

January 1, 2024

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
January 18, 2024

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.
Paul Shea
Chuck Schumacher
Amy Lockhart, Collier County School Board Representative

ABSENT:

Randy Sparrazza
Christopher T. Vernon

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.

The January 18, 2024, meeting of the Collier County Planning Commission, please come to order.

Everyone please rise for the Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN FRYER: Mr. Secretary, please call the roll, sir.

COMMISSIONER SHEA: Chair Fryer?

CHAIRMAN FRYER: Here.

COMMISSIONER SHEA: Vice Chair Schmitt?

COMMISSIONER SCHMITT: Here.

COMMISSIONER SHEA: Secretary Shea is here.

Chris Vernon. Commissioner Vernon is not here.

Commissioner Klucik?

COMMISSIONER KLUCIK: Present.

COMMISSIONER SHEA: Commissioner Sparrazza is not here.

Commissioner Schumacher?

COMMISSIONER SCHUMACHER: Here.

COMMISSIONER SHEA: And, Ms. Lockhart?

MS. LOCKHART: Here.

COMMISSIONER SHEA: We have a quorum, sir.

CHAIRMAN FRYER: Thank you, sir. And for the record, the absences of Commissioners Vernon and Sparrazza are excused.

We're going to have a little of a challenge up here at the dais, and so I'm going to ask everyone to be especially helpful to me as your loyal and faithful traffic cop. We don't have the deliberator working, so I won't be able to see you're signaling, and I ask, therefore, that before you start speaking, please ask to be recognized, and I'll do my very best to keep an order -- keep the order of when people request to speak in mind so that I'll call upon you in that same order.

Thank you in advance.

Addenda to the agenda, Mr. Bellows.

MR. BELLOWS: Good morning. We do have a change to the agenda. Agenda Items 9A1 and 9A2 have been continued indefinitely to allow the applicant to work out some issues with their client.

CHAIRMAN FRYER: May I translate that to "they are requesting a continuance"?

MR. BELLOWS: Yes. Thank you.

CHAIRMAN FRYER: Thank you very much. All right. And would you repeat what the justification for that was.

MR. BELLOWS: It's my understanding that they want to work out some issues with their client because of the staff recommendation of denial.

CHAIRMAN FRYER: Okay. Thank you.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, Commissioner.

COMMISSIONER SCHUMACHER: If I could, my monitor has got nothing. I think some have something and some have nothing.

CHAIRMAN FRYER: Okay. And we'll ask our staff -- I've got something but not much.

COMMISSIONER SHEA: He's got the same.

CHAIRMAN FRYER: So we will -- we'll need some help in here with our monitors. Thanks, Commissioner.

All right. So we need to take up the issue of the request for an indefinite continuance on the two companions today, which were to be first. That's PL20220006561, and 2022000- --

COMMISSIONER SCHMITT: I make a motion to approve a continuance at the -- as requested by the applicant.

COMMISSIONER SCHUMACHER: Second.

CHAIRMAN FRYER: Okay. And that would be an indefinite continuance, so it would have to be readvertised. All right.

Any further --

COMMISSIONER SHEA: "Indefinite," does that mean that it just pops -- whenever it pops back in, it has to go through the normal waiting process to get in line?

CHAIRMAN FRYER: It's similar to being tabled indefinitely.

COMMISSIONER SHEA: Okay.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: (No verbal response.)

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously, and the matter is continued indefinitely.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes, sir, Commissioner.

COMMISSIONER KLUCIK: I don't see any tech people furiously scurrying to help us.

CHAIRMAN FRYER: Neither do I. I'll put the call out again. I know Mr. Miller is not in today.

COMMISSIONER SHEA: There's nothing on it. He has the same thing we all have.

COMMISSIONER SCHMITT: In case the --

CHAIRMAN FRYER: Well, we have a home screen. Here we go. And maybe -- maybe since -- although we probably should see the camera.

COMMISSIONER SCHMITT: There it is. You have to touch on the bottom.

CHAIRMAN FRYER: Oh, thank you. Thank you very much.

All right. Back to our agenda. Let's see.

Planning Commission absences, our next meeting is on February 1st, 2024. Anyone know if he or she will not be able to attend that meeting?

(No response.)

CHAIRMAN FRYER: Hearing no responses -- February 1st?

COMMISSIONER SHEA: Yes, I'm here.

CHAIRMAN FRYER: I'm hopeful that we will, then, be able to have a quorum at that time. Same question for February 15, and I know the secretary will not be able to be here.

COMMISSIONER SHEA: Correct.

CHAIRMAN FRYER: Anybody else know that he or she will not be able to attend the February 15 Planning Commission meeting?

(No response.)

CHAIRMAN FRYER: If not, we'll turn to approval of minutes, which will be an easy one because there are no minutes before us today for action.

BCC report/recap, Mr. Bellows.

MR. BELLOWS: Yes. On January 9th, the Board of County Commissioners heard the PUD rezone for 12425 Union Road, RPUD, that was for 109 dwelling units, and that was approved on the summary agenda.

CHAIRMAN FRYER: Thank you.

Chairman's report, none today.

Consent agenda, none today.

***Public hearings. So now the first item on our agenda for hearing are two companions, PL20210001954, the East Tamiami Trail Industrial Subdistrict Small-Scale Growth Management Plan amendment, and PL20210001953, the NBC RV mixed-use PUDZ.

All those wishing to testify in this matter, please rise and 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 starting, please, with Ms. Lockhart.

MS. LOCKHART: None.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Matters of public record, meetings with staff.

COMMISSIONER SCHMITT: I had several conversations with Noel and Ellen on -- in regards to this petition and specifically regarding the uses, which I'm sure Noel's going to address in his presentation.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: Nothing to disclose.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SCHUMACHER: Agenda materials and public record.

CHAIRMAN FRYER: Thank you very much.

With that, the Chair recognizes Mr. Davies.

MR. DAVIES: Thank you, Mr. Chairman. Good morning, Commissioners.

Noel Davies with the law firm of Davies Duke on behalf of the applicants NBC RV, LLC, and NBC North, LLC.

I have with me today Keith Basic, my client representative; Ellen Summers with Hole Montes is our professional planner; Trebilcock Consulting Solutions is our transportation engineer; and Russ Weyer is our economist.

The project site is located approximately five miles east of the intersection of Collier Boulevard and the East Trail.

Our pending applications today include a rezone to PUD with corresponding Growth Management Plan amendment.

The property's size is approximately 33-and-a-half acres, and we are currently zoned as three conventional zoning districts: I, or industrial, zoning district; ag, or agricultural, zoning district; and something called TTRVC zoning district, which stands for travel trailer recreational vehicle.

Our proposed PUD has three tracts. Tract I is the industrial tract.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER KLUCIK: If I might. If Ms. Padron can check the screen. Her -- she's blocking some of it.

CHAIRMAN FRYER: Oh. Yeah. What we're seeing is your name, Ms. Padron. Thank you.

MR. DAVIES: Thank you.

CHAIRMAN FRYER: Go ahead, Mr. Davies.

MR. DAVIES: Thank you, Mr. Chair.

Our three tracts in the proposed PUD, Tract I, the industrial tract; Tract C is our industrial tract; Tract C is our commercial tract; and we have a Tract TC as well, which is an either/or tract. We would have the option to put either more commercial there or these TTRVC uses, travel trailers and recreational vehicles.

We've shifted the industrial uses as far north as possible. Now this isn't working. One moment, Commissioners. There we go. There we go. So we've shifted, as I mentioned, the industrial uses on the north side of the site as far as possible. Our industrial uses are immediately adjacent on the west to other existing industrial uses. As an example, there is a concrete batch plant immediately next door.

And we have worked closely with our neighbors throughout the process. After significant negotiations with them, my client has agreed to provide a 10-foot-high concrete wall that is going to extend well over 2,000 linear feet on the east side of the property, providing them plenty of buffering. This is way beyond what code requires. Code requires a 6-foot-high fence or berm. And we are swapping out that 6-foot fence for a 10-foot-tall concrete wall.

This is going to separate the series of five-acre agricultural lots on our east.

On the specifics of our proposed uses, we've limited both the industrial uses and the commercial uses significantly. We eliminated a bunch of industrial uses that are allowed by right today. I pointed these out on the slide. I recognize these are hard to see. I wanted to give you a sense of the number that are allowed by right today that have been eliminated.

We also picked only a small section of the C-5 uses, 28 of the 183. I want to point out, Commissioners, what we're not doing as much as what we are doing. We do have a small concrete crushing use, but we are not doing the type of crushing that has been occurring at the Davis and Santa Barbara site. I want to be very clear about that. That

property has a long history, of which I'm sure you're aware, and they've been doing a specific type of crushing of demolition and construction debris to use as fill for future construction on that site.

It has gotten way out of control, in my opinion. They don't seem to follow code. There's no buffering, there's no concrete walls, and there is residential -- significant residential all around them.

That is not what we're doing. We are proposing a very limited crushing operation. It's governed by SIC Code 3272. That is allowed by right today under our existing industrial zoning.

It's going to be limited to the three-and-a-half acres at the north end of our property. By comparison, the Davis/Santa Barbara site is 16 acres. So we are much smaller than them. We're in a much better location within the county, frankly. We're way out east. We're next to other industrial uses, and we will certainly comply with all county codes and regulations. I'm happy to --

COMMISSIONER SHEA: You're crushing concrete, right?

MR. DAVIES: Correct, correct.

COMMISSIONER SHEA: Yeah.

MR. DAVIES: I'm happy to answer questions about that as well as any other uses. If I may, at this time I'm going to invite Ms. Summers to walk you through the remainder of our presentation, and then we will both remain available for questions.

Thank you, Commissioners.

CHAIRMAN FRYER: Thank you.

MS. SUMMERS: Good morning. For the record, Ellen Summers. I'm a certified land-use planner with Hole Montes.

As Noel briefly mentioned, we have two applications types before you today. The first is a Small-Scale Growth Management Plan amendment, and that is to create the East Tamiami Trail commercial -- or industrial subdistrict, excuse me.

And the purposes for that first petition is our existing future land-use designation. The site is currently within the rural industrial area which permits those uses such as manufacturing processes -- processing, storage, and warehousing.

And the additional portion of this site is located within the Rural Fringe Mixed-Use Overlay. It is designated a receiving area, and that designation is a -- provides a transition between the urban areas and the agricultural and conservation lands further out east. And, again, that receiving area designation is determined to be the most appropriate area for development; creates that buffer between the urban and the rural area.

Our existing zoning, as Noel previously stated, we have some agricultural zoning, some industrial zoning, as well as TTRVC. The site is surrounded by agricultural zoning to the east. To the south, there is C-5 zoning and a more recent PUD approval for C-4 uses as well as outdoor storage and indoor storage.

The remainder of the -- excuse me. The western portion of the site adjacent to us is industrial uses. And, again, just to kind of go over what's existing in this nearby vicinity, we have a concrete-making batch plant that is on the northwestern portion adjacent to this site. The south of that, there has been approval for an auto salvage yard. South of that, outdoor storage. There's an existing Cemex site, and then, again, we also have covered storage for C-5 that is in existence today, and then we also have a portion of the adjacent sites that permit indoor storage. As well, there's been conditional-use approval for liquid

propane storage and distribution. So as you can see, we already have quite an industrial and heavy commercial use area.

This is a little bit of an older aerial of the site, but this just demonstrates that there has been, previously, impacts from development on this site. There is no native habitat on site, and there is an existing stormwater lake and stormwater detention area.

The East Tamiami Trail industrial subdistrict proposes to provide for certain industrial uses, commercial uses, and services, as well as TTRVC uses. We are limiting the maximum cumulative gross floor area for the C-5 industrial uses to 356,000 square feet, and that area also will be included for the areas developed for outdoor use areas as well as those structures.

And, again, if the TTRVC use is selected, that has a maximum of 75 TTRVC units.

The subdistrict also provides the requirement for the PUD to include a maximum trip cap, which is 151 two-way p.m. peak-hour net trips, and this is generally going to be the overriding limit on any combination of the permitted uses. The subdistrict also provides a prohibition and restriction of certain industrial and C-5 uses, which we have carried over into the PUD.

Our companion item is the NBC RV Mixed-Use Planned Unit Development. And as Noel previously stated, this PUD provides three development tracts on approximately 33-and-a-half acres. Tract C is your limited C-5 commercial uses. Again, that tract is going to be subject to a cumulative maximum gross floor area of 206,000 square feet. And, again, that area includes area dedicated to outdoor storage as well as structures.

Tract TC, that's the TTRVC or commercial use tract. If TTRVC is selected, that's up to 75 TTRVC uses or those commercial uses that are permitted within Tract C. If the commercial uses are utilized within this tract, Tract TC and C will kind of work in combination for a maximum of 206,000 square feet.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Go ahead, Commissioner.

COMMISSIONER KLUCIK: So -- all right. So Tract I is off to the north, and that sort of sequesters the most offensive, I guess I would say, activity, and then you have C and TC. And what is -- you know, what do you envision that? Like, what can we imagine when we're thinking of the commercial uses that would be there?

MS. SUMMERS: So, again, we have a full range of C-5 uses, again, limited to about 28 from the list of C-5 uses within the LDC.

COMMISSIONER KLUCIK: What are the most offensive of those 28?

MR. DAVIES: We can show you the list here. Okay. This is industrial. So here's the C-5 uses.

COMMISSIONER KLUCIK: Which we can't read.

MR. DAVIES: Well, I mean, I can read -- read all 28 of them to you, Commissioner. I mean, there's a variety of trade contractors, car washes allowed. These are -- these are heavy construction equipment rental and leasing. Perhaps that could be argued as a more intense use.

COMMISSIONER KLUCIK: I guess a better question is, so if you're the properties, you know, adjacent to the lake -- to the east of the lake.

MR. DAVIES: Yes, sir.

COMMISSIONER KLUCIK: Right now what could be on that strip of land?

MR. DAVIES: So the mix is industrial, TTRVC, and --

COMMISSIONER KLUCIK: But it's the same stuff. There's not really anything new that can offend them?

MR. DAVIES: Correct, correct.

COMMISSIONER KLUCIK: Okay. That's fine.

MS. ASHTON-CICKO: Well, the current use in that location is TTRV, and what -- he just mentioned what he's proposing.

MR. DAVIES: Well, the zoning is industrial, TTRVC, and ag, a mix of those conventional zoning districts, and we're going to a PUD that creates an industrial tract, a commercial tract, and then this TC tract where we could do more commercial or the travel trailer recreational vehicle.

COMMISSIONER KLUCIK: Right, okay. So it's arguably less offensive use is --

MR. DAVIES: Yeah, that's part of our --

COMMISSIONER KLUCIK: There's more or less offensive uses that would be possible?

MR. DAVIES: That's part of our proposal, yes, Commissioner, because the --

COMMISSIONER KLUCIK: Okay. That's fine. I don't want anyone to think that I think that we shouldn't have those, quote, "offensive uses." But, obviously, if you're the property owner, adjacent property owner, and you're using it, you know, that's where you live or whatever, that is going to be offensive to you, and so that's why I'm phrasing it that way.

MR. DAVIES: Sure.

COMMISSIONER KLUCIK: I'm all for all of that offensive stuff. It's just, obviously, the issue is where does it belong.

MR. DAVIES: Sure. And as an example -- right, so everyone knows the PUD allows you to shift development standards but also allows you to reduce and specifically call out uses that you're going to do or that you're not going to do.

So the full gamut of industrial uses is on the table for a portion of the site today, and we're eliminating those. And then on the C-5 uses -- which, to be clear, we don't have C-5 zoning today. We have industrial zoning which, arguably, is more intense. It's a different use list, but it's arguably more intense than C-5. And we've taken the C-5 uses, we've eliminated a large majority of them. There's 183 on the table, and we've picked 28 of them.

Just to respond to your question, I mean, a number of these uses -- which we can walk through the specifics of. But you'll see roofing contractors, plumbing contractors. I think part of the vision for this part of the site is that a number of these trades can keep their trucks there. They could have a small office. I mean, this is 33-and-a-half acres. So it's a sizable site. We're way -- you know, we're way out east by other industrial, but the idea is that a roofing contractor, a plumber could keep their materials there, their trucks there, and also have a small office.

COMMISSIONER KLUCIK: Thank you.

MR. DAVIES: Yes, sir.

COMMISSIONER KLUCIK: Sorry for the interruption.

MS. SUMMERS: All right. I think I touched on everything on this slide. And, again, just to reiterate, the industrial uses and commercial uses for tract -- excuse me. Tract I is going to be subject to a cumulative maximum gross floor area of 150,000 square feet, and Tract I, as it exists today, is 12.8 acres. So we're really kind of limiting how

much development can be imposed on that site.

And, again, I just wanted to touch on the master plan here a little bit. North is to our right here where you have Tract I, Tract TC is going to be on the western portion, and Tract C to the eastern portion.

And as Noel -- I'll just kind of briefly go over this. We have limited the number of C-5 and industrial uses permitted. Again, going from 183 C-5 uses to about 28 and about 56 industrial uses to 38 industrial uses.

We also have placed some additional limitation on some of those uses as to where exactly they're permitted within each tract.

Within outdoor storage yards, we have placed some additional development standards. We have very clearly indicated in the PUD that the outdoor storage yards are intended to admit [sic] the storage of vehicles that are in working order and not to be construed as junk vehicles. It's to store boat trailers, trailered vessels, and recreational vehicles.

We have limited the number of storage spaces per acre, just out of an abundance of caution to make sure that we don't have, you know, a really overdeveloped outdoor storage on this site, so that's going to be limited to 40 storage spaces per acre, and they will be required to demonstrate that at time of SDP.

The storage of construction materials, storage containers, and -- excuse me -- construction equipment is only permitted within Tract I.

We have provided some significant buffering on the eastern portion of this site as well as to the north. On the eastern side of this site, we're proposing a 20-foot Type C buffer. That is also going to include a minimum of a 10-foot-high concrete wall on a minimum one-foot-high berm. We have also worked with the neighbors to, you know, indicate where those vegetation plantings are going to be located, and they will be located on the western portion of the wall. So the neighbors will just have the wall plantings at the interior of the site.

And, again, we also will have a 20-foot Type C buffer on the north side of the property, which will have a minimum 6-foot-high wall.

We held two NIMs for this project. The second NIM was held on August 22nd, 2023. Following that NIM and in response to various neighborhood -- neighbor comments, we made some PUD updates, the first of which is to include that minimum 10-foot concrete wall and a one-foot berm on the eastern PUD boundary.

And, again, the reason we decided to put the required plantings on the western portion of the site or interior to the site is out of the request of the neighbors. They didn't -- that was their preference.

We have included some additional lighting standards. So all exterior lights within the development shall be no more than 25 feet in height and shall be shielded. We have also included some hours of operation for the loading and crushing of concrete operations, which shall be limited to the hours of 6 a.m. and 8 p.m. This limitation does not include the work hours for administrative staff, office personnel, arrival of site and workers, or after-hours cleaning and maintenance staff.

Again, as I previously stated, we do have a traffic commitment, which the maximum total daily trip generation for the PUD shall not exceed 151 two-way peak-hour net trips. And, again, that will be the overriding limitation for the development.

Staff has reviewed and recommended approval for both of these petition items, and

we would agree and request the same.

And at this time I'll step back and allow you-all to ask any questions. Thank you.

CHAIRMAN FRYER: Questions from the Planning Commission or comments?
Vice Chair.

COMMISSIONER SCHMITT: Yes.

Noel, as we discussed, and, Ellen, I want to go to the list on the -- I've got to look at the page -- this is on the PUD, and it's Page 8 of 17 and 9 of 17. We talk about uses. Uses allowed but not permitted within 100 feet of the PUD boundary. Those are the uses that are in the staff report.

MR. DAVIES: Commissioner, if I can just catch up with you. Do you have a packet page number?

COMMISSIONER SCHMITT: It's -- the packet is 696.

MR. DAVIES: 696.

COMMISSIONER SCHMITT: The packet. It's 8 of 17 of the PUD.

MR. DAVIES: Almost there. Yes, sir, go ahead.

COMMISSIONER SCHMITT: The Tract C, which has automotive repair, automotive services, these are all allowed. And as I discussed, when we did the rezoning at the corner of U.S. 41 and Trinity, we had some very specific hours of operation. I didn't look those up. But as I recall, they were concentrated specifically on noise and light and operating hours.

Ray, do you -- or, Mike, do you recall, that was the rezoning maybe two months, three months ago that came in. It's the C-4 property? And, Ellen, I think you pulled the data on that.

MS. SUMMERS: Yeah. I can refer --

COMMISSIONER SCHMITT: I mean, that's the -- this is the use that's in the closest proximity to the homes that are to the east.

MR. DAVIES: Yes, sir.

COMMISSIONER SCHMITT: And I don't know if we have any residents coming in to talk. I guess we'll find out. But there was great concern when we talked about repair of vehicles, boat storage, operating of inboard/outboard motors, maintenance, those kind of things, and there was hours that restricted the time. And I think you fall within that frame because you have 8 p.m.

MR. DAVIES: Yeah. So our -- we have a 25-foot height requirement on the lighting.

COMMISSIONER SCHMITT: Yeah.

MR. DAVIES: And so we did pull the PUD for their project, Commissioner Schmitt. And so they had -- they had a 20-foot height. We have 25. They had hours of operation for flushing of -- maintenance of vehicles or flushing of boat motors prohibited between 9 p.m. and 8 a.m., and we have hours of operation limitations on that crushing -- concrete crushing use that I mentioned, and that's -- there was a slide for that. Let me find it. What are our hours, Ellen?

MS. SUMMERS: You passed it right here.

MR. DAVIES: Six a.m. to 8 p.m.

COMMISSIONER SHEA: Wow. That's a lot of crushing hours.

MR. DAVIES: Yeah. Well, I mean -- the whole concept with this concrete wall that I mentioned at the beginning, which that other site did not commit to -- this is -- this is

a 10-foot-high concrete wall that separates us from the five-acre agricultural tracts to the east. It's going to absorb a lot of noise. It's the full linear footage. This is a really wide site, right? So -- excuse me -- really narrow site that's really deep. So the entirety of that linear footage will have a 10-foot-high wall, and we expect that that will significantly reduce impacts of these uses, especially with the industrial being additionally west, more than an hours-of-operation limitation, for example.

COMMISSIONER SHEA: How far west of the wall will the crusher be?

MR. DAVIES: So --

COMMISSIONER SHEA: That's the one I'm the -- that's the noisiest one that I know of.

COMMISSIONER SCHMITT: That's why -- you're not in Tract C for the crushing?

MR. DAVIES: No, Tract I --

COMMISSIONER SCHMITT: Tract I.

MR. DAVIES: -- up at the north, and then there's another 150-foot limitation that we worked with staff on to create so that the closest it could be to the wall is 150 feet. I think it's over 600 feet to the closest actual residence.

So these are large lots on the other side, five acres each.

COMMISSIONER SCHMITT: Well, I'd make a recommendation crushing does not start before 7 a.m. and has to end at no later than 6 p.m.

COMMISSIONER SHEA: I support that completely.

COMMISSIONER SCHMITT: And the second thing for crushing, that if you're going to be creating a dust environment, there has to be the construction of it or at least some type of element to keep the dust down, whether that's a sprinkler system, other types of wetting down in the system. I can't specify, because I have no idea of the intensity. But that's a pretty significant industrial use. And I would say that if you're going to -- I mean, I'm not telling you you have to have the EPA go out there and do air samples, but you have to keep the noise -- the noise and dust down.

MR. DAVIES: It is --

COMMISSIONER SCHMITT: That's a pretty -- that's a pretty intense operation. I know that next door is the batch plant and the other type of facilities that are not part of your property. But I just want to make sure we limit the impact that it has with the homes in the east. And I know those homes to the east are -- frankly, they're ag. It's ag, one unit per five acres. But those homes have been there for years.

MR. DAVIES: Correct.

COMMISSIONER SCHMITT: On Trinity Drive.

MR. DAVIES: Yeah. It's Trinity Place. Appreciate the comments.

COMMISSIONER SCHMITT: Trinity Place.

MR. DAVIES: Just -- I will note for the record, without any restrictions, the crushing use that we're mentioning, that SIC Code 3272 is allowed by right in the industrial zoning district.

COMMISSIONER SCHMITT: I know that, but you're coming in now for a PUD, so I'm imposing a restriction.

MR. DAVIES: Understood.

COMMISSIONER SCHMITT: What's your date on -- I'm recommending a restriction of no earlier than 7 and no -- and must end by 6 p.m.

CHAIRMAN FRYER: What is your client's position on that, Mr. Davies?

MR. DAVIES: The client's position is the hours that we presented, which is to allow for 6 a.m. to 8 p.m. -- keep that slide up so I don't forget -- 6 a.m. to 8 p.m.

CHAIRMAN FRYER: No room for movement?

COMMISSIONER SHEA: No.

MR. DAVIES: I don't believe so, Mr. Chair. I mean, if that's certainly the will of the majority of the recommendation of the Planning Commission, then we will accept that.

COMMISSIONER SCHMITT: Okay. Let me go on to the other uses in Tract I. You have a list here. And concrete work, 171 -- or 1771. And I -- "concrete work" is a broad term. Are we talking again batch plant mixing? Is this forms for, you know, making jersey barriers, or what are we talking about here?

MR. DAVIES: It's not -- it's not concrete manufacturing. And just to preface all of this, right, so the way that the county code provides for these uses is they do their best with words like "concrete work," right, so that there's not a full -- a full sentence, and then there's a parenthetical for an SIC code, right, the standard industrial classification. That's the -- you know, the national body that everyone's familiar with that you plug in -- typically it's a four-digit number. You can go on there now, and it will give you specific examples of what concrete work is.

So let me walk through that. We did pull this since yesterday. Here's what that SIC code says. Special trade contractors primarily engaged in concrete work, including Portland Cement and asphalt. This industry includes the construction of private driveways and walks of all material.

So my interpretation of what that means is these are the tradespersons, these are the contractors that do concrete jobs, right? So they would have their equipment there, their vehicles there, potentially an office there. They're not performing, you know, manufacturing of concrete on the site; rather, they go to the jobsite with their vehicles and return them at this location at the end of the day.

COMMISSIONER SCHMITT: Okay. That's good clarification. I wanted that for the record.

MR. DAVIES: Yes, sir.

COMMISSIONER SCHMITT: We discussed that, and I have no objection to that type of use.

Let me go down. You have a golf course, public, 7992. I mean, as I discussed with you, just take that off. It's not going to be a golf course. I don't even know why it's on the report.

MR. DAVIES: We did talk to our client about that. I think that's a typo. We're happy to eliminate that. We're not intending to do a public golf course.

COMMISSIONER SCHMITT: Okay. Let me go down to stone, clay, glass products. Again, are these contractors who concentrate in that type of work? Are you actually going to be forming pots and planters and other types of things on the site? Or are these just -- are these just, quote, the contractors who do that type of work?

MR. DAVIES: So this one -- and I'm just going to rely on the SIC code. 3272 -- and this is what's somewhat confusing about the actual language in the code and the importance of going to the SIC code. 3272 is the concrete crushing use that I discussed.

COMMISSIONER SCHMITT: Okay.

MR. DAVIES: So this is -- and I'm reading from the SIC code -- establishments

primarily engaged in manufacturing concrete products, except block and brick, from a combination of cement and aggregate. And this is something that we worked very hard with staff on on what is the use that we are intending to do and which SIC code does it fall within. So that's what the SIC code says.

I can tell you that the intent is the crushing of concrete. There will be a crushing machine that will take larger pieces of concrete and reduce them in size to, for example, like, a 57 stone, like a landscaping -- like a landscaping rock. So you're taking one larger sort of raw material, and you are doing some manufacturing, if you will, of a -- you know, a new product that's spit out of the crushing machine.

COMMISSIONER SCHMITT: Let me get into that further because what -- are we -- what are we talking about on site for stockpiling of this material prior to going through the crusher? Is there an area identified for stockpiling?

MR. DAVIES: I mean, it's all within that industrial tract. So let me go back to the concept plan and the square footage.

So it's all going to be limited to the Tract I, what you see here at the north end --

COMMISSIONER SCHMITT: Yeah.

MR. DAVIES: -- cannot extend -- see that 150-foot that's marked -- cannot extend there. And then we have an overall cap for this whole acreage. So 33-and-a-half acres. We have a 356,000-square-foot cumulative cap for all uses. And then the only footnote to that is that either/or tract with the 75. But the cap on the industrial site is 150,000 square feet. So it's been 3-and-a-half acres of actual area that can be -- that can include any form of any of these uses.

The intent, I think, is not to -- is not to do all of the uses but, rather, to choose, and we tried to whittle those down as much as possible so that there's some flexibility but that at the end of the day there will be certain uses that we'll choose based on market demand, et cetera.

COMMISSIONER SCHMITT: Okay. I heard everything you said, but I didn't hear a storage limit on the storage area other than the square footage.

MR. DAVIES: That is the limit. So inside the 150- on Tract I and limited to 150,000 square feet of floor area.

COMMISSIONER SCHMITT: And then we're talking five-ton dumps coming in and dumping concrete debris that's picked up from a construction site for crushing? Is that what we're --

MR. DAVIES: Potentially, yeah. It all has to be limited to that -- into that area.

COMMISSIONER SCHMITT: Okay. How about -- could you go further on the other use? It says, refuse systems limited to operations of dumps, garbage collection, garbage destroying and processing, operations of sanitary landfills, rubbish collection and disposal, and sludge disposal sites. I'm very familiar with many of these. Many of them I experienced while operating overseas.

MR. DAVIES: Yes, sir.

COMMISSIONER SCHMITT: So I could tell you that a lot of these are pretty intense. And sludge disposal is pretty intense.

MR. DAVIES: Yes. So -- and based on our conversation, we did -- I did have the opportunity to speak with the client team. On this use, 4953, which, as you pointed out, includes the sludge treatment, the incinerator landfill, we don't have any intent to do that. We're happy to eliminate that 4953 use.

COMMISSIONER SCHMITT: Yeah. I would prefer, unless you're just talking about sanitation suck trucks, storage; that type of thing I don't mind. But if you're talking about an intense use of storage of sludge, disposal of sludge, or rubbish --

MR. DAVIES: We're not going to do that, and we're going to eliminate that.

COMMISSIONER SCHMITT: We have other places in the county we can do that.

MR. DAVIES: Understood.

COMMISSIONER SCHMITT: So you're going to eliminate that?

MR. DAVIES: Yes, sir.

COMMISSIONER SCHMITT: Okay. Thank you. That's all I have.

CHAIRMAN FRYER: Thank you.

Any other comments?

COMMISSIONER SCHMITT: I know you'll want to follow up.

COMMISSIONER SHEA: No, actually, you took all the words out of my mouth.

But I wanted to ask the county, in terms of noise and dust, are there any other codes that would govern? I mean, it's -- that's a key problem with these crushing operations; they do generate a lot of dust and a lot of noise. But is there any noise limits? Any -- I mean, because right now he's going to say it's 150 feet. That still could be obnoxious to the neighbors.

MR. BOSI: We have pre-set noise -- we have a noise ordinance that will limit the amount of noise that can be generated on site --

COMMISSIONER SHEA: Noise at the boundary?

MR. BOSI: Yeah, at the -- at the boundary of the individual who would be making a complaint, at their -- at the boundary of their property line is where the noise readings would be taken, and there's specific levels that they cannot exceed.

COMMISSIONER SHEA: So what about dust? Because it is very dusty. It's like dust on roads; you water them constantly during construction. What do you do with an operation that constantly generates dust?

MR. BOSI: It's a requirement of the -- it's a requirement of the Florida Department of Environmental Protection that they provide watering to eliminate, you know, the dust that's associated with them.

COMMISSIONER SHEA: And who enforces that; the county?

MR. BOSI: That would -- that would be FDEP staff.

COMMISSIONER SHEA: Okay.

COMMISSIONER SCHMITT: You know, to be pretty frank, if I was going to go out there today and do a debris cleanup operation and set up an air-curtain operation, that requirement mandates that I have to set up an EPA air-monitoring station, all the other things that are required of that, and that's probably an air-curtain operation. For those who don't understand, that's basically a burn pit with a blower.

It's probably less intrusive than the rock crushing. So I just -- I mean -- I can't mandate that they set up some kind of an air-quality standard, because we don't have those criteria in the county.

Jaime, do we have those? I'm going to ask Jaime to come up. I can't recall. I don't think we have a code air-quality issue. I'm just trying to preclude this chaos that we've had on Davis -- off of Davis.

MS. COOK: Okay. So Jaime Cook, your director of development review.

I have PTSD from the one on Davis, and it is concluded.

COMMISSIONER SCHMITT: It is?

MS. COOK: The crushing is done. The equipment's gone. We're done.

COMMISSIONER SCHMITT: My goodness.

MS. COOK: But to answer your question, Commissioner, no, there are no air-quality standards in our codes. If we do receive complaints about dust and particulate matter in the air, we do reach out to DEP. They would then send their inspectors down to complete an investigation.

COMMISSIONER SCHMITT: Yeah. So it's deferred to DEP.

MS. COOK: Correct.

COMMISSIONER SCHMITT: Florida Department of Environmental Protection.

MS. ASHTON-CICKO: Well, I don't see why you can't include a condition if you wanted to. You're looking at compatibility. And if you need something to find compatibility, then you can suggest something reasonable.

COMMISSIONER SHEA: I'd like to add something to that.

COMMISSIONER SCHMITT: Yeah. I mean, I could --

COMMISSIONER SHEA: Maintain reasonable dust control.

COMMISSIONER SCHMITT: Yeah. I mean, there are systems you can set up to do air monitoring and air -- but I -- I'm trying to figure out --

COMMISSIONER SHEA: A standard.

COMMISSIONER SCHMITT: -- a standpoint -- not the standard, but who's going to implement it and who's going to make sure they're doing it?

MS. ASHTON-CICKO: It would be a code enforcement issue if they don't do it, if you establish a requirement.

CHAIRMAN FRYER: Anything further?

COMMISSIONER SCHMITT: No, not right now. I'll wait.

COMMISSIONER SHEA: Well, I think we should implement something that addresses it, even if it's not a number, like, reasonable dust control.

CHAIRMAN FRYER: Mr. Davies, you might be better off if your client comes up with something than if we do.

COMMISSIONER SHEA: Yeah. Well, some of those crushers can come with inherent --

COMMISSIONER SCHMITT: Yes.

COMMISSIONER SHEA: -- spray so that -- not knowing what the crusher has, you could have some built-in dust control in the system. I don't know.

MR. DAVIES: I mean, my client's telling me that the crusher does. I mean, a couple comments based on this discussion. I mean, we're happy to reduce the impacts of dust and noise best as possible. I recognize that both of those are -- there are impacts to that.

I want to point out a couple things. I mean, first of all, I understand the PTSD, as Jaime put it, that the county has based on that site, but with all due respect, we shouldn't get lumped in with another bad actor. I understand that there were a number of code violations that they had. I know that that was very difficult for the county.

We plan to comply with all the codes. And as I mentioned in my remarks, we are about a fifth of the size of that property. It's limited. We have the 10-foot- concrete wall, which we worked very hard on the neighbors. It's going to be very expensive to do that full linear footage of that. I think that that's a significant barrier.

With respect to other regulatory authorities, we will, of course, comply with FDEP, go through whatever permitting is required of them, and go through whatever, you know, compliance requirements that they have with respect to both dust and noise.

I don't know that my client has a particular objection to giving you comfort that we're going to comply with dust impacts the best we can. I don't know what that is. I mean, I don't know -- I don't -- I would caution, respectfully, you from trying to add regulations on the fly, but it's not because my client doesn't want to comply. My client just wants to have clear regulations with which he will comply or which they will comply. And we'll comply with the noise ordinances. We'll comply with -- I mean, we've gone above and beyond with this concrete wall, with the spacing. All of this has been worked through with staff to get where we are today such that this is very limited and very different from what happened on Davis, which included violations of the code and not -- and that's not our intent, certainly.

COMMISSIONER SHEA: But they didn't violate the dust code because, as you said, there is no dust code.

MR. DAVIES: Well, then, I would respectfully ask that you request the county's ordinances be amended to add some sort of dust code. I mean, there are provisions from other agencies. FDEP was mentioned that helps limit how these machines work, operate and the permitting for that. I mean, I'm not an expert on DEP permitting, and this is not the forum for that, but I can assure you that we will be compliant with any authority that has jurisdiction over the property.

COMMISSIONER SHEA: Question for Mike: What does the county do with dust control on construction roads and activities? Do you have -- I mean, do you have zero dust required -- you have a code for it. Why couldn't that code apply to this generation?

MR. BOSI: You're talking about?

COMMISSIONER SHEA: Well, if somebody's got a construction site or like the quarry up there, when you drive down the road, it's like a dust storm hitting. But there is a code that says that you have to maintain -- keep the dust down, right? And you -- that the county enforces, no?

MS. COOK: Correct, yeah. Again, Jaime Cook, for the record.

So on any construction sites, dust has to be controlled on the site. Typically it's through watering trucks or irrigation.

And to go back to the Taormina property, one of the requirements we had while they were finishing that crushing was that they had to have that crusher run -- they had to have a watering truck on site with water running the entire time that that crusher was running. And, typically, they left it on for a couple hours after the crushing activities were completed to help ensure that any dust did stay on the site.

COMMISSIONER SHEA: That sounds like a good idea. Why wouldn't we want to do something like that here? I mean, regardless of all the other code things, it's still the same process. It's still going to generate the same -- when you crush concrete, you get dust.

MS. COOK: And, you know, that was -- that was staff's recommendation back then when we worked with the County Attorney's Office to get that site cleaned up. I don't know if Noel would like to speak to his client about some sort of condition that they could -- that they would like, but that's what we had done on that property.

CHAIRMAN FRYER: Let me say this: We, on the Planning Commission, are

very fortunate to have two engineers who are experts in environmental matters, and I take quite seriously when they speak with the level of clarity and specificity that they have this morning.

And I'm not at all comfortable just passing this on without doing something. And, I mean, there are a number of approaches that we can take. We could try to craft something -- and the expression "on the fly" maybe doesn't do full service to a creative process that when smart people get their heads together, they can come up with good language. But we could do that. We could also -- I would entertain a motion at the proper time to continue this matter if Mr. Davies and his client want more time to think about what they're willing to do and propose something, because I'd prefer that we react to something that they propose. But if they don't propose anything, we can always craft something ourselves.

Vice Chairman.

COMMISSIONER SCHMITT: Yeah. I'm just doing a cursory look through the web here, and there are a lot of handheld dust monitoring and particle monitoring systems. I mean, I'm going through it right now and looking at them. The issue here is we could impose that upon the applicant, but somehow they're going to have to submit a report to the county, that they would submit some kind of a weekly or monthly report, or do I say the neighbor down the street. That's where the complaints are going to come from.

And I just -- I just want to make sure we have something in place that -- where we are actively or proactively monitoring the dust particles that are going to be in the air. The prevailing winds -- quite honestly, in that area of the county, the prevailing winds are primarily from east to west, so most of the dust is going to blow towards the batch plant. Typically, prevailing winds in that area. I know because I play golf out that way at Fiddler's Creek, and I know which way the wind blows most of the time.

But somehow, Jaime -- would your staff be the ones that -- I know engineering -- we used to send engineering staff out to do site monitoring.

MS. COOK: We do. Also, PUD monitoring is within the development review purview. So any commitments within the PUD are tracked by our team and measured, and we do have several PUDs that do have commitments to submit monthly reports to us, and we keep track of those, keep them on file in the system in case there are ever any questions or concerns or potential code enforcement issues.

MS. ASHTON-CICKO: If you want to make it less onerous, you could have the reporting requirement triggered if the county receives a complaint over the dust.

COMMISSIONER SCHMITT: That was what I was thinking.

MS. ASHTON-CICKO: Yeah.

COMMISSIONER SCHMITT: If there are dust complaints, that we would then require the applicant to implement some kind of monitoring system. I also --

COMMISSIONER SHEA: You still need a standard.

COMMISSIONER KLUCIK: Well, not just monitoring, but also mitigation.

COMMISSIONER SCHMITT: Yeah. The mitigation is going to be through the watering system. But I also want to make sure -- just like we do for mining operations, we -- engineering staff typically sends out one of our inspectors to monitor periodically what's going on.

MS. COOK: Correct.

COMMISSIONER SCHMITT: I mean, I could name the names of the guys that

used to do it. But this would be a site that I think that periodically our engineering staff should go out and make sure that they're in compliance, just like they do if they were going to do blasting on site. We -- and, in fact, when we do blasting, the applicant is required to notify the neighboring properties.

MR. DAVIES: May I make a suggestion?

COMMISSIONER SCHMITT: Yes.

MR. DAVIES: So in speaking with my client, I mean, we certainly appreciate the feedback. We want to find a way to make you comfortable with the appropriate mitigation efforts for this specific use at the north end. Rather than trying to create regulations on the fly --

COMMISSIONER SCHMITT: Right.

MR. DAVIES: -- my suggestion would be that between now and the BCC hearing we work with Jaime and her staff, we work with county staff on some sort of condition that is -- you know, that requires something more than what there is today. I can't -- we don't know what the standard is. Like we said, we don't know what the conditions are going to be, but something that staff is comfortable with and something that my client is comfortable with and --

CHAIRMAN FRYER: Well, I'm going to interrupt you, sir. That's not the way I like to operate, and I don't believe the other members of the Planning Commission. We don't just pass this on to the Board of County Commissioners and hope for the best.

From my point of view -- and I want to hear what staff has to say and see if there are any members of the public. But I am leaning very heavily toward coming up with language either on the fly or by way of a continuance, because we're not going to lose jurisdiction of this until we get something satisfactorily worked out; at least that's my point of view. So why don't you wrap it up, and then I want to hear from staff.

MR. DAVIES: We've completed our presentation, Mr. Chairman.

CHAIRMAN FRYER: Thank you. Staff?

MR. BOSI: Thank you, Chair. Mike Bosi, Zoning Director.

Parker Klopf provided the Comp Plan review, and he has a short statement he wanted to make related to compliance.

CHAIRMAN FRYER: Okay.

MR. KLOPF: Good morning, Commissioners. Again, Parker Klopf, Planner III with the Comprehensive Planning department.

In doing my review, there is an industrial needs and analysis report provided for this site. Overall, this site is surrounded by the Rural Fringe Mixed-use Receiving District which, as we've discussed already, is an area that is scripted for residential development in the future. The addition of this commercial and industrial space to that area would provide the access to those needs and goods and services for those residents or future residents of those areas.

For that reason, and for the reasons highlighted also in my staff report, from a Comprehensive Planning staff review, this is an acceptable project. We support it, granted that we need to work out these issues that you guys are bringing up today regarding crushing and the noise and whatnot.

In regards to that, I don't have anything else.

CHAIRMAN FRYER: All right. Mr. Bosi, were you going to say something?

MR. BOSI: Yeah. And we also -- Eric Ortman provided the zoning compatibility

review as the project manager, and we would be ready to endorse whatever additional impositions related to the air particulates, the watering requirement -- monitoring requirement the Planning Commission would feel comfortable with.

So whatever -- whatever the discretion or choice of the Planning Commission is, staff is willing to -- you know, is ready to support it because we understand that this can be an issue with the adjoining neighbors. And if we don't -- if we're not proactive about it, we will find ourselves in a situation that's rather -- you know, not -- not favorable in terms of good planning.

CHAIRMAN FRYER: Secretary Shea.

COMMISSIONER SHEA: Just to get out of this, could I suggest that we incorporate a statement that the applicant will incorporate state-of-the-art dust control systems and operate them in order to eliminate visible dust leaving the property?

COMMISSIONER SCHMITT: I would agree. My statement was going to be more in line with what Heidi -- if there are complaints that are filed based on air quality, then the stipulation is that the applicant must implement a system.

COMMISSIONER SHEA: Yeah. I would say that he should implement it and operate it regardless of whether there --

COMMISSIONER SCHMITT: Okay.

COMMISSIONER SHEA: Because by then it's always too late.

COMMISSIONER SCHMITT: Yeah. I'm fine.

CHAIRMAN FRYER: Okay. Well, I have a few other questions for staff.

And I appreciate the application's willingness to remove some of the uses mentioned, like sludge disposal and the golf course, so thank you for doing that.

My first question, though, has to do with the hours of operation. Both of our planning commissioners who are engineers have suggested 7 a.m. to 6 p.m., which sounds quite reasonable to me. Does staff object to that, or what position does staff take on that?

MR. BOSI: Staff understands the requirement. Commissioner Schmitt had asked about what was imposed by this Planning Commission on the Basik Drive PUD that was -- a couple months ago came before the Planning Commission. And it did have a component. It said, "Maintenance of vehicles or flushing of boat motors shall be prohibited between the hours of 9 p.m. and 8 a.m."

So the staff is comfortable with, you know, the imposition of a limitation in terms of these activities that we know create noise and could -- we wouldn't want -- we would want to have a limitation upon how far they can go. So wherever staff -- or staff would be supportive of whatever the Planning Commission feels is appropriate related to the type of activities that is being proposed.

CHAIRMAN FRYER: Okay. Thank you.

Vice Chairman.

COMMISSIONER SCHMITT: I'm fine with the hours as suggested by the applicant. My only limitation would be for the rock crushing between 7 a.m. to 6 p.m. That's it. Because I'm thinking a welder or somebody else, there might be work being done to 8 a.m. [sic], but those are not significant impacts, you know -- or trucks coming back from jobsites and pulling in at 7 p.m. Those type of things, those are -- those are not intrusive. The real issue here is the rock crushing.

CHAIRMAN FRYER: Thank you.

Mr. Davies, would you come back to the mic, please, sir.

MR. DAVIES: Yes, sir.

CHAIRMAN FRYER: So what is your client's point of view with respect to 7 a.m. to 6 p.m. for rock crushing?

MR. DAVIES: So we were just speaking about it. I think we can limit it from 7 a.m. to 7 p.m., but not 7 a.m. to 6 p.m.

COMMISSIONER SHEA: You're right in cocktail hour.

CHAIRMAN FRYER: Planning Commission, what do you think about that?

COMMISSIONER SCHMITT: I still stay with 6 p.m.

COMMISSIONER KLUCIK: Yeah. I think -- I think you have a tiny corner that you can currently do your rock crushing on if you don't want to have the restrictions, and if you want a much larger area that's four times the size, which is what you're asking for, then it's looks like to me it's going to be 7 to 6.

CHAIRMAN FRYER: All right. And then what is your client's position with respect to the dust control?

MR. DAVIES: I'm not sure where we're at with that. I'm not sure what's on the table as to the proposed condition.

COMMISSIONER SHEA: I think it has to do with the technology that comes with the equipment.

MS. ASHTON-CICKO: Paul, I've modified your language. I do have some proposed language if you'd like to consider it.

CHAIRMAN FRYER: Oh, good. Could we hear it or see it?

MS. ASHTON-CICKO: Yeah, I'll read it right now. Owner will implement dust control -- and this is just going to be related to the rock crushing -- including water spray systems and dust collection systems such as bag houses or comparable state-of-the-art dust control to eliminate dust from leaving this -- the PUD property.

CHAIRMAN FRYER: And your position on that, sir?

COMMISSIONER SHEA: I don't think the bag house applies to this. I don't think you could physically put that together and it's --

MS. ASHTON-CICKO: So take that out?

COMMISSIONER SHEA: Yeah. I would take -- it's water control.

COMMISSIONER SCHMITT: Just water control.

COMMISSIONER KLUCIK: And I think elimination is sort of a bit extreme. I think mitigation, and then, of course, the question is what's the standard.

COMMISSIONER SHEA: Yeah. That's why --

COMMISSIONER KLUCIK: I think -- I think we can dream about the perfect situation, but then we have to have -- you know, this is regulation, and so it needs to be plausible and meaningful and enforceable, and we need to make it so that the -- you know, you can comply with it and that you can measure whether you're in compliance. You know, we have to be fair.

And it is hard to do on the fly, but in this case we either do it on the fly, or I think you're going to -- you know, you're getting resistance here if we don't do it on the fly. And I think, you know, Mr. Chairman, you have a nice technique where we break and then make sure that, you know, somebody does something to give us something that makes sense.

I mean, our attorney has given us something, but even that we see needs some tweaking and maybe could -- you know, the input from the applicant working with our

attorney could work.

CHAIRMAN FRYER: That's very close to what I was going to suggest. Thank you, Commissioner.

COMMISSIONER KLUCIK: You've taught me well.

CHAIRMAN FRYER: Would the County Attorney be willing to have a conversation with the applicant and see if we can come to closure --

MS. ASHTON-CICKO: Absolutely.

CHAIRMAN FRYER: -- on this? And if we -- that would be good. And so it's one minute after 10. Let's -- is 10 minutes enough for this kind of a conversation?

MR. DAVIES: Yes.

MS. ASHTON-CICKO: Uh-huh.

CHAIRMAN FRYER: All right. Let's take a break until -- well, until 10:11. We're in recess for the purpose of the applicant and the County Attorney to see if they can come together on language, and also, applicant, during that time, please ask your client to reconsider on the operating hours for rock crushing.

We stand in recess until 11 minutes after 10.

MR. DAVIES: Thank you, Mr. Chair.

(A brief recess was had from 10:01 a.m. to 10:14 a.m.)

CHAIRMAN FRYER: Is the applicant ready?

MR. DAVIES: Yes, sir.

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

CHAIRMAN FRYER: Thank you, Mr. Bosi.

We're back in session. We had asked the County Attorney and the applicant's representative to meet together and see what they could come up with, and we'd like a report from either the County Attorney or applicant or both.

MS. ASHTON-CICKO: All right. So we did agree on some proposed language. It would state, "Owner will implement dust control for concrete crushing, SIC Code 3272, including water spray systems or comparable state-of-the-art dust control to meet FDEP acceptable air-quality standards on adjacent property."

CHAIRMAN FRYER: Mr. Davies?

MR. DAVIES: That's agreeable.

CHAIRMAN FRYER: Okay. Thank you.

I want to -- where did Joe go? I wanted to hear from our experts up here.

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Yes.

COMMISSIONER KLUCIK: Okay. And I guess to our attorney, so let's say -- that's what says is required, and let's say -- how do we know whether that's happening, how is that enforced, and then what happens if it's being violated?

MS. ASHTON-CICKO: In getting some feedback from Mr. French, if the county were to receive a complaint, they would coordinate with FDEP.

COMMISSIONER KLUCIK: To do a measurement and then --

MS. ASHTON-CICKO: Yeah.

COMMISSIONER KLUCIK: And then you're just -- it's whatever the code enforcement already is --

MS. ASHTON-CICKO: Correct.

COMMISSIONER KLUCIK: -- for that particular rule?

COMMISSIONER SHEA: But we know there is an FDEP standard? I mean, did we just make up --

MS. ASHTON-CICKO: Jaime Cook --

COMMISSIONER SHEA: -- an acronym, and there is a standard or isn't?

CHAIRMAN FRYER: Vice Chairman.

COMMISSIONER SCHMITT: The only other concern about is -- well -- Heidi, is the property to the west, which is the -- probably the biggest violator because it's the batch plant. I know they have a bag system and other types of things.

So I've got to be careful that this applicant doesn't assume responsibility for what's ever being created by the plant next door. So I don't know how we delineate between the violator, I guess, is the word I want to use.

MS. ASHTON-CICKO: I can -- we can maybe work with Noel to exclude dust that's, you know, emitted from that. But I don't know how you would distinguish that.

Jaime, did you want to comment?

MS. COOK: So, Commissioner, FDEP's standard -- we discussed with them back when Taormina was restarting their rock crushing, and it's -- it's typically what -- they consider the standard to be as long as it is -- the dust does not make the air more than 80 percent opaque --

COMMISSIONER SHEA: Wow.

MS. COOK: -- then it is within their --

COMMISSIONER SCHMITT: That's a fog.

MS. COOK: -- then it is within their code requirement. They do have some monitoring techniques, but it can be very subjective.

CHAIRMAN FRYER: All right. Well, one thing that I've heard that we need to address is we don't want to make this applicant responsible for dust that originates elsewhere. So let's insert the concept of dust originating at the applicant's site into the language.

MS. ASHTON-CICKO: Yeah. I mean, another option would just say that owner will use dust control for concrete rock crushing, including water, spray systems, or comparable state-of-the-art dust control, and just leave it at they have to do it, and then if there's an issue with air quality, I guess, we bring in DEP. But at least you're making sure that they do something. That's one option.

CHAIRMAN FRYER: Engineers up here, what do you think?

COMMISSIONER SCHMITT: Yeah, that's fine.

COMMISSIONER SHEA: I'm okay with that.

COMMISSIONER SCHMITT: I know some of these newer plants, they already have built-in sprayers. They already have built-in air curtain systems that draw the dust particles back into some kind of a vacuum system or whatever, so, again, it depends on what Keith puts out there on site. I don't even know if he's purchased anything yet. So that's the key. And today's systems are pretty, I guess, sophisticated is the word I'm looking for. Yeah.

CHAIRMAN FRYER: Okay. It sounds like the two of you --

COMMISSIONER SCHMITT: Yep.

CHAIRMAN FRYER: -- are agreeable with that.

All right. Anything further from the County Attorney?

MR. DAVIES: Mr. Chair, the applicant has no objection to that revised language

that's on the table.

CHAIRMAN FRYER: Ah, thank you, Mr. Davies.

MR. BOSI: And, Chair, nothing further from the county.

CHAIRMAN FRYER: All right. Okay. So at that point we'd want to find out if there are members of the public who have registered to speak on this matter. Ms. Padron? Mr. Sabo?

MR. SABO: Mr. Chairman, we have no registered speakers for this item.

CHAIRMAN FRYER: Okay. Is there anyone who is in the room who has not registered to speak but wishes to be heard at this time on this matter, please raise your hand.

(No response.)

CHAIRMAN FRYER: Seeing none, we will close the public comment portion of this hearing and take the matter -- oh, I need to also ask Mr. Davies, did you speak with your client about hours of operation on the crushing?

COMMISSIONER SCHMITT: Could I make a clarification on the crushing?

CHAIRMAN FRYER: Yes.

COMMISSIONER SCHMITT: Six p.m. is what we stated, and that's when the machine shuts down. If there were workers staying afterwards doing whatever they have to do, maintenance, other things that have to be done, I have no problem with that, but the machine shuts down at 6.

CHAIRMAN FRYER: Actual rock crushing?

COMMISSIONER SCHMITT: Actual rock crushing.

CHAIRMAN FRYER: Thank you. Thank you for that.

Mr. Davies?

MR. DAVIES: I want to restate it. So from 7 a.m. to 6 p.m.

COMMISSIONER SCHMITT: That's correct.

MR. DAVIES: Outside of those hours, the crushing machine cannot operate.

COMMISSIONER SCHMITT: Correct.

MR. DAVIES: But if there's cleanup activities or ancillary activities -- but I think your concern relates to --

COMMISSIONER SHEA: Yes.

MR. DAVIES: -- noise impacts or potential noise impacts from the operation of the machine?

COMMISSIONER SCHMITT: Let me clarify, Noel, because it's -- you may have to operate the belt system and other things if you're performing maintenance. I'm just talking about the actual crushing.

MR. DAVIES: There's no objection to that at those hours.

COMMISSIONER SCHMITT: So if after 6, you know, you've got an oiler, whatever, they're doing maintenance, changing rollers, whatever they're doing, and the machine operates, it's not -- it's not the noise being created from the actual crushing. So the actual crushing is limited between 7 a.m. to 6 p.m.

MR. DAVIES: Appreciate that clarification, Commissioner, and we can agree to that.

CHAIRMAN FRYER: Thank you very much.

All right. This is the kind of outcome that I personally like to see. Thank you to the applicant, the County Attorney, County Attorney staff, and our experts on the Planning

Commission for reaching what I think is a very good solution.

So with that, I'd entertain a motion at this time.

COMMISSIONER KLUCIK: I'd like to make that motion to pass it with those changes that we just discussed regarding 7 a.m. to 6 p.m. and the dust mitigation that was --

COMMISSIONER SCHMITT: I also would like to add, if I could, to your -- to your recommendation the removal of the golf course as agreed to by the petitioner, that 7992 SIC code, and the removal of refuse systems as indicated, 4953.

COMMISSIONER KLUCIK: Yes, those would also be included in my motion.

CHAIRMAN FRYER: Does that latter capture sludge?

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: Okay. Good. So let's see. You made the motion?

COMMISSIONER KLUCIK: That is my motion with what Joe just said added, included.

COMMISSIONER SCHMITT: I second the motion.

CHAIRMAN FRYER: Thank you.

So it's been moved and seconded to approve the application subject to the following changes which have been agreed to by the county and by applicant. Number 1, actual rock crushing will be limited to the hours of 7 a.m. to 6 p.m.; second, Ms. Ashton's language on dust control will be adopted; third, the Vice Chair --

COMMISSIONER KLUCIK: With the specificity that it's only dust that's created on that site.

COMMISSIONER SHEA: I think that's in the words.

COMMISSIONER SCHMITT: That's in her language.

COMMISSIONER SHEA: She should have added it.

CHAIRMAN FRYER: Was it?

COMMISSIONER SCHMITT: It's implied.

COMMISSIONER SHEA: You asked her to add it.

MS. ASHTON-CICKO: I'll read back the language, because it doesn't talk about the --

COMMISSIONER SCHMITT: Your microphone.

MS. ASHTON-CICKO: I'm sorry. It says, "Owner will use dust control for rock crushing, SIC code 3272, including water spray systems or comparable state-of-the-art control."

CHAIRMAN FRYER: How about changing "dust control" to "control of dust originating at the site"?

MS. ASHTON-CICKO: Well, we can do that, certainly, if you'd like to, but the county --

COMMISSIONER KLUCIK: I think what you -- I think the language you just gave makes them only responsible for their own activities; right there, just what you said.

MS. ASHTON-CICKO: Well, correct, because they'll be implementing -- they'll be using a sprayer or something like that on site. It doesn't address whether dust crosses, you know, onto adjacent properties.

CHAIRMAN FRYER: So is everybody okay with this?

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: And then the other conditions that have been agreed to by

all are the disposal, and also the golf course use will be eliminated.

All right. Any further discussion before we take a vote on that motion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, one and all.

MR. DAVIES: Thank you, Chair. Thank you, Commissioners.

COMMISSIONER SCHMITT: Thank you, Noel.

COMMISSIONER KLUCIK: Beat Navy.

COMMISSIONER SCHMITT: Noel, thank you.

CHAIRMAN FRYER: We are going to continue right into the next matter, which I shall call in a moment.

***All right. The second matter coming before us today is PL20220004304. This is the Genesis CPUDR. It's a rezone and CPUDZ. It's both. It's also part of a -- it's partly a rezone of the existing CPUD, and it's adding Estates property to the PUD.

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 very much.

Disclosures from the Planning Commission starting with Ms. Lockhart.

MS. LOCKHART: Staff materials only.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Matters of public record, meetings with staff, communications with the applicant's agent.

COMMISSIONER SCHMITT: I had a phone conversation with Mr. Yovanovich who represents the applicant.

COMMISSIONER KLUCIK: Nothing to disclose.

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

CHAIRMAN FRYER: Thank you.

You may proceed, Mr. Yovanovich.

MR. YOVANOVICH: Thank you.

Good morning. For the record, Rich Yovanovich on behalf of the applicant, which is Genesis Naples, LLC.

With me today from Peninsula Engineering is Jessica Harrelson, who's the planner on the project, and Josh Fruth, who's the engineer on the project.

COMMISSIONER SCHMITT: Rich, can you pull the microphone down there?

MR. YOVANOVICH: Sorry. Is that better?

COMMISSIONER SCHMITT: Noel is a little bit taller than you.

MR. YOVANOVICH: A little bit, and a little younger.

Do I need to repeat what I already said?

COMMISSIONER SCHMITT: I heard it.

MR. YOVANOVICH: Okay. And then pinch hitting for Norm Trebilcock is Gavin Jones from Trebilcock Consulting Solutions to address transportation comments if you have any.

As usual, I'll do a brief overview of the project, where we are. Mr. Chairman, I'll hit the access issue that we -- you wanted to discuss, and then I'll have Jessica take you through the specifics of the PUD and the master plan.

With that, the request is to rezone the subject property from the Clesen PUD and Estates lands or zoned lands to the Genesis Commercial Planned Unit Development. It will allow for a maximum of 65,000 square feet of new and used-car dealerships and/or other commercial uses to occur on the property.

The property is 10.51 acres. It's located basically at the intersection of I-75 and Pine Ridge Road, and it's within the Interchange Activity Center No. 10. As the Commission knows, activity centers is where commercial activity is to go. It allows the full range of C-1 to C-5 in activity centers. And the uses that we're requesting are consistent with the Growth Management Plan as your staff has confirmed in their memo.

The location of this property is kind of a -- I don't know if unique's the right word, but it has transportation-related constraints, so there has to be cooperation with basically all of the properties that I'm showing you on this screen.

Kramer Drive is part of the Angileri PUD. That's where RaceTrac and some storage is, and you can see Kramer Drive is behind the RaceTrac, and then you have a conditional use, which I'll briefly go over in a minute. You have the Pine Ridge Corners PUD, and then you have our request.

Because of the location of the I-75 offramp here, there's a limited access area that basically runs along Pine Ridge Road. So if you -- so a connection to Pine Ridge Road is not a possibility directly from this PUD.

You will note that the Clesen PUD prohibited access to Pine Ridge unless we were able to modify the length of that limited access area, which is not possible.

CHAIRMAN FRYER: Say that again, please.

MR. YOVANOVICH: The Clesen PUD originally provided that we couldn't have access onto Pine Ridge Road unless we were able to convince the federal government to reduce its limited access prohibitions along Pine Ridge Road related to this offramp for I-75. The federal government's not moving, so that area is not eligible to directly connect to Pine Ridge Road.

Also, the county has taken the position for the existing PUDs, and I'm sure would have taken the position had we just come in for this property, that there will be no connection to Livingston Wood Lane for any of the properties that are coming in to develop in this activity center, and that has found its way into basically all of the existing PUDs that have been approved in this area.

So what that has actually required is, essentially, the cooperation of the owners of -- within the Angileri PUD, to allow what is an approved conditional use on this piece of property, the Pine Ridge Corners PUD and the Clesen PUD and the properties all the way

to I-75, to cooperate in basically creating a frontage road or reverse frontage road to connect all of these properties to get to Whippoorwill Lane, which runs north and south.

So that's what we've done. That's what we're working on. There is a condition in your -- in our PUD that basically says we can't connect to Pine Ridge Road, and we've got to find our way to Kramer Drive, and Kramer Drive is going to remain a private road unless the county wants to take it over. You'll see that condition -- or you saw that condition in the PUD.

We have been working with our neighbors to the west. Right now there is what's called bisecting easements that were created many, many years ago for Estate lots, and that would give us access across our neighbors' properties, ultimately, to connect to Kramer Drive, or we can do what is going to happen unless something unexpected occurs. There will be a frontage road that goes along Pine Ridge Road across our neighbors' property to the west, across the conditional-use property, and then ultimately connecting to Kramer Drive in this location where I would say we're very, very, very close to signing off on an agreement to have that occur. So it is anticipated that there will be a frontage road along Pine Ridge Road.

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Commissioner Klucik.

COMMISSIONER KLUCIK: The signing off, meaning the private parties?

MR. YOVANOVICH: The private parties, yes.

COMMISSIONER KLUCIK: Are almost at agreement?

MR. YOVANOVICH: Yes. And it's obviously -- it's in our PUD that, you know, we have to reach some form of an agreement to get access to Kramer Drive.

So that -- and there -- just to reiterate, there's absolutely no connection to any properties along this roadway within Livingston Woods.

So the access -- that's how we got to those access conditions in the PUD. That's the history of how all of these properties have been required to basically interconnect to avoid a connection to Pine Ridge Road and prohibit any access through the Livingston Woods neighborhood.

MS. ASHTON-CICKO: There is an issue, though, Rich, with the existing access. I mean, that's not really in place. That's questionable as to whether there's existing access, and that's why they're trying to work that out.

MR. YOVANOVICH: Well, that's -- just so you're aware, there's litigation occurring right now over -- over -- and I don't want to get too much into it because we basically have reached an agreement, so I don't want to go sideways on what the agreement is. There are bisecting easements here.

MS. ASHTON-CICKO: That may or may not be in place.

MR. YOVANOVICH: No. And if we don't have access, then we're going to have an issue with the county because we have to have access to our property, and the county can't prohibit us from having access. So I don't want to get sideways on this.

CHAIRMAN FRYER: I'm not sure it's sideways, because it seems to me that it touches upon an issue of site control.

MR. YOVANOVICH: Well, we have a prohibition right now from going onto Livingston Woods, and we have to either work it out to get across this property, or we have to litigate the issue. And if I can't get across the property, then I have a landlocked piece of property. So I don't want to get into the litigation.

COMMISSIONER KLUCIK: So, ultimately, it seems the law is going to allow you to have access to your property?

MR. YOVANOVICH: I don't want to get into any of that because we have had very productive conversations with our neighbors, and I don't want to start talking about litigation and how we're going to get access. The important thing is right now you adopt this PUD, I can't get into the neighborhood, all right, and that's the important thing about this whole condition. And I can't develop my property if I don't get access to Kramer.

CHAIRMAN FRYER: Mr. Ashton, go ahead.

MS. ASHTON-CICKO: Yeah. With the stipulations that are in the PUD in place, we are satisfied that prior to him getting an SDP, he will have access finalized to Kramer Drive.

CHAIRMAN FRYER: Okay.

MS. ASHTON-CICKO: But it's -- those documents are not currently in place. There's some question as to whether those existing easements exist. But county staff and our office was in favor of proceeding forward rather than trying to establish access on the Livingston Woods parcel, which would take you through a residential neighborhood.

CHAIRMAN FRYER: All right. So it's prior to a Site Development Plan -- it's not prior to a CO. It's prior to a Site Development Plan.

MS. ASHTON-CICKO: It's Site Development Plan, isn't it, Rich?

MR. YOVANOVICH: Well, we're --

MR. PERRY: It's actually application for any form of any permit. So they can't do anything. It's any county permit.

CHAIRMAN FRYER: Okay. So no construction, no plat --

MS. ASHTON-CICKO: SDP or plat.

CHAIRMAN FRYER: -- no nothing?

MR. PERRY: Nothing. No vegetation clearing. Nothing.

CHAIRMAN FRYER: Okay. All right. That's what I needed to know. Thank you.

MR. YOVANOVICH: The condition is on your screen under the transportation conditions.

So with that I would say --

CHAIRMAN FRYER: Would you just direct my attention to it, maybe read it? Because I can't see the small print.

MR. YOVANOVICH: It says, "Access to the Genesis CPUD is limited to and shall be provided by an access easement that connects the Genesis CPUD to and through Tract 61 of Golden Gate Estates, Unit No. 35, and Kramer Drive, the Kramer Drive extension easement. The Kramer Drive extension easement shall be for access to and from Kramer Drive, from, to, and through Tract 61, 76, 77, 92, 93, and 108 of Golden Gate Estates, Unit No. 35, its extension.

"The Kramer Drive extension easement shall outline the responsibilities for construction and maintenance of Kramer Drive and its extension amongst all applicable parties." I'm not going to read the parenthetical." And be provided to Collier County before making application for any county permit, e.g., SDP, plat, and/or early work authorization." Those are the conditions.

CHAIRMAN FRYER: Okay. Thank you. That clears it up for me. Thank you.

MR. YOVANOVICH: Okay. So hopefully we've addressed, Mr. Chairman, your

questions about access and how we got to where we are.

With that, unless you have more questions of me, I'm going to turn it over to Jessica to take you through the specifics of the PUD master plan and, with that, then we'll open it up to any questions you may have regarding the project.

CHAIRMAN FRYER: Thank you.

Ms. Harrelson.

MS. HARRELSON: Good morning. For the record, Jessica Harrelson, certified planner with Peninsula Engineering. I'll just walk you through some of the details of the PUD.

What you see here is a depiction of the PUD master plan over an aerial. There are two development tracts and, again, together with a permitted maximum development of 65,000 square feet.

Surrounding land uses include single-family residential to the north, developed commercial to the south beyond the Pine Ridge Road right-of-way and to the east beyond Interstate 75, and commercial zoning to the west.

Tract A consists of 3.3 acres and is the selected location of the car dealership for the luxury carline Genesis.

Due to the nature of typical operations of a car dealership, to demonstrate compatibility with adjacent residential uses, the conceptual locations of buildings and the vehicle -- vehicular loading and unloading areas are depicted, and we have also included several developer commitments to further address compatibility with this use. Those include using Dark Skies compliant lighting; bay doors on the car wash building will remain closed during wash cycles; repair and service areas will be enclosed; enhanced buffering will be provided; hours of operation have been limited; there will be no storage of gasoline or fuel tanks on site; no collision shop operations; no rooftop parking or display; no outdoor amplified sound or paging; and access, including test drives, is prohibited along Livingston Woods Lane.

Tract B is 2.6 acres. Currently, we have no end-user confirmed for this tract.

The PUD has been designed with the required preserve area to be positioned along the north which provides a significant buffer to those residential uses to the north. Perimeter landscape buffers include a 10-foot buffer along the west adjacent to Pine Ridge Corners PUD, 20-foot Type D buffers along the south and to the east adjacent to rights-of-way, and an enhanced 20-foot buffer along the north where adjacent to residential uses.

This is a detail of that enhanced buffer. It will consist of a solid 8-foot wall to mitigate potential impacts on residential uses, and all plant material required within the buffer will be planted on the exterior side of the wall facing residential development.

Proposed development standards are comparable with what was previously approved for the Clesen PUD and are compatible with surrounding land uses. These standards include a maximum zoned building height of 35 feet, and we have setbacks 82-and-a-half feet from the northern property line, 25 feet from the southern and eastern property lines, and 15 feet from the western property line.

For permitted uses, Tract A, automotive vehicle dealers is the only use that is included. We wanted to be transparent with the public with that. And Tract B includes a range of commercial uses.

Overall, in comparison with the Clesen PUD, hotels and motels have been removed

and newly proposed uses include insurance services, advertising agencies, limited indoor amusement and recreation services, auto and home supply stores, and veterinary services.

The PUD includes three deviations from signage requirements which are internal to the development to allow ease of way finding. These have no negative impacts on surrounding developments.

The site has been designed to enhance and complement the surrounding neighborhood. This is a view of looking north of the Genesis dealership, and another, this is looking northwest -- or, I'm sorry, northeast.

And to conclude, the site is within the Interchange Activity Center No. 10 which is intended to provide a concentrated commercial and mixed-use development. The request is consistent with the Growth Management Plan. The rezone complies with PUD and rezone findings outlined in Section 10 of the LDC and, as outlined in the staff report, staff has recommended approval.

Thank you.

CHAIRMAN FRYER: Thank you, Ms. Harrelson.

Any questions or comments from the Planning Commission before we go on to the staff report?

(No response.)

CHAIRMAN FRYER: If not, we'll hear from whom; Mr. Bosi?

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

And I can just summarize the staff's review of the petition. This is an interchange activity center designation within the Future Land Use Element, the most intense area that we have within the county in terms of the uses that we would expect. A car dealers- -- a new and used-car dealership would be an appropriate use, something that we would expect. With the additional buffering and restrictions that have been placed in the PUD, we think that it would provide for a harmonious sitting in relationship to the proximity to the Estates properties to the north.

We are recommending approval of the petition and can answer any questions that you may have.

CHAIRMAN FRYER: Thank you. Questions or comments from up here?

(No response.)

CHAIRMAN FRYER: If not --

COMMISSIONER KLUCIK: Mr. Chairman.

CHAIRMAN FRYER: Go ahead, Commissioner Klucik.

COMMISSIONER KLUCIK: Okay. So if you're looking at Kramer, you have Kramer north and south and then Kramer east and west. Where is this access path, you know, anticipated?

MR. YOVANOVICH: It's going to be right here.

COMMISSIONER KLUCIK: To the north of RaceTrac?

MR. YOVANOVICH: No, it's going to be right here.

COMMISSIONER KLUCIK: To the south of RaceTrac?

MR. YOVANOVICH: Right across like this. And then it's going to be between RaceTrac and the --

COMMISSIONER KLUCIK: Okay. So it's going to go to the north of RaceTrac, okay.

MR. YOVANOVICH: Yes, sir. It's going to be behind RaceTrac.

COMMISSIONER KLUCIK: So it's going to hug -- it's going to hug Pine Ridge, and then as soon as you get to the RaceTrac, it's going to go north and then turn immediately?

MR. YOVANOVICH: Then it's going to come back down. Kramer Drive exists today, so we'll connect to the existing Kramer Drive when it comes this way.

COMMISSIONER KLUCIK: And that all boils down to those two other parcels; you're working with those owners?

MR. YOVANOVICH: This is us. We also --

COMMISSIONER KLUCIK: Oh, you own that.

MR. YOVANOVICH: So we know this can happen, and we worked with and are working with our neighbor right here, which is the Pine Ridge Corners PUD.

COMMISSIONER KLUCIK: Okay.

CHAIRMAN FRYER: All right. Commissioner Shea.

COMMISSIONER SHEA: Quick question for Mike; more of an education. I'm not familiar -- haven't been here long enough to know the LDCs inside out. This is a great location for signage and advertising. I assume we have restrictions on what they can do with signage there?

MR. BOSI: Oh, we have -- we're very restrictive in terms of how the signs, the height, the monument, and placement, number, square footage. All those things will be dictated within the sign code. And I don't -- there are no deviations related to the --

COMMISSIONER SCHMITT: Yeah, there are. He's asking for a sign deviation.

CHAIRMAN FRYER: Ms. Harrelson?

COMMISSIONER SCHMITT: Jessica mentioned.

MS. HARRELSON: Yes. For the record, Jessica Harrelson.

So there are three deviations in the PUD for signage requirements. They're internal to the development. The first will allow three wall signs on the sales and service building. Due to the front wall length less than 200 feet, only two are allowed per the LDC. So this will allow three.

The second is to allow an additional wall sign on the car wash building, and then the third will allow an additional ground or pole sign for tract -- for both tracts.

So right now if it's -- the site -- the PUD is developed under a unified SDP, only one pole or ground sign would be allowed per the LDC requirements. This would allow a second.

COMMISSIONER SHEA: Okay. Thank you.

CHAIRMAN FRYER: Thank you.

All right. I think it's now time to go to the registered speakers. Mr. Sabo? Ms. Padron?

MR. SABO: Mr. Chairman -- Mr. Chairman, we have five. The first one is Judith Bice, and --

CHAIRMAN FRYER: Thank you. And if you wouldn't mind spelling your last name for us, ma'am.

MS. BICE: It's not Beche. It's Bice. B as in boy, i-c-e.

CHAIRMAN FRYER: Got it.

MS. BICE: Judith Bice.

Thank you for letting me speak. I've been a homeowner on Bottlebrush Lane for 36 years, and -- which is two streets off of Pine Ridge. And I've seen a lot. I mean, the

RaceTrac wasn't there. The Harley-Davidson that's no longer there wasn't there. There was no bank, no fire station. There really wasn't a lot of development.

And, actually, at that point -- and here's a positive for having development there. I could actually hear -- because it was just flat land, I could hear across Pine Ridge Road at one time for -- I think it was a Circle K gas station that was -- I could hear "ready for fill-up on Pump 6," and it -- you know, we're -- I'm two streets away.

So in that manner, the building has been buffering traffic. And I tell you, when the RaceTrac gas station went in, we were very upset that it was coming on that side of the road because everyone in that area is on well water, well and septic. And I know that gas stations have to have those tanks removed for leakage every so many years. So that concerned us. And, unfortunately, it was kind of slid in with the least amount of approval from anyone in that area.

But one of the give-and-takes was everything along Livingston Woods Lane has a wall. Some are kept very well maintained and some need a little bit of work. But along -- it helps, it helps a lot.

My biggest concern would have been any gasoline, oils that leak into the ground, noise, you know, at dealerships. And there is a very massive dealership at the corner of Pine Ridge Road and Livingston Road that has lights on that's unbelievable. It looks like a landing field for a plane, it's so bright. So I'm thinking, okay, a lot of these car dealerships, even the Nissan across the road from where they're wanting to build, has lights on at night.

So even though I'm on, basically, the back side of where this would go in, there would be all of the lights, a lot of lights, I think, for a dealership. Noise, it was another factor.

And my thought was, okay, if you're taking -- going across two private pieces of property to get to your property which is, unfortunately, basically landlocked, then those private properties are probably going to say, oh, we can develop, so we're going to be here one or two more times for these particular pieces of property when they sell. You know, because I mean, that is very, very valuable property on Pine Ridge Road, very valuable.

So I'm just asking you -- you know, the one thing that -- when the Harley-Davidson development came in, we said, no, no, no, but they said, we'll put up a wall. They put up a wall. But guess what, they went around the back side of the wall, and I heard -- every single day, I heard huge mufflers on these major motorcycles going around my development. They were testing out their motorcycles, so --

CHAIRMAN FRYER: Ms. Bice, excuse me. You've reached your five-minute point. I don't want to cut you off, though, but can you tell me succinctly what your ask is this morning.

MS. BICE: I want -- I want to be protected against noise and ground pollution, basically.

CHAIRMAN FRYER: Okay. And you did hear that there's going to be no outside PA system?

MS. BICE: Right, I did. I did.

CHAIRMAN FRYER: Okay. All right. Well, thank you very much.

MS. BICE: Thank you very much. Thank you.

CHAIRMAN FRYER: Next speaker, please.

MR. SABO: Mr. Chairman, next speaker is Douglas Lewis, or Doug Lewis, and then after that, A.J. Cross.

CHAIRMAN FRYER: Mr. Lewis.

MR. LEWIS: Good morning, Commissioners. For the record, my name is Doug Lewis. I'm a partner with the law firm of Thompson Lewis, and I'm a registered lobbyist. I'm here today representing Teryl H. Brzeski as the sole trustee of Land Trust No. 1 dated October 13th, 2000.

The trustee holds sole legal title to Tract 77. And Tract 77, as you can see on your visualizer, it's located adjacent to the west of the tracts that are being considered for rezoning as part of this agenda item. So it's where those arrows are pointing into, that's Tract 77 outside of the blue area.

By way of an email dated January 8th, 2004 [sic], sent by my office -- it's in your agenda backup packet, it's Item 9A5I -- we needed to document certain items in relation to this particular application to protect my client's legal position in pending litigation. It's Case No. 22-CA-2041. That email speaks for itself.

We are in active litigation, and the content of settlement discussions are privileged and confidential, so we won't discuss those today. However, I can report that we are very hopeful that a settlement may be eminent, so I want to bring that to your attention.

There are some items I need to get into the record as part of these discussions, particularly as part of this application. So the first is, as 77 is not a party to this application, we would ask that the applicant agree to modify its master plan which currently shows Tract 77 where -- if you can see on there, there's these two access points. That middle access point is the subject of litigation.

So if we get that resolved, we would anticipate that we wouldn't have a master plan out there, you know, clouding everything up. So we'd like to get that. And if we agree to a frontage road, we would just show whatever we agree ultimately. We don't have that today, unfortunately, but we're close.

But we just are asking that the applicant would agree to make sure that as part of any settlement, we would obviously agree to make sure that the master plan that gets approved is consistent with that. That's, I think, a fair ask.

COMMISSIONER KLUCIK: The master plan is consistent with what?

MR. LEWIS: Whatever deal we work out. And I don't anticipate -- I talked to Rich. I don't anticipate there's an issue, but I just wanted to make sure he's good with that, if we get it resolved. If we don't, obviously they maintain their position, and we would maintain our email position.

CHAIRMAN FRYER: How would that be accomplished?

MR. LEWIS: How would what be accomplished?

CHAIRMAN FRYER: Amending the master plan after this passes through Planning Commission and the Board of County Commissioners.

MR. YOVANOVICH: Mr. Chairman, we're going to resolve this before the Board. So we'll either remove the northern existing access if we reach a settlement, and if we don't, we're going to leave them both on the master plan, and we'll let the litigation move on. But we'll have this resolved before the BCC.

So you'll either have both arrows, or you'll only have one arrow on the south.

MR. LEWIS: Yeah.

MR. YOVANOVICH: So that's where you're considering.

MR. LEWIS: Yeah. Just to protect the record, if we don't get this resolved, then our objection per our email would stand, and we would have to bring those to the Board.

The other thing I just wanted to just get in the record -- I don't think there's an issue. In fact, I've talked to the parties about this. But there aren't any directional arrows shown internally on 77 reflecting future curb cuts. We would understand that any roadway that would be constructed within or internal access within 77 would be subject to county permitting and review of the same but that we could tie into the road. Obviously, we'd want -- at 77, we'd want to utilize that road to get out to Pine Ridge.

We also wanted to just confirm and get in the record that as part of the future permit to build a roadway, to the extent we get an agreement and that happens, we want to make sure that Tract 77 would not be required to file a PUD amendment. I want to get into the record some language from the existing PUD. Obviously, what's proposed here today, you know, is not -- we want to make sure that we're not going to be in a position that we have to, as part of any roadway construction, do that.

So I wanted to read this morning a provision. It's in Section -- it's in 6.1 of the existing PUD, and just confirm our interpretation that there's going to be really no need to --

COMMISSIONER KLUCIK: In which existing PUD?

MR. LEWIS: The Pine Ridge Corners PUD. That's my client's PUD. Hang on a second. Let me just grab the language here.

COMMISSIONER KLUCIK: So -- Mr. Chairman, if I may.

CHAIRMAN FRYER: Please.

COMMISSIONER KLUCIK: Okay. So a new PUD is being proposed that doesn't affect your lot except as this access road?

MR. YOVANOVICH: Access.

COMMISSIONER KLUCIK: So your PUD isn't changing is my understanding.

MR. LEWIS: Yeah, exactly. In 6.1, I wanted to make sure --

CHAIRMAN FRYER: Let the planning commissioner finish.

MR. LEWIS: Oh, sure.

COMMISSIONER KLUCIK: All right. Okay. So you're concerned about the impact on Pine Ridge -- what is it called?

MR. LEWIS: The Pine Ridge Corners PUD.

COMMISSIONER KLUCIK: Pine Ridge Corners PUD.

MR. LEWIS: Correct.

COMMISSIONER KLUCIK: That if this PUD is approved, it would affect the Pine Ridge Corners PUD because there's going to be this access road?

MR. LEWIS: Yeah. So what I want to confirm is that it doesn't. And in 6.1 of our client's PUD, it says that the access points shown on the master plan -- which obviously this is different than what's on our master plan -- should be considered to be conceptual, right.

And the final location of any access shall be determined at Site Development Plan stage and shall be consistent with all county ordinances and regulations there in effect.

So we don't see a problem from our end. We think they can go forward and build their road. We just don't want to trigger anything that would hurt our PUD rights, is the issue. So we're okay. We just don't want to have any good deed go unpunished.

COMMISSIONER KLUCIK: What PUD rights are you concerned about?

MR. YOVANOVICH: You're going to see it. One second. I'm going to help Doug out. I've got his master plan that we're going to put on the visualizer. So if you'll

bear with me one second.

CHAIRMAN FRYER: Yeah. But we're all clear that your PUD is not before us, no aspect of it?

MR. LEWIS: Yeah, exactly. That's -- and that's exactly right, and that's our understanding. So I was just confirming that.

CHAIRMAN FRYER: Okay.

MR. LEWIS: So that takes care of that.

CHAIRMAN FRYER: You're at six minutes, sir. As you're --

MR. LEWIS: Okay --

CHAIRMAN FRYER: -- counsel, you'd have two more minutes.

MR. LEWIS: Okay. And I had some time ceded; is that correct?

CHAIRMAN FRYER: Well, let's establish that. From whom?

MR. LEWIS: From Teryl Brzeski.

CHAIRMAN FRYER: Mr. Brzeski here?

MR. LEWIS: Nora Beyrent, correct?

CHAIRMAN FRYER: Are these people here?

MR. YOVANOVICH: They've got their hands up.

CHAIRMAN FRYER: Okay. I see them. All right. So you'd have 15 minutes, then.

MR. LEWIS: Okay, perfect.

So the other item we just wanted to confirm in the record is that obviously Livingston Road -- I'm sorry -- the roadway on the north end there, Livingston Woods, is a public right-of-way and that Tract 77 would be able to tie into the utilities. I think we're in agreement on that. I just wanted to make sure that's correct.

And then at this point on the Table A list of permitted uses, you know, at this point given the possible imminent settlement, really, we just want to, on the record -- and I've talked to Rich about this. I think we're on the same page. I just want to get this on the record. The car wash, as we understand it, this proposed ancillary car wash will not be on Tract 92, which is the parcel right adjacent to our client's property. So we understand that, and I think that's consistent.

We also understand that it's ancillary, and it's not a public -- a primary permitted use. There was a case recently -- well, there's several cases, but one of the cases that comes to mind is there was a hotel over in Miami where you had a restaurant, you know, in the hotel, and, you know, it was designed as an ancillary use to the hotel, and residents would -- or people of the hotel would be able to go and dine. Well, they weren't getting a lot of traffic and whatnot, and so they -- the hotel started to advertise -- I'm sorry -- the restaurant in the hotel started to advertise as its own restaurant, bringing people from the community in, and it kind of turned into a -- morphed from an ancillary to a principal permitted use.

We do have under our current PUD car wash rights. So I think we're on the same page where there's really no divergence here. I've talked to Rich. I just wanted to get it on the record that it is an ancillary use. It's not going to be a public permitted use. I just need to do that. I don't know if Rich has anything to say, but I think we're on the same page there.

And then we did talk a little bit. We're okay with the compatible-use concept. I just want to make sure we understand what that really looks like. So my understanding of

the comparable-use determination vis-a-vis the HEX would be there would have to be a process under 10.02.06.K where there's a comparable-use determination process. We obviously would -- if there were things in there that impacted or harmed our project, we would be there, obviously, and reserve the right to challenge any of those at a comparable use, but that would be a HEX process, a future process. They're not here today -- in the future if they wanted to do that. But our understanding is that would go through a 10.02.06.K process under the current code.

So that's really about it. We look forward to continuing to work constructively with the applicant to address these issues that we've raised -- you know, hopefully the litigation access. I'll continue to make myself available to the -- to the applicant to address these issues, and hopefully before we come back before the Board of County Commissioners, we can have a united, good project that will benefit, I think, everybody, including the county. So those are my comments.

CHAIRMAN FRYER: Thank you.

Next speaker, please.

MR. SABO: Mr. Chairman, the last speaker is A.J. Cross. The other two ceded time.

CHAIRMAN FRYER: Okay.

COMMISSIONER KLUCIK: Mr. Chairman, would you mind if I asked the petitioner a question related to the last speaker?

CHAIRMAN FRYER: Of course. Go ahead.

COMMISSIONER KLUCIK: So regarding -- so let's assume you negotiate the -- I think you want the southernmost access road on his property.

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: Okay. Seventy-seven or Pine Ridge Corners. I'm assuming some of what you'll be negotiating is their access to that road, because that would make sense, because they don't have access -- just like you, they can't go up north because that's already been prohibited, so they're going to need to use this road. I guess they could try to tie in through the upper arrow, you know, the upper access easement or whatever. But the whole idea is you would minimize the intrusion of any access roads by having everybody use that road.

MR. YOVANOVICH: I'm confident that any agreement that is reached will provide for their ability to actually physically connect to the frontage road.

(Simultaneous crosstalk.)

MR. YOVANOVICH: I understand. I'm not worried about that.

COMMISSIONER KLUCIK: Yeah, he mentioned that as a concern, and I would just think that would be built in --

MR. YOVANOVICH: It will.

COMMISSIONER KLUCIK: -- that, of course, if you're going to put a road across someone's land, they're going to have access to it --

MR. YOVANOVICH: I'm confident.

COMMISSIONER KLUCIK: -- and that would be prenegotiated.

MR. YOVANOVICH: Yes.

COMMISSIONER KLUCIK: Okay.

CHAIRMAN FRYER: Thank you.

Mr. Cross?

MR. CROSS: Commissioners, my name's A.J. Cross, and I'm a resident of Livingston Woods for 30-plus years now.

My concerns are probably the same as most adjacent property owners in there regarding access.

It's been addressed that there will be no access to Livingston Woods, my community. I want to make sure that includes construction access and others are buffers, height restrictions, lightings. It appears the plan isn't entirely done yet, and half of their PUD is on a property that they haven't identified what they're going to build there or use that for. Hours of operation, noise restrictions are issues that I hope we get to address later before some other use is approved for that adjacent -- or I guess it's the western part of their PUD.

The last thing is maintenance of said buffers. I'd like to see the -- we'd all like to see the end drawing of those buffers, but there are other buffers along Livingston Wood Lanes, the north -- the east and west road immediately to the north. And those buffers on the south side, the property owner's side, they get maintained very well on the north side. Adjacent to our community, there's practically no maintenance at all. So I'd really appreciate some language saying that they're required to maintain those buffers.

Other than that, I think that's it.

CHAIRMAN FRYER: Thanks.

MR. CROSS: Thanks for your time.

CHAIRMAN FRYER: Thank you.

Any other registered speakers?

MR. SABO: We have no other registered speakers.

CHAIRMAN FRYER: Anyone in the room who has not registered but nonetheless wishes to be heard, please raise your hand.

(No response.)

CHAIRMAN FRYER: Seeing no hands raised, we will close the public comment segment of this hearing and ask -- go ahead, Vice Chairman.

COMMISSIONER SCHMITT: Mr. Cross mentioned there are uses -- there's no uses identified for the adjacent parcel. There are, in fact, uses identified.

CHAIRMAN FRYER: Yeah, indeed, there are.

COMMISSIONER SCHMITT: And so if it's language in the PUD, Rich, do you want to just clarify those?

MR. YOVANOVICH: I will. While I have this exhibit up, and then I'll go back to the -- if you don't mind.

Mr. Lewis was talking about this is his master plan. You see right now the access on that master plan kind of goes through the middle of his property. He's just wanting to confirm that we can relocate the access to the southern part of his property without him having to come in and amend his master plan.

I think if staff could just confirm that on the record, I think that Mr. Lewis would appreciate that, and so would we. So if we could just confirm that that provision that said it was conceptual would allow for it to be relocated to the south portion of the property, and then I'll move on to the other questions.

CHAIRMAN FRYER: Staff?

MR. BOSI: Staff does recognize that the language does express it as conceptual. Out of an abundance of caution, we would prefer to do an administrative PMC where we

would administratively review and modify the master plan to show the access on the southernmost portion. If there is enough flexibility within the language -- but for -- just to seal the record, so to speak, we think the administrative PMC process would be more appropriate.

MS. ASHTON-CICKO: So Mr. Lewis would need to file an application for a minor amendment to the master plan with the proposed master plan he wants approved that relocates the access, and then staff approves that administratively. So it's a fairly quick process.

CHAIRMAN FRYER: All right.

MR. YOVANOVICH: Can we go back to the --

CHAIRMAN FRYER: So we're in rebuttal now.

MR. YOVANOVICH: Well, I'm going to now answer -- I think the question was about what uses are allowed on --

CHAIRMAN FRYER: Yeah. I just want to make -- this is part of rebuttal.

MR. YOVANOVICH: Okay. Well, yeah. So am I going -- I'm going the wrong way, sorry.

We have, in the PUD itself, this is the Tract B vacant tract. These are the allowed uses. And as Jessica went through, most of these uses are already allowed on the property through the Clesen PUD, and the uses we were adding were pretty much quiet office-type uses to the Clesen PUD, including veterinary services. I mean, we're not asking for kenneling and all that. So all that is addressed in the PUD.

Yes, the car wash is an accessory use to the automobile dealership. It's not open to the general public to come in and purchase car washes and use it as a car wash.

The PUD, as Jessica pointed out, we already have a commitment to Dark Skies lighting, so you're not going to see it lit up like other dealerships around town. We don't permit gas. And all work that is going to be done, including the car wash, will be in enclosed areas, so noise should not be an issue related to the operation of the facility.

If you feel like it's necessary to add a commitment that we actually have to maintain the buffers that we put in our project, the code already requires us to do that. But, you know, obviously, we are -- if we need to put that into the PUD, that's fine, but we're already obligated to do that with regard to the buffers.

CHAIRMAN FRYER: Vice Chairman.

COMMISSIONER SCHMITT: Just for the record, all the plantings are on your property, and you're exactly right. The code already requires you to maintain it.

MR. YOVANOVICH: Right.

COMMISSIONER SCHMITT: I guess it would be a duplication in language, but it's already required. I don't see a need to put it in, but if my colleagues want to, I mean, that's fine. But it's already required.

MR. YOVANOVICH: Right. We've gone away from repeating the code within the PUD document.

CHAIRMAN FRYER: And that would be my preference, not to --

COMMISSIONER SCHMITT: And I think from a practical matter, it's a matter of the business wanting to present a professional appearance in, you know, an amenable site to allow the -- to build that kind of a building and that kind of a structure and not maintain the landscaping would be sort of foolish.

MR. YOVANOVICH: And I think that, you know, we'll -- obviously, we have a

vested interest in the appearance of our project to help sell expensive cars.

I think that was all of the issues raised by the public speakers. I wanted to confirm that they were already covered within our documents.

With that, you know, your staff's recommending approval, and we're requesting that you forward this petition to Board of County Commissioners with a recommendation of approval as well.

CHAIRMAN FRYER: Planning Commission?

COMMISSIONER KLUCIK: Mr. Chairman?

CHAIRMAN FRYER: Any questions? Go ahead, sir.

COMMISSIONER KLUCIK: Yes. Just to clarify, so we've mentioned that Livingston Woods Lane is off limits to all of those parcels.

Can someone just explain to me the -- you know, where -- what -- where is that binding and, you know, like who -- what body made that a rule? And is that actually incorporated into what you're -- you know, your proposal that that is a permanent thing you're agreeing to?

MR. YOVANOVICH: It goes back probably to the very first PUD that was approved on the north side of Pine Ridge Road and the south side of Livingston Woods Lane.

All -- I worked on the Clesen PUD, as you can tell from the record --

COMMISSIONER KLUCIK: So you're saying that that current PUD itself --

MR. YOVANOVICH: -- and this PUD -- prohibits it.

COMMISSIONER KLUCIK: -- disallows it.

MR. YOVANOVICH: Yes.

COMMISSIONER KLUCIK: Okay. And then you're just -- that's continuing in your new proposal?

MR. YOVANOVICH: Correct.

COMMISSIONER KLUCIK: Okay. Okay.

MR. YOVANOVICH: Yes.

COMMISSIONER KLUCIK: The only reason I bring that up is, you know, because I know that, you know, if I was a resident, I'd be concerned as to what -- by what authority are we -- you know, are we enjoying this prohibition, and it does appear as it's, you know, as locked in stone as anything can be.

MR. YOVANOVICH: And it's codified in our PUD.

COMMISSIONER KLUCIK: Right.

MR. YOVANOVICH: So it's not --

COMMISSIONER KLUCIK: Yeah, I know, I know. It's in the current one, and there's nothing more we could really do about that. That's as locked in as something can be.

MR. YOVANOVICH: Correct. I don't think we're going to have any cars trying to sneak around the wall we build. Maybe you could do that with a motorcycle, but I think it's harder with a car, so...

CHAIRMAN FRYER: Anything further from up -- go ahead, sir.

COMMISSIONER SHEA: Can you go back to that buffer cross-section.

So a concern Mr. Cross had to me was maintaining the landscaping on the other side of the wall, which is not advantageous for them to do, and the experience in the community is that, down the road -- not your applicant -- that they're not maintaining it. If

they're not following and maintaining the -- that -- his access is code management? Who would the resident go to if the people down the street aren't maintaining the landscaping buffer on the outside of their wall, which is the Livingston Woods side of the wall?

CHAIRMAN FRYER: Mr. Bosi?

MR. BOSI: That would be Code Enforcement.

COMMISSIONER SHEA: That's where he should go with that? Okay.

MR. YOVANOVICH: I have no control of what --

COMMISSIONER SHEA: No. That was a question for Mike.

MR. YOVANOVICH: -- people are doing to the west of us.

CHAIRMAN FRYER: Thank you.

Anything further from up here?

(No response.)

CHAIRMAN FRYER: All right. And you're finished with your rebuttal?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN FRYER: Thank you. The matter now is in our hands for deliberation and action. Anyone wish to be heard or to make a motion?

COMMISSIONER SCHUMACHER: I make a motion to approve.

COMMISSIONER SCHMITT: I second.

CHAIRMAN FRYER: It's been moved and --

COMMISSIONER SCHMITT: No stipulations other than the ones that were stated on the record for the sign. What do I want to call them?

COMMISSIONER SHEA: The deviations.

COMMISSIONER SCHMITT: Deviations, thank you. I lost a word. Thank you.

CHAIRMAN FRYER: Nothing new resulting from the Planning Commission?

COMMISSIONER SCHMITT: Nothing new resulting from our discussions.

CHAIRMAN FRYER: So it's been moved and seconded.

COMMISSIONER SCHMITT: Second.

CHAIRMAN FRYER: Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, applicant. Thank you, members of the public, and staff and Planning Commission.

MR. YOVANOVICH: Thank you.

CHAIRMAN FRYER: At this point I'm going to execute the -- I'm going to use the power of the Chair to ask for a five-minute recess. We'll be in recess until 11:18.

(A brief recess was had from 11:13 a.m. to 11:18 a.m.)

MR. BOSI: Sorry, Chair. You have a live mic.

CHAIRMAN FRYER: Thank you, sir.

***Ladies and gentlemen, please reconvene for our third and final application today for hearing. It is PL20230010984, Collier Boulevard Commerce Center also known as Magnolia Pond.

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 beginning with Ms. Lockhart.

MS. LOCKHART: Text materials only.

CHAIRMAN FRYER: Thank you.

COMMISSIONER SHEA: Staff materials only.

CHAIRMAN FRYER: Matters of public record, meeting with staff.

COMMISSIONER KLUCIK: Nothing to disclose.

COMMISSIONER SCHUMACHER: Staff materials only.

CHAIRMAN FRYER: Thank you.

Ms. Emblidge, you may proceed.

MS. EMBLIDGE: Thank you, Commissioners.

I'm Margaret Emblidge, certified planner with Agnoli, Barber & Brundage.

This project before you is an increase in height request. Earlier this year we came before both you and the Board of County Commissioners with a similar request, and subsequent to that approval, between the engineering and architectural design criteria, there were changes that were made that required an increase -- an additional increase in height be requested to accommodate them. There are no other changes with this proposed amendment.

Giving some background to this project, this project was originally approved in 2001; is that right? And the Magnolia Pond portion of the Collier Boulevard mixed-use commerce center is strictly for residential. And there is 433 dwelling units that have been approved.

The project is approved for two phases of development. Phase 1 for the 324 apartments in nine three-story buildings, and Phase 2, the subject of this application, will include 108 apartments in two four-story buildings. And currently the Site Development Plan for Phase 2 is under review waiting for the approval of this increased height.

This gives you an idea of the surrounding uses and, again, it's -- you know, it's in the Activity Center No. 9. And I know that a question was asked earlier about -- or the previous hearing regarding affordable housing, and it was highlighted that Noah's Landing is an affordable housing project across the street. I think Commissioner Shea had asked whether this project -- our project would be providing affordable housing. But, no, it's going to be market rate.

But I just wanted to highlight that these are some of the surrounding areas. Let me go further. This is the condition of the project as of December, and as you can see, that the Phase 1 area is fairly close to building out. The Phase 1A part of the project, which is the two buildings that are along Magnolia Pond Road and the clubhouse --

COMMISSIONER KLUCIK: Could you point those out, please?

MS. EMBLIDGE: Yes. Can you see my mouse?

COMMISSIONER KLUCIK: Thank you.

MS. EMBLIDGE: So this building here and this, and then the clubhouse area is the Phase 1A and those -- there are no COs at this point, but they're pretty close, okay.

COMMISSIONER KLUCIK: But your petition is in regards to the part in the foreground?

MS. EMBLIDGE: This is the part of the petition is this area here.

COMMISSIONER KLUCIK: Mr. Chairman, if I may?

CHAIRMAN FRYER: Please.

COMMISSIONER KLUCIK: Okay. So you have your project. And I'm under the impression, based on looking at the materials, that you're largely going to continue building similar?

MS. EMBLIDGE: Yes, sir.

COMMISSIONER KLUCIK: So what is the discrepancy in height? What's changing that you now need to --

MS. EMBLIDGE: The project -- the Phase 2 area was originally planned for three three-story buildings. They've decided that they wanted to incorporate the number of units that were already approved into two four-story buildings, and then back in this area, there's going to be a pool area for -- to accommodate the folks that are in the Phase 2 --

COMMISSIONER KLUCIK: So your footprint of actual dwellings is going to be smaller but higher? Smaller footprint but higher --

MS. EMBLIDGE: Yes, sir.

COMMISSIONER KLUCIK: That's what you're asking for. And that's -- in the beginning, you only thought -- you only anticipated -- when you asked for the current plan that you have, you only asked for 50 feet because you only planned to go three stories?

MS. EMBLIDGE: Yes. Yes, sir.

COMMISSIONER KLUCIK: And what are the rest of the buildings? Are they four?

MS. EMBLIDGE: They're three-story buildings.

COMMISSIONER KLUCIK: Those are all three?

MS. EMBLIDGE: Yes.

CHAIRMAN FRYER: Anything further?

COMMISSIONER KLUCIK: No. Thank you, Mr. Chairman.

CHAIRMAN FRYER: Ms. Emblidge, I looked for a reference or limitation to two buildings, the two-building limit in the ordinance materials. I didn't see it. Is it there, and I just overlooked it?

MS. EMBLIDGE: You know, I don't know the answer to that. Let me pull the draft ordinance. And if it's not, we would be agreeable to that because that is clearly the plan.

CHAIRMAN FRYER: Okay. Thank you. I'm to going want to make that a condition when the time comes.

MS. EMBLIDGE: Thank you, okay.

COMMISSION SCHUMACHER: Chair, if I may.

CHAIRMAN FRYER: Yes. Please go ahead, Commissioner.

COMMISSION SCHUMACHER: Ms. Ashton, could I ask you a question?

MS. ASHTON-CICKO: Sure.

COMMISSION SCHUMACHER: Procedurally, if someone is coming for a

revision, can we ask for affordable housing in that revision since they're coming forward asking for something new?

MS. ASHTON-CICKO: You could deny, you know, the height. But they already have the units in place, so it's a harder ask. You can ask them if they'd be willing to do it, but it's harder to force it on them.

COMMISSIONER SCHUMACHER: Okay.

CHAIRMAN FRYER: Thank you.

COMMISSIONER KLUCIK: Mr. Chair?

CHAIRMAN FRYER: Yes, please.

COMMISSIONER KLUCIK: I guess my answer to your question would be, they're coming and asking for something they don't have a right to do, so we can do whatever we want as far as imposing conditions just as if it was a new application. I don't see how it's any different than normally when someone comes and asks.

They're asking to have this changed. We have no duty to or obligation to, you know, that -- we have no obligation to recommend approval, and the county commissioners have no obligation to approve it. It's all based on our judgment as to whether the conditions have been met and we think it's in the best interest of -- you know, of the community.

CHAIRMAN FRYER: Yeah. I think --

COMMISSIONER SHEA: It's a little more difficult because they're not really increasing the number of units.

CHAIRMAN FRYER: That's the key.

COMMISSIONER KLUCIK: Right.

CHAIRMAN FRYER: But what you said is exactly right. We can really do whatever we want as far as our recommendations are concerned. Ordinarily, though, with affordable housing, we have a stronger position to take if they're looking for more density.

COMMISSIONER SCHMITT: Correct.

COMMISSIONER KLUCIK: Right. And in this case, I think forcing the issue -- I mean, it seems to me that five feet additional, whatever the negative impact anyone thinks that is, the upside is that you have -- you have, you know, a smaller footprint and you have something that seems like it's a nice, you know, addition to -- you know, to any community to have recreational facilities. So I think there's an upside to what they're asking for as well.

CHAIRMAN FRYER: Thank you.

Any other comments, Ms. Emblidge?

MS. EMBLIDGE: I was -- wanted to highlight -- let me see if I'm going back here. I want to highlight the location of Phase 2. This property is surrounded by preserve areas that are within the existing PUD as well as across the street. The PUD that was originally approved in this area has preserve areas as well. So we felt that there wouldn't be any impacts with the increase in height taking that into consideration as well.

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

MS. EMBLIDGE: I don't have anything further, just that I agree with staff's recommendation, and I appreciate them working with us on this. And I'm available if you have questions.

CHAIRMAN FRYER: Thank you.

Planning Commission, questions or comments for the applicant?

(No response.)

CHAIRMAN FRYER: If not, thank you, Ms. Emblidge.

We'll turn it over now to staff.

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

Like the last petition, this is an interchange activity center, the place where we would expect the highest and most intense of uses. The density is consistent with what is allowed or eligible within the GMP.

We think the increase in height with the reduction in the footprint and the points that were raised by Commissioner Klucik, we agree with those, and staff is recommending approval of the proposal.

CHAIRMAN FRYER: Thank you. Questions or comments for staff from the Planning Commission? If not, thank you. Do we have any registered speakers on this?

MR. SABO: Mr. Chairman, there are no registered speakers.

CHAIRMAN FRYER: All right. And there's really no one in the room at this point, I think, to be asked if they wish to be heard. If I'm incorrect and I'm not seeing someone, please raise your hand.

(No response.)

CHAIRMAN FRYER: Seeing no hands raised, we will close the public comment portion of this hearing, and there's, I guess, no need for rebuttal at this time unless you have something more you want to say.

MS. EMBLIDGE: No, sir.

CHAIRMAN FRYER: Okay. Thank you.

Then the matter falls into our hands for deliberation and motion.

COMMISSIONER KLUCIK: Well --

COMMISSIONER SCHMITT: Go ahead.

COMMISSIONER KLUCIK: I was just going to say that just, you know, the name Magnolia Pond in and of itself makes me want to say yes to whatever they're asking for.

CHAIRMAN FRYER: Thank you.

MS. EMBLIDGE: That's good.

COMMISSIONER SCHMITT: I'd make a recommendation of approval based on exactly what Robb stated in regards to the offset to allow for recreation uses. So I would recommend approval as stated, PL20230010984, recommend approval.

CHAIRMAN FRYER: A friendly amendment, if I may?

COMMISSIONER SCHMITT: Yes.

CHAIRMAN FRYER: To add the condition of a two-building limit.

COMMISSIONER SCHMITT: Oh, yes. I thought that was already in there in the proposal. Thank you.

CHAIRMAN FRYER: It's not. Thank you. Is there a second?

COMMISSIONER SHEA: Second.

CHAIRMAN FRYER: All right. It's been moved and seconded to approve the application subject to the condition that we would add or that there would be added a two-building limit in the ordinance materials. Any further discussion?

(No response.)

COMMISSIONER KLUCIK: And that two-building limit is the buildings that would be -- would attain that extra five feet?

CHAIRMAN FRYER: Yes.

Any further discussion?

(No response.)

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

COMMISSIONER SHEA: Aye.

CHAIRMAN FRYER: Aye.

COMMISSIONER SCHMITT: Aye.

COMMISSIONER KLUCIK: Aye.

COMMISSIONER SCHUMACHER: Aye.

CHAIRMAN FRYER: Opposed?

(No response.)

CHAIRMAN FRYER: It passes unanimously.

Thank you, Ms. Emblidge --

MS. EMBLIDGE: Thank you.

CHAIRMAN FRYER: -- applicant, staff, Planning Commission, and members of the public.

All right. Any old business to come before the Planning Commission at this time?

(No response.)

CHAIRMAN FRYER: Any new business?

(No response.)

CHAIRMAN FRYER: Any members of the public wish to be heard on matters that were not part of our agenda, now would be the time.

(No response.)

CHAIRMAN FRYER: Go ahead.

COMMISSIONER SCHMITT: Ray, what do we look for at the next meeting?

How many petitions; do you know?

COMMISSIONER KLUCIK: That's February 1st?

COMMISSIONER SCHMITT: Yeah, February 1st.

MR. BELLOWS: Yeah. We have five items on the agenda.

CHAIRMAN FRYER: Are any of those companions?

MR. BELLOWS: Yes.

CHAIRMAN FRYER: How many?

MR. BELLOWS: One companion item.

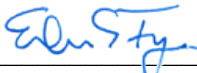
MR. BOSI: So there will be two petitions that are companion items, and then there's three standalone.

CHAIRMAN FRYER: Okay. Thank you very much.


All right. Without further ado and without objection, we're adjourned.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 11:31 a.m.

COLLIER COUNTY PLANNING COMMISSION



EDWIN FRYER, CHAIRMAN

These minutes approved by the Board on 2/15/24, 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.