: We collect it, we administer it, but it is -- and then if there's money left over, we refund that amount to the developer. So we don't make any money off of it. It's just a passthrough cost.

CHAIRMAN FRYER: I'm not sure -- maybe I'm not asking my question appropriately. But let's say -- and I'll just throw a number out. Let's say that *Naples Daily News* charges \$500 to advertise. So the applicant would have to pay 500 to the County and 500 to the *Naples Daily News*?

MR. FRENCH: There may also be mailings involved with that as well. So whatever the costs are, yes, they would pay all of those costs to include the additional \$500, the administrative fee, for a continuance.

CHAIRMAN FRYER: Okay. So it's 500, plus 500, plus any other costs. Got it. Okay. Yeah. And I'm absolutely fine referring to the schedule of fees in effect at the time, as the Vice Chairman suggests. So that's really the only question or concern I had.

Vice Chairman.

COMMISSIONER SCHMITT: Yeah. I'd make a motion that we approve this as drafted and that we forward it to the Chair for his approval and signature.

MR. BOSI: Is that with the -- excuse me.

COMMISSIONER KLUCIK: Mr. Chairman.

MR. BOSI: Mike Bosi -- the revision to say based upon the adopted fee schedule?

COMMISSIONER SCHMITT: Based on the adopted fee schedule, yeah.

MR. BOSI: Okay. So with that, I think we would probably want to approve the \$500 because --

CHAIRMAN FRYER: You would, yeah.

MR. BOSI: -- we'd have it -- we don't want to have it locked in.

CHAIRMAN FRYER: Yeah. And you probably want to say the then-existing official fee schedule, or whatever the language is.

COMMISSIONER VERNON: And Vernon seconds the motion as modified by --

CHAIRMAN FRYER: Thank you.

Commissioner Klucik, did you want to be heard?

COMMISSIONER KLUCIK: No, Mr. Bosi just clarified.

CHAIRMAN FRYER: Okay. Good. Any further discussion on this?

(No response.)

CHAIRMAN FRYER: We've got before us, then, this -- yes, go ahead, Commissioner Sparrazza.

COMMISSIONER SPARRAZZA: Thank you. I just wanted to understand where the amount would be indicated to the petitioner. Is it on a fee schedule that they receive every time they come?

MR. BOSI: It is on a fee schedule that's published on the Growth Management Plan website. It's accessible.

COMMISSIONER SPARRAZZA: Great. Okay. So that would, then, currently state the fee schedule for a continuance is \$500. And if that fee schedule changes in six years, it may be 750. So it's almost as we say here, board [sic] within the adopted fee schedule, currently 500, together with any and other -- all costs.

CHAIRMAN FRYER: Yes. I think we're all in one mind on that. Anything further discussion?

COMMISSIONER SPARRAZZA: Thank you.

CHAIRMAN FRYER: Staff, you've got our direction on that?

MR. BOSI: Yes, sir.

CHAIRMAN FRYER: Okay. Thank you.

All those in favor, please say aye.

COMMISSIONER VERNON: Aye.

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No verbal response.)

COMMISSIONER SPARRAZZA: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you very much. Thank you, staff.

***So we go to the last item on our agenda, which comes in as new business, and it pertains to the Collier Interactive Growth Model, the CIGM update overview. So, again, no action is being requested of us at this time. It's simply an update presentation. Thank you.

You have the floor, sir.

MR. FARMER: Good morning. For the record, my name is David Farmer, and I'm the CEO of Metro Forecasting Models here to talk to you today about our somewhat recent update of the CIGM and some of the things that we've learned from it.

So as I said, my name is David Farmer. My background is in professional planning, engineering. I'm also a licensed general contractor. I have a master's in public administration.

I've lived here for 34 years, and not to list a whole bunch of random things, but I've sat on the Value Adjustment Board for Collier County. I served on the Clam Pass Advisory Committee. I served on the RLSA Five-Year Review Committee for almost three years. I served on the East of 951 Horizons Oversight Committee. I served on the CIGM Oversight Committee. Anything else? I was also publicly elected for 11 years as a Collier Mosquito Control District --

CHAIRMAN FRYER: Thank you. We'll recognize your expertise and your testimony as an expert witness.

MR. FARMER: I was just throwing it out there. I've been here a long time, seen a lot of things.

CHAIRMAN FRYER: Well, we'll just --

COMMISSIONER SCHMITT: I'll attest to that.

CHAIRMAN FRYER: Just hit the high points today.

MR. FARMER: Well, that's what I'm trying to do. There's quite a few slides here.

CHAIRMAN FRYER: Thank you.

MR. FARMER: So Metro Forecasting is a different type of company, I'd like to think. We only work for local governments. You'll never have to wonder where our loyalties lie. With that said, we work very cooperatively with the development community, your private planners, your public planners. In fact, I'm standing on the shoulders today of your GIS department, your Planning Department, and the development community so that we have the best understanding of what your potential is for future growth.

So what is the IGM? Well, besides 600,000 lines of code, it is a growth management tool that forecasts using custom geographies, more likely than not a TAZ, a traffic analysis zone, so that we can model the land-use changes and the resulting population growth from that.

The key thing is, is it's -- you know, BEBR also does forecasts. We do everything spatially, and so we can tell you when and where both people are going to show up and the needs for things like fire stations, schools, and those sorts of things will be needed.

CHAIRMAN FRYER: I recognize that you're trying to move as quickly as you can, and I appreciate that, but it's probably a bit too quick for the court reporter.

MR. FARMER: No, I get that a lot, and I think you remember me from years past. I'll work my best to slow down.

CHAIRMAN FRYER: We're challenging you from two directions.

MR. FARMER: Well --

CHAIRMAN FRYER: Sorry about that.

MR. FARMER: It's okay. Maybe I'll just say every other word. That's a joke.

So how are we different? Well, most everyone forecasts using a linear projection. If I grew 10 percent over the last 20 years, then I don't know 20 years from now I'll grow another 10 percent. Well, if you're talking about 15 minutes into the future, that's fine, but when you're talking about five, 10, 15, and 20 years in the future, we find, based on research, that areas grow on a logistic curve basis. They follow a sigmoidal curve. Now, the shape and the slope of that curve may vary, and it will vary by location, but it grows that way. And it's important that when you look at, like, a BEBR forecast -- you guys are all familiar with BEBR, right?

CHAIRMAN FRYER: Yes.

MR. FARMER: Okay. So there is no limit on how many people they can add to a location. We use a buildout scenario so that once we reach the ultimate buildout for the location we're studying, the population cannot exceed that number without new policy changes, density changes, that sort of thing.

So some brief history. The Interactive Growth Model has been used in Collier County since 2007. It has served as a database for any department that needs growth projections. We've worked for many, many of your departments here.

The goal is to develop an accurate scenario of future growth for Collier County so that things can be planned in a logical and rewarding fashion.

So in 2017, the first --

COMMISSIONER SCHMITT: Can I just -- are you under a separate contract with the County for the services you provide?

MR. FARMER: I'm under a five-year contract with Collier County for continuing services, yes, sir.

COMMISSIONER SCHMITT: So it's an open-ended contract based on needs?

MR. FARMER: Up to 500,000 a year. We've never come close to that.

COMMISSIONER SCHMITT: IDIQ, I call it, indefinite -- delivery indefinite quantity.

MR. FARMER: Well, it's for five years, I think. It can be extended, I guess, but...

COMMISSIONER SCHMITT: So the staff or anybody else that needs your services, okay.

MR. FARMER: Like, we did a couple thousand dollars of work for solid waste. They needed to understand how many new garbage trucks they were going to need. We've done work for the Collier County Sheriff's Office. I know that's not part of this board, but growth management.

MR. BOSI: One of the aspects that I always say is a true benefit is whenever we have our -- like, the Parks long-range master plan, the LRTP, our long-range transportation -- or our Long-Range Transportation Plan, any of our long-range plans for utilities, we utilize the same data sources. So the land-use modeling is consistent between each one of our long-range plans so there's a consistency that gives a benefit towards how we're looking out in the future.

COMMISSIONER SCHMITT: Okay. Thanks.

MR. FARMER: And that consistency is not only just the same firm, but the methodology stays the same, and so you don't get, well, I assumed this and I assumed that.

So in 2017, we were contracted with to now build a model of the entire county. The provider models were just the eastern lands that goes back to the early 2000s. I'm sure you guys are aware of all that.

So this time now, we have -- instead of something that's Picasso-esque in terms of, you know, cubism, or whatever, we now have a full picture of what the county looks like in terms of its growth potential and when and where it's likely to grow.

Some applications, figuring out where the high-growth areas are, right, as we continue to build out in the interior, in urbanized Collier County, well, as you're aware, much of the growth is going to happen out east, and the model is excellent for identifying that and suggesting when and where and how it's going to happen.

It also -- one of the key things is that it indicates how much commercial and nonresidential space

is needed to meet the needs of people to reduce the number of trips and the trip lengths, i.e., to promote internal capture where it's possible.

So as far as from an administrative perspective, I'll just go over the highlights here. And when you're negotiating with developers, like the prior project just came in and it needs a fire station, the model can help indicate when and where those things are needed so that you have the upper hand or at least you have substantial competent evidence pointing to "I need this facility. I'm not just making up that I need a school."

CHAIRMAN FRYER: Slow down.

MR. FARMER: I need a school. Okay. I get excited. Thank you.

COMMISSIONER VERNON: He loves his work.

MR. FARMER: I love what I do, and I thank you -- I thank you for my job. I do.

The end goal of all of this is to maximize the return on the tax dollars, right? We're paid with tax dollars. All these future facilities are going to be built with tax dollars. Let's not -- let's not waste that money. Let's make sure it goes to the right places at the right time and we also make the right extractions -- legal exactions, when possible.

So from a lower level, the model's excellent for project review, analyzing how a project might impact the County's services. It also serves as a framework for optimizing, again, those future assets. Sometimes by approving a project, you might take a -- say, a fire station or some public facility that's operating a level below its ideal threshold, and by adding those people, you're actually saving money because now we're bringing this up to 100 percent of its -- it's no good to build a park and only have it used by 20 percent of the people, right? We want to have all the people that can -- a facility can serve get served by them.

And, again, it helps assess, again, the need, location, and timing for, like, neighborhood shopping centers and community shopping centers and so forth.

So to throw some numbers at you, in 2017 Collier County had about 40 million square feet of commercial space and about 373,000 residents and about 219,000 dwelling units. What's interesting is that when you break it down on a per-capita basis, there's about 107 square feet of commercial space or, say, nonresidential space for every man, woman, and child, and per capita is how we think. We are very fortunate that we work for many counties, and so we have a lot of data and we can do comparative analysis, and so we're offering a little bit of that to you here. You see Collier County with 107; Lee County, about 90; Manatee at 76; Sarasota at 123; and so forth. Find the average.

So when we say that people need about 100 square feet, that's not coming out of nowhere, right. We have a lot of data to back that up. And I know previously, I think it was in 2020 or 2021, I was here testifying on your behalf about the RLSA and the need for commercial services out there that comes from this type of research.

So I'd like to talk about some recent -- some trends that had been identified.

CHAIRMAN FRYER: I'm going to pause just briefly here, pause just briefly. The materials that you provided are all in the agenda packet, which we have read. I mean, you can assume we've read it. I'm following along here. I've got my underlining and things. And I want you to have a full opportunity to present, but on the other hand, I've got some questions that I want to ask that may go beyond this. It may not be necessary for you to take us through all 30-something slides. Maybe we can -- could we pause and let me ask a few questions?

MR. FARMER: I should have started with that, sir. You can ask me a question any time you'd like. You're not going to break my rhythm.

CHAIRMAN FRYER: Well, apparently not.

MR. FARMER: I'm so sorry.

CHAIRMAN FRYER: Okay. The question I have has to do with BEBR, and we up here have struggled with BEBR for a number of years, and my observation is that when we have developers coming in -- and this has to do with economic analysis usually with the GMP amendment. We have developers coming in who want to talk about commercial expansion. The persons per square foot -- or persons per household, rather -- number tilts high because that shows for the demand for the commercial services;

however, when we're wanting to know about residential increases, those numbers come in below, and in some cases well below, BEBR.

Now, I have personally attempted to object to this approach for a number of years. And a good point that staff makes in responding to my objection is that BEBR itself doesn't take account of some things that we need to think about such as vacancies, which I accept. And I've also had conversations with the County Manager, and I believe a process of reevaluating and reworking this is in order.

In my opinion, the end result of that should be that we get the same numbers whether we're talking about a commercial or a residential development because persons per household shouldn't vary based upon that. And so I look to you for that, and I also -- and I'm not sure whom I'm looking to, whether it's County staff or the County Manager's staff or your firm, to come up with a number, persons per household, that takes account of the other variables that maybe BEBR doesn't so that regardless of whether the advocates for the developer are arguing in favor a residential or a commercial development, we're using the same numbers. Could you comment on that?

MR. FARMER: I could talk for a week about that, but --

CHAIRMAN FRYER: Well don't.

MR. FARMER: -- I'll keep it down to a minute, or I'll do my best.

CHAIRMAN FRYER: Thank you very much.

MR. FARMER: So BEBR -- actually, there was a false statement in there. In fact, BEBR does consider vacancy. In fact, they have data I would love to get my hands on. They actually have FPL meter data, and they make presumptions. If you use less than I think it's 800 kilowatt hours, then that unit is then vacant because it's just running air conditioning or whatever while people are out of town. I wish I could get my hands on that kind of current data. I don't have that.

We tend to use block group data. And, in fact, the household size varies a lot across Collier County, and the vacancy rate varies along with it.

CHAIRMAN FRYER: True enough. But it doesn't vary based upon a particular developer's advocacy for a commercial or a residential, and that's, I think, what we need to get our hands on.

MR. FARMER: Well -- so we provide the data. We even have a planning tool where you can -- you can isolate the areas that are going to be supporting of a commercial project and see what the population is spatially on a zone basis based on spatial demographics. In terms of the commercial, we offer that. I can even send you a link that you can use to actually pick on certain zones and look at various pieces of information.

CHAIRMAN FRYER: Well, I don't want to become a student of this as much as I want to have a consistent guidepost, because what we've been hearing in the case of -- and I won't cite projects of the past, but there have been a number of projects where they came in and they say that the -- for multifamily residential, you're looking at 1.05 persons per household which, to me, challenges credulity. I do not accept that whether it's commercial or residential. I think that's far too low.

Now, what can we do as a Planning Commission to get a number that we can rely upon irrespective of what the developer's advocacy is saying?

MR. FARMER: So, frankly, and not to promote myself, but you should have us in here. You know, the County has a contract with us. You have someone submits something that says, there's this many people, you ought to be picking up the phone, call us, and say, well, this is what their experts say, or don't even tell me what their experts say. I don't care. We have our own methodology, the way we go about things and the way we estimate the current population as well as projected into the future.

CHAIRMAN FRYER: All right. Now, in the case of BEBR -- and I believe -- and I may be off by a point or two, but what is it, 2.38, is that persons per household countywide?

MR. FARMER: Well, that's the household size. That was the -- that was, I believe, the 20 --

CHAIRMAN FRYER: 2020.

MR. FARMER: Just a second here. So, yeah, it was -- in 2010 --

CHAIRMAN FRYER: Oh, 2010.

MR. FARMER: So it went down. So the household size went from 2.38 to 2.36.

CHAIRMAN FRYER: Okay. So now -- and I'm going to ask Mr. Bosi to jump in as he sees

fit, because he's thought about this, and he and I have talked about it a lot, and I want to get his input along with yours.

But when we have our next GMPA that comes in, let's say it's for residential. Let's just say, for example, it's in -- you know, along Oil Well. And there's a particular consultant who is under continuing contract with one of the principal developers, and she frequently will present this so-called 2017 EMS study which takes us back to 1.05 persons per household which, naturally, is going to result in an evaluation of much less demand on infrastructure and services. So when it comes to fiscal neutrality, that very much favors the developer, and it puts us at a disadvantage because we're not experts. So what could you do in order to help us get to a better number than what the advocates come in?

MR. FARMER: So if you're talking Oil Well, at basically the Orangetree/Golden Gate Estates area, if that's the area you're talking about, that has a household size of about 3.07 and a vacancy rate of about 8 percent. I can get even more granular than that if I knew the exact area. But that -- I could just cite this stuff off because it's in our model.

CHAIRMAN FRYER: Well, you know, I mean, without -- without reopening for debate things that have already been decided, let's just take Rivergrass.

MR. FARMER: Okay.

CHAIRMAN FRYER: Which we were -- it was argued to us in Rivergrass that the persons per household -- and that, of course, is substantially a residential development -- was 1.05 for multifamily. Now, how can we -- how can we respond to that when -- when all we have is the developer and then this 2017 EMS study which is seven years old?

MR. FARMER: So one of the things that's challenging about that is it doesn't exist yet, right? So what I -- when I answered your question, notice how I carefully said, if you're talking about Golden Gate Estates and you're talking about Orangetree and whatnot, okay, those are defined areas. They have a defined demographic. When it comes to the RLSA, it's kind of who knows, right? Who's going to show up there? We don't have a lot of data.

We could say -- but let's take the Golden Gate Estates and extrapolate it out. In fact, that's not what I did. When I was modeling the RLSA, we looked at more of county averages because we'd like to start at average, so, like, the 2.38 or 2.36, as a starting point, and we actually assumed a vacancy rate of about 25 percent, which is lower than the county average, but that county average also includes Tin City and the City of Naples where the vacancies are 60, 70 --

CHAIRMAN FRYER: You're going real fast again, and also you're not directly answering my question. And I want you to -- I want you to have the opportunity to say everything you want to say, but I'd like to hear what I'd like to hear --

MR. FARMER: Okay.

CHAIRMAN FRYER: -- if you don't mind. And where I'm coming from is what we can do, what we can rely upon, how we can make more considered knowledgeable judgments about persons per household. So I gave you a specific example, Rivergrass, and you may or may not have numbers in your head that pertain directly --

MR. FARMER: I do.

CHAIRMAN FRYER: You do?

MR. FARMER: I just rattled them off.

CHAIRMAN FRYER: Okay. Good. You didn't say -- hang on. So in the case of Rivergrass, let's start with 2.36, which is BEBR. Now, you said reduce it by 25 percent?

MR. FARMER: So that was actually the census, but, yeah. I'm not quoting any BEBR numbers here.

CHAIRMAN FRYER: But BEBR has embraced that number. BEBR embraces the census.

MR. FARMER: BEBR also has their own vacancy rates as well, and they change all the time. So that's why -- I'm not prepared to talk about the 2022 BEBR, the 2023 BEBR. Their numbers are all over the place.

CHAIRMAN FRYER: All right. Well, let's put BEBR aside and talk census.

MR. FARMER: Okay.

CHAIRMAN FRYER: But my recollection of BEBR's schedules is that they refer to the census, but you're much closer to that than I am. So talking about the census, we've got 2.36 now as of 2020. How, in the case of Rivergrass, would you have adjusted those numbers to be more accurate? You said something about 25 percent?

MR. FARMER: Right. So the vacancy rate as shown on this slide is about 31 percent for the county overall. I didn't have anything to go on, so I used 25 percent because I wasn't trying to overstate the amount of people that are going to -- that are going to be out there.

CHAIRMAN FRYER: Fair enough. Now tell me -- apply 25 percent to 2.36. Help me with the arithmetic. What does that get us to?

MR. FARMER: Well, I actually used a household size, a starting point, of actually 2.5 because Golden Gate Estates -- it's highly likely we're going to have more families out there. That's a professional judgment. I can't prove it to you, but I strongly hunch that. Part of that is also from talking to the developers and understanding where their price points are. So I used a household size of 2.5, a vacancy rate of 25 percent, and that comes out to an average, on a per-household basis, of about 2.25 people per household.

CHAIRMAN FRYER: Thank you. Thank you very much. That is a direct answer to my question, which I appreciate very much.

So when we had considered that development and the subsequent developments that also relied upon that number, we should have used 2.25, in your opinion, rather than 1.05, correct?

MR. FARMER: I don't know the basis of that 1.05 number, but I strongly support using our data for any of your analysis.

CHAIRMAN FRYER: Well, I'll tell you, the basis was the 2017 EMS study which is six years old, and that -- you know, that has been the official County position. And I'm not ragging on Collier County. They've got, you know, so much stuff on their plate to do, and they're doing the very best they can. But we do need to update these numbers, and within the last two or three months, we had the 1.05 number in front of us, and I just find it very frustrating.

Having said that, if we can -- if we can have computations that start with a number, 2.5 -- you're the expert; I'll accept that. Certainly, I don't have the expertise to contradict it. Then you apply vacancy rates, and you get to 2.25, and there may be other things that you apply, but you're not going to get down to 1.05, are you?

MR. FARMER: In that area, I don't see that happening. That's more of a Tin City number.

CHAIRMAN FRYER: Yeah. So somehow when this comes to us again, I'm hoping that we can have more to rely upon than just what that particular paid consultant comes in and tells us and the 2017 study, which is technically still part of what the County accepts. It just -- it seems to me to be spurious. Before I -- I'm going to call on two commissioners who want to weigh in on this. First, Commissioner Vernon.

COMMISSIONER VERNON: Yeah. Real quick, I -- just to follow up on your point, because I remember this has been a great concern of yours for a very long time, and I understand your point. It might be fairly cost effective if we have a significant project that might be controversial for the staff simply to build it into their report who their -- what their independent consultant says, and it would help the staff come to a conclusion based on their independent consultant instead of relying on possibly outdated studies or relying on the developer's expert.

CHAIRMAN FRYER: Mr. Bosi, you probably have a lot to say at this point.

MR. BOSI: No. Mike Bosi, Planning and Zoning director.

Other than the consultant for the economic assessments that you see are utilizing the most up-to-date information that the County has developed. So when the County went out and did the EMS study, they weren't thinking about how do we get to 1.05 for multifamily. They consulted an impact fee consultant who went out and looked at the various geographic areas throughout the county and arrived upon a number.

Now, I can't attest to how they arrived there, but that's what they gave to the County that this was legally defensible to be able to charge your impact fee. That was the most recent number that we had for

multifamily and for single-family household -- persons-per-household sizes.

So they're obligated to use the information that you take dispute with. So it's a tough -- it's a tough area to work around because this is -- we're giving them our most recent -- now we are updating all of our impact fee studies, so we're in the process of doing that, so those numbers will be updated. But what the outcomes of those updates will be, I can't assure you that it's going to be greatly different than what the conclusion was in 2017.

I think it probably will be, but what we obligate that consultant to utilize isn't by their choosing. It's by the County's choosing.

CHAIRMAN FRYER: I understand. And believe me, I am in no way assigning fault to the County, because I know how busy you guys are and how hard you work, and I have the utmost respect for your work.

But when we're sitting up here and we hear this 1.05 from -- you know -- and there's nothing wrong with paid consultants, but that's what they are. They're advocates. And it doesn't give us much to hang our hat on when it seems to fly so much in the face of common sense and our observations.

Now, before we move on, I've let the time go by without checking with the court reporter. I think we've got more to discuss, but it's 12:16. Should we take a 10-minute break? Let's do. Let's take a 10-minute break. We'll be back here at 12:26. We're in recess.

(A brief recess was had from 12:16 p.m. to 12:26 p.m.)

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

Commissioner Shea has a question or comment.

COMMISSIONER SHEA: Well, it's a question. And, you know, we all have these different takes on what we do with these numbers. Vacancy rate, to me -- I'm an engineer, and I don't understand the significance of it. When you plan your capital infrastructure, you don't plan on who's not going to be there. You plan it on who's going to be there. And if you have so many houses, you build the infrastructure for the potential 2.3 -- I don't understand what vacancy rate has to do with infrastructure planning or what would you do -- how you would even figure it into a calculation for population, because you've got a population in season and out of season. So I don't know what vacancy rate does to any of that.

MR. FARMER: So you're -- I don't know what kind of an -- are you a civil engineer or what?

COMMISSIONER SHEA: Yeah, probably.

MR. FARMER: Then you're probably aware that DOT doesn't design our roads for the peak traffic. Things are designed for the 200th-highest hour, right? Because we don't want to design for that "everyone wants to leave because there's a hurricane." If we design the roads for that, they would be way too expensive. So they've got to come down from the absolute peak. And so some infrastructure is designed around not meeting sort of that high, high peak. Now, critical things like water and sewer, that uses peak numbers all the time.

COMMISSIONER SHEA: Well, I've been in water and sewer for 50 years, so that's -- I've never seen a reduction from where you build the infrastructure for less than could be connected to it.

MR. FARMER: There's just different ways to go about it. I've participated on many utility master plans, and we've done peak population estimates and that -- in fact, we just did one for the city, and we did Collier County's 2020 utility master plan.

Did that answer your question or...

COMMISSIONER SHEA: No, no. What does vacancy rate --

MR. FARMER: So vacancy rate varies, and there's --

COMMISSIONER SHEA: What do you do with it?

MR. FARMER: I think there are nine different kinds of vacancies. And so we're actually waiting for the 2020 census to come out with the kinds. I know what the total vacancy rate is, but I don't know what the seasonal is, right. They have a -- they have a unit that -- this is not occupied and not for sale. Don't know why. Maybe you inherited your mom's house and you can't -- you can't sell it, but you don't want to rent it either, and so it's vacant.

CHAIRMAN FRYER: Here you go again.

COMMISSIONER SCHMITT: Take a breath, David.

COMMISSIONER SHEA: So is that vacancy is, is the houses that are unoccupied?

MR. FARMER: Correct.

COMMISSIONER SHEA: But how do you separate seasonal from -- that are just for sale and they're vacant all the time?

MR. FARMER: I use the census for that. A census has nine -- eight or nine different categories of different kinds of vacancies. And so it segregates down to exactly, in this block, how many houses were for sale, how many -- and the closer you are to the census, the more accurate it is. When we get to -- when we get to 2029, we're going to need to use some different analysis to find out what that is. But you can look at census after census, and we're talking about Tin City.

If I talk about the average people per housing unit, not household size, it's like .7 because it's so -- it's, like, 65 percent vacant, and of that, about 60 percent of that is seasonal vacancy.

CHAIRMAN FRYER: I thought Tin City was all commercial.

MR. FARMER: I'm talking about those housing units -- I can't remember the road name -- right by Kelly's Fish House where you catch the Naples Princess. There's about 300 units down there.

CHAIRMAN FRYER: Okay. So let me ask Mr. Bosi a question. When -- when do you expect that we will be considering persons per household again up here at the Planning Commission? When will that come to play to the -- you know, based upon what's in the hopper at this point?

MR. BOSI: There will be another economic assessment that's associated with the Collier Rod & Gun Club that is -- it's a CRD. It's a compact rural development. It's based around hunting and fishing, but it's part of the RLSA, so there will be an economic assessment, and persons per household will be associated with that.

CHAIRMAN FRYER: There's a developer in place?

MR. BOSI: It's a Barron Collier project.

CHAIRMAN FRYER: Okay. And so it's the -- I can't think of the lady's name or her company.

MR. BOSI: Lucy Gallo.

CHAIRMAN FRYER: Lucy Gallo, yeah. Her company?

MR. BOSI: Yes.

CHAIRMAN FRYER: All right. Well -- and the greatest respect for her. She's an expert at what she does, but it's just one point of view. And I'm going to pull what's left of my hair out of my head if we hear, you know, 1.05 without -- without some other evidence. There's nothing wrong -- if she wants to keep talking about that -- and I understand that that's -- you know, that that's the official -- she's okay -- she's allowed to do that because the County's -- that's the County's number. But I don't know that that should bind us if it's totally unrealistic. Should it?

MR. BOSI: If you feel that the persons-per-household number is -- you know, needs to be updated and is not valid and it may compromise your ability to agree with a position of fiscal neutrality, then I would say that you most certainly would have the right to make a recommendation based upon that ambiguity or that lack of confidence within the analysis.

CHAIRMAN FRYER: Okay. Well, I've also had conversations with the County Manager who is very much of an expert in this area, and I have great respect for her.

I would like for us somehow to request of staff that when this Rod & Gun Club comes back, that we are not -- and, you know, Ms. Gallo can say whatever she wants and substantiate it however she wishes, but that if there's another point of view -- and I think this gentleman has offered another point of view -- that we can hear it, and that the developer be alerted in advance that that's going to come up. And if they want to rely on the 2017 study without addressing what this consultant might be saying, that they do so at their peril.

MR. BOSI: Well, I think -- I just had a conversation with David, and there was -- there was also a recognition of two different purposes, and you have to look at what -- the purpose of what the impact fee study was and what the projection for the CIGM is to do to make sure that we have adequate infrastructure moving into the future to handle the full demands.

There's two separate purposes for those studies. One of the things that is -- and David pointed it out to me -- from an impact fee study, you have to be able to be legally defensible. So the more conservative in the number, the more solid that defensibility is.

So if we are going to provide an economic assessment that -- against a proposed development, I think what happens is we utilize the impact fee studies that have been crafted to be legally defensible and are conservative in nature, and I think those may influence the numbers.

So I think there is two separate purposes behind the numbers that David arrives upon and what our impact fees arrive upon. And what I can also say is the next impact fee study that we do have completed is probably going to have numbers maybe not exactly that low, but we'll be on the lower end because of that defensibility.

CHAIRMAN FRYER: And I have no problem with whatever the number -- after your considered study, whatever number you come up with, because that's your considered study, and you're the expert. It's just that seven years -- or six years is a way long time, and 1.05 -- I'm not an expert in any aspect of this, but it's just common sense; that's a challenge to accept.

And I want the developers to have just an early warning that we as a Planning Commission are going to look beyond the '17 study so they're not surprised. And, you know, if we make a recommendation that's based upon other numbers, the Board of County Commissioners is free to disregard it and go back to the 2017 study if they want. But that's because they're at a higher pay grade than we are. Go ahead.

MR. BOSI: Just to let you know, you're going to be disappointed because that economic assessment's already been finalized. It is -- the numbers are what they've -- and they utilized the 2017 impact fee study based upon the instructions that we provided to them.

It's been peer reviewed by Jacobs. We can let them know that the Planning Commission is going to ask for a higher -- or an alternative.

CHAIRMAN FRYER: Updated.

MR. BOSI: An updated. And I'm not sure if -- I'm not sure how that's going to affect, if any, the -- what's provided for. But all that's done. That's changing course. That's changing course on an applicant a month before an application gets to the Planning Commission.

CHAIRMAN FRYER: Okay. Well -- so in fairness to applicants, at what point could we insist upon an updated number?

MR. BOSI: You're not making a demand upon the applicant. You're making a demand upon the County. Remember, the County is saying that the 2017 impact fee study is the last time we updated our impact fee study. Those are -- that's the most recent data that we have, so utilize that. Until we update, until the Board accepts a new impact fee study, we can't -- I mean, you'd be asking the applicant to utilize numbers that are different than what the County has been utilizing.

CHAIRMAN FRYER: Okay.

MR. BOSI: It's a -- it's -- it is something that is an extremely difficult ask to ask an applicant to utilize numbers other than what the County has informed them that that's what they should be utilizing.

CHAIRMAN FRYER: I understand completely, and I'm not asking that we do that because that wouldn't be fair. But also we have to keep in mind fairness to the taxpayer, because when we underestimate demand for infrastructure services, that is going to cost taxpayers outside of these developments a pretty penny, and --

MR. BOSI: I mean, we're -- you want to -- we're getting down to the hardest discussion.

CHAIRMAN FRYER: Yeah.

MR. BOSI: We don't factor into the benefits that are provided for for the three -- the three acres for every one acre of development that's set aside in perpetuity at the property owners' expense. We don't factor into the 885 units, the 88.5 acres of affordable housing that they're providing. It's -- the only development in this county, the only area of development in this area that has inclusionary zoning that has to provide for affordable housing if they want to move forward is the RLSA, but we don't account for that as well.

CHAIRMAN FRYER: Yeah. And, Mike, as far as I'm concerned, the points that you raise are all valid, and if -- and if a considered judgment is made after a study that 1.05 is right, I'm going to shut up because I don't know. It's just that -- it seems to defy common sense. And you and I have talked numerous times over the various factors. We mentioned vacancies. Now we're mentioning affordable housing benefits to the County. These are all worthy of being included into a number to be fair to the developer and to be fair to the county taxpayers. So I don't know that we're saying anything different, are we?

MR. BOSI: No, but what -- I think what you're saying is you want the Board of County Commissioners to direct staff to update the fiscal -- the approach to fiscal neutrality.

CHAIRMAN FRYER: Prospectively so that developers are not unfairly treated.

MR. BOSI: And just so there's -- they're -- all aspects are accounted for.

CHAIRMAN FRYER: Yeah. Oh, yeah, absolutely.

I've got two commissioners who are signaling, and then I want to ask for their points of view on what I've been talking about.

Commissioner Vernon.

COMMISSIONER VERNON: Yeah. I'm getting concerned just listening to this, Mr. Chairman. You may be doing -- about to do what I'd call -- falls under the heading of "no good deed goes unpunished," that you're creating a problem here.

And I know what you're concerned about, and I threw out a suggestion. Here's -- a different suggestion is instead of trying to change anything at the level you're trying to change it at, which I think Mike has great concerns about, this gentleman's under contract as an independent contractor, and in some ways it's like staff.

So if two or three times a year we have a big thing that you're concerned about, we invite him. I think, from what I've -- listening to him, he has a lot of institutional knowledge. He can act as an advisor to us like part of the staff, and he can throw out the numbers he thinks. We can take them into consideration if we want to, and I don't think that would be a big hit on the taxpayers because it's not -- we're not going to need him at every meeting.

CHAIRMAN FRYER: Well, I'm fine with that solution, but I think what Mike is saying, that there may be a level of unfairness being visited upon developers because they've been assured they can rely on the 2017 EMS numbers, right?

COMMISSIONER VERNON: Well, I'm suggesting they continue to rely on that. I'm suggesting everything stays the same, but at these big meetings you have a continuing concern, and I understand the basis of your concern, and you're trying to get at a number, and nobody will give it to you. This guy can probably -- David, sorry. David can probably give it to you with little preparation, and you'll have that, and then you can build that into your discussion points, and we can go from there.

CHAIRMAN FRYER: Okay. Commissioner Shea.

COMMISSIONER SHEA: I think it's more complicated than that. I think it depends what the number's used for. I mean, if I saw 1.01 and I saw your planning horizon for a wastewater treatment plant, that wouldn't bother me because they're going to base that treatment plant on 400 gallons a day of wastewater, 300 gallons a day -- or 400 of water, 300 of wastewater no matter whether you think there's one or three people in that house.

So I don't know what we actually do with the 1.05 in any of our -- I don't know how we even use that. I don't think we do. I don't know -- I know water/wastewater doesn't use that number. They use the connection.

CHAIRMAN FRYER: I know how they use it.

COMMISSIONER SHEA: Well, I don't so I'm asking you.

CHAIRMAN FRYER: Well -- and correct me if I'm wrong, but fiscal neutrality is basically an arithmetic formula. And on demand side, you have to look at how many people are going to be out there flushing their toilets or driving on the roads or anything else.

And if every -- if you've got a thousand -- a thousand-dwelling-unit development and it's -- and each one of those is occupied by only one person, that's a pretty low level of consumption. If each is occupied by 2.36 or 2.5 or some other number, that is going to be a higher number that you're going to subtract from the revenues that are produced to see if there's fiscal neutrality. That's how -- and it comes in every time.

Now, one thing that this particular consultant has done is it gets buried in -- it used to be pretty prominent. When we had Rivergrass, it was a pretty prominent number, and in more recent things, you find it back in the exhibits or addenda. But the point is it's a simple computation. You look at the revenues that are going to be created by the development, and then you look at the costs that are going to be incurred by the development. You make a subtraction, and if it's a minus number, that's not fiscally neutral.

Go ahead.

COMMISSIONER VERNON: Yeah. That's not what Mike's saying. Mike's saying by the way we compute fiscal neutrality does not include a bunch of benefits to taxpayers and the county.

MR. BOSI: And could I --

CHAIRMAN FRYER: Please.

MR. BOSI: -- add for further consideration, the projects that come in that are within the urbanized area, we never question the impact fees that they pay for EMS, for -- that has -- that's based upon 1.05. We never say that you guys really aren't going to be paying your fair share.

So I think when we do -- when we're utilizing fiscal neutrality, we utilize the most recent impact fee study because that's legally defensible. It's what we're charging everybody else. It's what we're charging everybody else for that individual connection. And if we use a different number for the fiscal analysis of the SRAs, we're treating them somewhat different.

And there could be validity that the numbers that are actually realized in, say, Ave are higher than what they were charged with their impact fees. But from a legal perspective, I think to single out a development because they're utilizing a number that we think is dated and maybe not accurate but that we charge every other development in the county, and to single out and say, we're going to charge a different number because we're not comfortable with our adopted impact fees, I think we start getting into some real suspect territory.

CHAIRMAN FRYER: So how long are we going to stay with 1.5 -- 1.05?

MR. BOSI: Until we have the next updated impact fee, and -- until -- and we've been putting off updating our impact fees because the legislation that's -- the state legislator has made some continuous changes towards how impact fees can be collected, meaning that we can even charge less and less. So from my conversations with Ian Barnwell and the County Manager, they're -- we are in the process now of updating our impact fees. But I don't know the exact schedule of when they're going to. I anticipate probably within the next nine to 12 months, we will have at least a number of our impact fees updated, and those persons per household should be reflective of that.

But what those persons per household say, we're obligated to use for a development on Collier Boulevard or a development out on Immokalee Road just for consistency.

CHAIRMAN FRYER: Yeah. And do it however you want and factor in all the legitimate factors to be factored in. And if it comes out to 1.05, I'm happy, you know. It just -- well, I've --

COMMISSIONER SHEA: Smoke and mirrors.

CHAIRMAN FRYER: Yeah. I've hammered on this too long.

Any other Planning Commissioner want to be heard on this before we give it back to our witness? (No response.)

CHAIRMAN FRYER: If not, sir, please continue. And I don't -- honestly, I want you to have your full opportunity to speak, but I believe we've all read your slides, and if you could summarize, it might -- it might serve the greater purpose.

MR. FARMER: Each one of these slides have at least one point to make --

CHAIRMAN FRYER: Go right ahead.

MR. FARMER: -- and so the point I want to make with this slide right here is depending on

what friends and neighbors you're talking to -- the people I talk to think that we are getting overrun with multifamily. And I want you to know the data doesn't support that at all. We are becoming more and more of a single-family area because of the permitting, and I can back it up with census data as well. I've tracked it for the last 12 years, and that's the fact.

CHAIRMAN FRYER: I think we all know that. I agree with you.

COMMISSIONER SCHMITT: David, that's why we've had so many requests for multifamily because there is a lack of multifamily.

MR. FARMER: There is.

COMMISSIONER SCHMITT: There really is. And that's 77 percent, 2017, what is it now for single-family? You had --

MR. FARMER: So it was -- so it was to 4,753, and now it's 49 percent single-family, 51 percent multifamily.

COMMISSIONER SCHMITT: It is now.

MR. FARMER: Yes.

COMMISSIONER SCHMITT: Oh, wow.

COMMISSIONER SPARRAZZA: It's fairly even.

MR. FARMER: Yeah. Last year I think you permitted 1,500. Not what you approved, all right. So I'm not talking about what's on the books. I'm talking about actual permitting.

COMMISSIONER SCHMITT: Right.

MR. FARMER: There were, I think, 1,500 permits.

COMMISSIONER SCHMITT: A lot of those were rental -- affordable units and rental units, so...

MR. FARMER: And I can get so much as I can all the way down to units per structure so that -- I'm including duplexes in that number, but I can actually calculate down to exactly how many, you know, 300-unit buildings were permitted. And I know you have the data from the Building Department as well, but I can peel that out of the census as well.

So next. What I want you to get from this is, yeah, you've permitted a whole lot of single-family homes, 1,500 multifamily units. Again, not what you've approved. What I think is interesting is we look at the retail-to-office ratio. So in two years you built 300,000 square feet, but you built a million-five in service-related things, and that's a trend we're seeing all up the West Coast. We have the benefit of modeling all the counties -- not all, but from Manatee County south for DOT for traffic planning, and we're seeing these same things just about everywhere.

So the purpose of the red arrow is we're pointing out that you were at the inflection point. So Collier County has a buildout that's close to 800,000, maybe a little over 800,000, and we're right around that 400,000 mark now. Yeah, leave it at that.

So I know that's a wall of text, if you want to look at it. But I had my assistant put some arrows in so you wouldn't make your eyes bleed.

So let's talk about the Rural Estates. I don't want to -- full confession here, I lived in the Estates for 25 years. It's near and dear to my heart. But I'm -- I think what's -- this is one of the biggest potentials for growth. They're going to be adding 30,000 people out there between now and 2040, and we need to make sure that we keep that in mind. Those people are going to have needs and demands.

COMMISSIONER SCHMITT: Those are still vacant lots out there yet to be built?

MR. FARMER: Yeah.

And guesthouses, too, although that's a very, very small number of our analysis.

Now, there's sort of a fallacy here in this table, and I want to admit to it right up front. When I say "RLSA," I'm not really giving you the whole picture, because Ave Maria is a thing and Big Cypress is a thing. We pulled those out. They're certainly in the RLSA, but we calculate those out on their own so we can look and monitor those specifics. So you have to look at the whole -- you have to take Ave Maria, Big Cypress, and then add it to our rural land to get the total impact of the Rural Lands Stewardship Area.

But look at the area -- so net of Ave Maria, net of Big Cypress, we're looking at adding 20,000

people by 2040 out there.

COMMISSIONER SHEA: What's that based on? I understand how you can get a buildout number based on zoning or whatever, but how do you decide what's going to hit when? How do you -- how do you decide how fast Rivergrass or the different developments are going to come into play?

MR. FARMER: So -- well, I like to steal good ideas anywhere I can get them. And so we've done a lot of analysis of larger communities like Ave Maria and so forth. In fact, I did a -- just because I wanted something stimulating to do back in 2015, I calculated Ave Maria, and we estimated it then, privately in-house, that it would be about 2036 that we thought that Ave Maria would be approaching buildout at that point in time. So they started in 2007, you know, between friends, call it 28, 30 years, and so that's a -- we use some of that to help forecast how -- the absorption of some of these future towns and villages as well.

But, remember, what makes us different is we use a logistic curve, and so we know that the county can only grow so fast. And so what the model does is it disaggregates the demand down at the zone level, and so, therefore, if you add all the zones up, it cannot exceed this ultimate number that we have set for each year.

So that's how we're pretty confident that when we say so many people are going to show up in a given area or given zone, it's because it's based on the analysis of these 800 zones, disaggregated, and then reaggregated and checked against a higher number. Probably not the answer you were looking for.

COMMISSIONER SHEA: What's the checkpoint on growth? You said you know it can only grow so fast. What's -- what controls that? There's -- it's all a matter of supply and demand.

MR. FARMER: I would argue -- so if you asked a developer, they're all going to sell out their entire project tomorrow, okay, and that can't all be true, right? There's only so much demand. If you look at building permitting in the -- in Collier County, it's gone up, it's gone down. But it's in that 4,000 to 4,500, fairly consistent. So you could look at it that way and say, well, we're adding maybe 9,000 -- between friends, 9,000 people a year. That's not how we do it at all, but I'm just trying to show -- you just use a very simplistic approach to say, hmm, I wonder if I look at this, well, why aren't we selling 20,000 housing units a year? Well, the demand just isn't there, right? I mean, not -- not at this point in time.

We don't forecast that it will ever get to that point. We think, you know, by looking at this curve, you were basically at the -- maybe not the one-year peak, but the average peak.

COMMISSIONER SHEA: So it's definitely an art, not a science.

MR. FARMER: Well, there's a lot of science, but there is some art in it, too, yeah.

COMMISSIONER SHEA: Yeah.

MR. FARMER: There is. Okay. That.

So I love this slide. And I'm going to hammer on this one a little bit. So the County's going to add about 62,000 housing units between now and 2040. And, by the way, when I say "now," remember these slides were actually written in early 2022. So certainly some things have been permitted since then.

We're going to be adding about 150,000 people. 52,000 is going to be in the RLSA. Now, that's the real number. That includes Ave, that includes Big Cypress, and so forth.

Golden Gate Estates, 30,000 people. The urban area -- so think of sort of west of 951, talking about 26,000, and then in the RFMUD, that's the property that basically is along 951 and 41 heading to -- heading to Miami, that area's going to grow by at least 20,000 people as well.

With what this means is that you're going to -- we need to be approving or even requiring commercial, especially require when we talk about the RLSA. So overall in Collier County, we're going to need 13 million square feet. I'm going to say, just shooting from the hip, categorically, the urban area doesn't need a whole lot more of that, all right. It's going to be needed east if we want to reduce trip lengths and have a high quality of life for people. That means we're going to need nine new, basically, Publix, neighborhood shopping centers, six new community -- that's like a Super Target, a Super Walmart, and maybe a Home Depot with it, so we need six more of those.

And then this last point, 5 million square feet. So I was looking up, Uline is 915,000 square feet,

so we're going to be adding five more of those -- not that one use, but five more of those by 2040.

And here's the downside. Short of the Immokalee airport, I don't see the land, except you do have an ace. You have an ace in your pocket. Thanks to the County Commission, you guys have a bunch of land south of Ave Maria, or sort of kitty-corner. Please keep that in mind when you guys are looking at your uses out there. Not only affordable housing, not only the fairgrounds, but please, please, I'm begging you as a citizen, please allocate some of that land for industrial development.

COMMISSIONER SCHMITT: Oh, that won't happen unless somebody comes in and asks for a rezoning.

MR. FARMER: You own the property.

COMMISSIONER SCHMITT: Or through a GMP amendment. We don't have much left in the county.

MR. BOSI: David's referring to there's close to a thousand acres the County purchased in 2021 at Camp Keais and Oil Well to the east.

COMMISSIONER SCHMITT: Okay.

MR. BOSI: Yeah. And Commissioner McDaniel has worked with staff, and we've been directed to look at an entitlement of not only affordable housing, moving the fairgrounds out to that location, but also developing 3- to 500 acres of industrial flex space. And we -- the step we would next have to do -- that's a concept -- is retain a consultant to do some data and analysis, Growth Management Plan amendment, and even if they wanted to go to the PUD side, but that's what he's referring to.

COMMISSIONER SCHMITT: We're talking industrial like right here, Commercial Drive and Yahl and some of the streets right around us here, north of us, but then over --

MR. FARMER: Well, we need area for trades.

COMMISSIONER SCHMITT: Yeah, trades. That's what I'm thinking.

MR. FARMER: Like along Airport Road.

COMMISSIONER SCHMITT: Yeah, along Airport Road.

MR. FARMER: Also -- we also need something sort of like City Gate -- City Gate --

COMMISSIONER SCHMITT: City Gate.

MR. FARMER: -- where you have larger parcels, because Uline can't fit on -- I can't remember the road -- Enterprise Avenue or one of the -- Commercial Boulevard, right. So we need to make sure we have space set aside where we can have employment, and that gets to -- so the picture -- the purpose of this slide is to show you -- this is all the IGM, but those green shopping carts are future shopping grocery stores, essentially; the little yellow bags, those are future community shopping centers; and the red is a regional center. Those used to be called malls. We don't call them that anymore.

So just thinking about it, this is -- we need -- this is a minimum of what you need if you do not want 300,000 people driving into -- west of Collier Boulevard every day.

You guys have looked at this. I'll skip over that.

The purpose of this slide is to enlighten you if you need it -- maybe you don't need it, but that villages cannot support the things by themselves that are necessary. And so this slide is now several years old, but it was the same one I presented you in 2020, I believe.

My point was that these towns are going to have the commercial services that the villages are going to drive to. So keep in mind when people say, well, this town doesn't need to have two shopping centers. Well, if you take the town and add the three villages around it, it certainly does need two shopping centers, and a village can -- virtually will never be able to support a neighborhood shopping center. It takes 15,000 people to support a neighborhood shopping center.

These -- I will say these RLSA numbers, they are all -- all in. It includes Ave and everything, and so we're saying here, if you look at 2040, there's going to be 26,000 housing units out there, 57,000 people. About -- there's a demand, so it's up to you guys to make sure this happens. But there's going to be a demand for at least four and a half million square feet of commercial space out there, that's by 2040, and another million-eight in that area as well.

So these land set-asides, the requirements for the developers is written in I think it's called Attachment C in the RLSA; that is incredibly important. And if anyone tells you that those numbers are

high, I'm here to tell you on the record they are not. They are conservative. They are like minimums -- minimums for these people.

The IGM can be used for economic opportunity. How do I say that? Well, if you knew in advance that a neighborhood shopping center will be set aside, well, you could reserve the land for it, or you know that you're going to have some industrial demands, then set the land aside. Allocate it now, because later is too late.

Understand that every area goes through a growth pattern. In the early times, we start off with agricultural, tourism, construction. As we mature, as we get to No. 2, we are now fully in that high construction and tourism services area. As we start to mature, the construction is going to bleed off. At some point we'll only be permitting a couple thousand housing units a year, and so we need to look ahead to transition into the mature phase and get us into some light industry, which is why I'm pounding my fists that we need to have industrial space set aside so that we can have jobs for our kids and our grandkids in the future, because all the home building that's going on now, and will be for a couple more decades, will not be here 30 more years from now. Most of them won't.

COMMISSIONER SHEA: Are you saying we don't have enough on our current Growth Management Plan of industrial and we need to change our Growth Management Plan?

MR. FARMER: Go ahead.

MR. BOSI: Let me -- just recently the Board of County Commissioners approved the Town of Big Cypress. It had over a million square feet of commercial, and it has 600,000 square feet of industrial. The solution is provided for within your Growth Management Plan.

COMMISSIONER SHEA: Okay.

MR. BOSI: One of the things, when I started working in Collier County back in 2004/2005, there used to be a body called the EDC, Economic Development Council, and they approached the County in 2007. Joe, if you remember, they said, we are going to be screaming for a deficiency in industrial space as we go out towards -- as we go out into the future. We know that.

The Rural Fringe Mixed-Use District and the RLSA both have been reviewed and have been designed to help supplement and address that specific demand. That's another non-real-identifiable but benefit that the Rural Lands Stewardship Area does provide for us that -- and I'm pleased that the -- Collier Enterprises, or Blue Tarpon as they are now, you know, recognized that, recognized the need, and they put forward that type of aggressive type of square footage allowance within their development, because we know we're going to need it.

COMMISSIONER SHEA: But is that sufficient, David, for handling the future? You sound like we're going to be deficient in it, and what you're saying is we're planning for it, but are we planning for it at the numbers that we need, according to David?

MR. FARMER: So in essence -- so when you look at things in aggregate, the story can be fine, rosy, I think. I think there's 14 million -- we have a capacity by the Immokalee airport for, like, 14 million square feet. Here's a newflash. There's not a lot of trucks that go out there. It's -- that's what I mean to disaggregate things. So it's not a matter of how much you have, but it's where you have it. You got me?

And so the RLSA is allowing that we're going to be able to have these industrial spaces out near where the people are going to be, and that's going to be vitally important, again, to provide jobs and services and reduce trip lengths. Will there be enough if you follow the guidelines that we set aside in Schedule C? Yes, you will.

COMMISSIONER SHEA: That's the answer I'm looking for.

MR. FARMER: Well, it will be a minimum. You can have more, but it will be a minimum.

CHAIRMAN FRYER: I'm going to ask, if possible, if you could summarize this and bring it to an end in the next five or 10 minutes.

MR. FARMER: I think I've only got one or two slides left, I think. So this slide talks about the 1,500 acres, or it suggests 1,500 acres are going to be necessary east of Collier Boulevard. So to answer your question about that 600,000, that 600- is about 60 acres, Mike, I don't know, 60, 70 acres. So it's a good step in the right direction.

No one project could or should solve this problem, right? We don't want to have a massive industrial park with a town around it. We want to have -- but we also don't want to have everything in little one-acre lots either. We need to have some spaces for things like Uline to be developed and enjoyed.

We just talked about that.

Oh, maybe I have more slides than I thought. We've worked for a lot people. You can read that.

Quality of life is very important. This tool we built, we used drive-time analysis, and I'd like to give you just a quick commercial. When someone is presenting to you and they present, "Well, based on the drive-time analysis," please start asking some questions. Make them do their work, all right. What day did you schedule that on? What time did you schedule on? Because I can run a drive-time analysis at 2:00 a.m. on Sunday, and shock and awe, I can drive for 80 miles and I'm only five minutes away from a fire station.

Run that same analysis at 3:00 on a Friday, and you're going to find that you can get about a mile away from the station, and the service area becomes very, very truncated.

So when you're looking at those various analyses that people submit for a drive time, ask the when and where.

Okay. Summary. I think we've covered all that.

I want to applaud this board, and I'm going to say this because I don't know if you actually approved them or not, but I'm going to pretend like you did anyway.

So across the street from me, Courthouse Shadows, thank you. Thank you, thank you, thank you, all right. When I moved here originally, that was the original Walmart. Walmart moved out, and then it was a very slow, painful death of watching Courthouse Shadows die.

The fact that you've endorsed removing that and putting in 300 -- 3- to 400 units, that was the absolutely right thing to do. We're seeing this over and over again happen throughout Florida. We need to encourage that kind of development. Just because it is commercial doesn't mean it should be commercial. The market was screaming at us that we don't need to have 100,000 square feet over here, right? They're screaming because everything was vacant.

Now that we have that here, we've -- the problem is we didn't have enough people to support that. Well, you've now taken the space off the market and you've added people. You've benefited the ratio of commercial in this area. Please keep that up.

Thank you.

CHAIRMAN FRYER: Thank you very, very much.

Go ahead, Vice Chair.

COMMISSIONER SCHMITT: Neighboring counties, where are we with the -- I think it was Charlotte -- Charlotte -- what is that, the county north of us? Charlotte County, the intermodal transports, to move some of the large industrial intermodal shipping industry and all the -- into central Florida. Is that still moving forward?

MR. FARMER: I can't speak with authority. I don't know.

COMMISSIONER SCHMITT: You're not working that part the state?

MR. FARMER: No, but we are modeling a whole lot of -- so to compare you against other people -- and this is -- I'm not grading you or judging you. But Collier County has about 32, 34 square feet of industrial space per capita; Lee County has about 72; Charlotte has 60; I think Sarasota, shock and awe, has about 70 feet; and Manatee County has about 70 square feet. So they have about double the amount of industrial space on a per-capita level than we do. Now, they're not Collier County, and I get that, but we have some work to do.

COMMISSIONER SCHMITT: Well, there was a lot of work -- there's a lot of work being done now up at the -- up near the airport, a huge amount of commercial, or I would -- is that semi-industrial warehouses?

MR. FARMER: A lot of it's industrial, yes, sir.

COMMISSIONER SCHMITT: We don't have that kind of industry down here.

MR. FARMER: And we won't. We don't have RSW. We totally get that. But -- but even just keeping the -- all we were trying to do with the IGM when we ran it and suggested how much space was needed out in the Rural Lands Stewardship Area, it was based on the current level of service of about 32 or 34 square feet per capita. So that's why when I say there are minimums, I mean these minimums that could go much higher than that.

COMMISSIONER SCHMITT: Okay.

CHAIRMAN FRYER: Thank you very, very much. Very informative, very valuable, useful to us, and we hope to see you again.

MR. FARMER: I would love to be here again, and I apologize for the fast talk.

CHAIRMAN FRYER: You just -- there's a lot going on in your brain.

MR. FARMER: I thank you again for what I do for a living, because I couldn't do it without you, and I appreciate it. Thank you so much.

CHAIRMAN FRYER: Thank you so much.

All right. No action for us to take on this matter.


Going to public comment, not too much members of the public here. I'm assuming that there is no public comment, so I'll move directly to adjournment. And, without objection, we stand adjourned.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:04 p.m.

COLLIER COUNTY PLANNING COMMISSION



EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on 8/22/23, as presented  or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING BY TERRI L. LEWIS, RPR, FPR-C, COURT REPORTER AND NOTARY PUBLIC.