

TRANSCRIPT OF THE GMP AMENDMENT  
HEARING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida  
June 15, 2010

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 8:30 a.m. in SPECIAL SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

Mark Strain, Chairman  
Melissa Ahern  
Donna Reed-Caron  
Karen Homiak  
Paul Midney  
Bob Murray  
Brad Schiffer  
Robert Vigliotti

ALSO PRESENT:

Jeffrey Klatzkow, County Attorney  
Nick Casalanguida, Community  
Development/Environmental  
Services  
Heidi Ashton-Cicko, Assistant County Attorney  
Ray Bellows, Zoning Manager  
Thomas Eastman, Real Property Director, CC School  
District

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the -- well, let me look at the date -- June 15th meeting of the Collier County Planning Commission. It's for the Growth Management Plan amendments that survived transmittal. We are now going to be hearing those today for on adoption.

Please rise for a pledge.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay, will the secretary please do the roll call.

COMMISSIONER VIGLIOTTI: Commissioner Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER VIGLIOTTI: Commissioner Schiffer?

COMMISSIONER SCHIFFER: Here.

COMMISSIONER VIGLIOTTI: Commissioner Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER VIGLIOTTI: Commissioner Caron?

COMMISSIONER CARON: Here.

COMMISSIONER VIGLIOTTI: Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER VIGLIOTTI: Commissioner Vigliotti is here.  
Commissioner Murray?

COMMISSIONER MURRAY: Yep.

COMMISSIONER VIGLIOTTI: Commissioner Homiak?

COMMISSIONER HOMIAK: Here.

CHAIRMAN STRAIN: Okay. \*\*\*Planning Commission absences. Our next meeting is our regular meeting on Thursday of this week, 8:30 in this room. And you should have all received your packet. Does anybody know if they are not going to make it on that Thursday meeting?

(No response.)

CHAIRMAN STRAIN: Okay, looks like we have a quorum.

And David, on the slight chance this meeting today gets continued, what day was that it would have been continued to?

MR. WEEKS: Thursday, the 17th.

CHAIRMAN STRAIN: Okay. So as we go on, I'll make sure if we have to continue we use that date then. Thank you.

MR. WEEKS: Mr. Chairman, on that note, if I may -- and for the record, David Weeks of the Comprehensive Planning Section.

Hopefully we'll be done today, but we do have to be out of this room at 4:00 for another meeting.

CHAIRMAN STRAIN: Well, if we're still in this room at 4:00, we got bigger problems that we can't finish today anyway, so --

\*\*\*Okay, with that in mind, let's just move right into the first adoption item. It's CP-2007-3. It's the Golden Gate Area Master Plan land use map series, and this is for the Mission Subdistrict, which is out off Oil Well Road.

Mr. Klatzkow, because this is adoption, does this require swearing in and --

MR. KLATZKOW: I like swearing people in all the time, because the last thing I want to hear is somebody lying to a board and saying ha ha, you didn't swear me in anyway.

CHAIRMAN STRAIN: Okay. Well, I'm sure that all the good people we have wouldn't do that.

But all those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission.

COMMISSIONER CARON: I spoke to Mr. Yovanovich briefly, just as a reminder that it was coming up.

CHAIRMAN STRAIN: And I spoke to him too, only to ask him why he wasn't asking me what I thought about it.

So with that in mind, we will move forward.

So David, you want to make some introductory statements or do you want --

MR. WEEKS: I sure do.

CHAIRMAN STRAIN: Okay, that'll work.

MR. WEEKS: Again, for the record, David Weeks of the Comprehensive Planning Section.

As you've already acknowledged, Mr. Chairman, this is for comprehensive plan amendments, and this is the adoption hearing. This is the final opportunity for the Planning Commission to review these five petitions and make your final recommendation to the Board of County Commissioners whether to adopt, not adopt or adopt with changes these various petitions.

As is required by state law, there is a notice of intent courtesy sign-up sheet, such as the one I'm holding, that appears out in the hallway on the table, and there is a pen there. This is an opportunity for citizens or anyone that's interested to sign up and be notified by the Florida Department of Community Affairs once they have issued their notice of intent on the adopted amendments, whether they are found in compliance or not in compliance with state law.

The County Commission hearing for these petitions is scheduled for Wednesday, July 28th of this year.

As always, at the conclusion of today's meeting, assuming we get through all five petitions, we would like to collect the binders, if any of you do not wish to hold on to them, the binders and the contents for reuse for the hearing in front of the Board of County Commissioners and subsequent transmittal to the Department of Community Affairs and other state and regional agencies.

You may recall that at the transmittal stage there were a total of 10 petitions in this cycle, and we're now down to five. Four of those are private sector petitions. Four petitions were withdrawn and one has

been continued out of this cycle.

Only one petition has changes proposed by the petitioner. And of course we'll get to that as we get to the specific petition. But that is Petition CP2008-2, located on Randall Boulevard in Golden Gate Estates.

Staff does have last-minutes changes for another petition, and I believe Corby passed out a handout, in addition to the e-mail sent to you late, very late yesterday afternoon. It's a short change. That's pertaining to Petition CP-2008-4. That's the sending lands property known as Filmore Recycling or Yawl Recycling located next to the landfill. And that change is in response to the objection from the Florida Department of Community Affairs to that petition.

As is usual, most of the issues for these petitions have been thoroughly vetted at the transmittal hearings. So typically -- though of course the petition is open for whatever discussion you may desire, typically the discussion is focused on the Objections, Recommendations and Comments Report from the Florida Department of Community Affairs and of course any changes that have been made to the petition since your transmittal hearing.

I would point out, as is noted in the staff report, that only objections can form the basis of a noncompliance finding by DCA. And that would be if an objection is not satisfactorily addressed.

And an objection may be addressed in a number of ways: One, the petition itself can be changed; the request can be changed in some way. Secondly, more data and analysis can be provided. Thirdly, a greater explanation of the request can be provided, or some combination of the above. Or of course choosing not to adopt an the amendment is also an option.

And of course the specifics of each petition and any related Objections, Recommendations and Comments Report issues will be discussed as we go through the individual petitions.

And that concludes my introductory remarks.

CHAIRMAN STRAIN: Thank you, David.

And the -- Richard, you represent the applicant?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Okay, it's all yours.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich, on behalf of the petitioner for Petition 2007-3.

Todd Gimmer (phonetic) from the church is here, as well as Bob Duane from Hole-Montes, to answer any questions.

You've seen this petition before. It's for a church out in the Golden Gate Estates area off Oil Well Road. You all recommended unanimously to transmit the report. I don't believe there are any formal objections from DCA regarding this petition.

And with that, there was one change to the petition since you saw it, and that related to the height of the -- originally all buildings were limited to a height of 30 feet in the subdistrict. However, we requested a change to 35 feet for the worship center. All other buildings would remain 30 feet. That's the only change that occurred since the transmittal hearing.

Unless you need a more detailed report on this petition, we'll be happy to answer any questions you might have regarding this petition.

CHAIRMAN STRAIN: If I'm not mistaken, I think you already said it, the Planning Commission was unanimous in its approval of this --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- in the transmittal.

MR. YOVANOVICH: Yes, sir, I did say that, and yes, you did.

CHAIRMAN STRAIN: Are there any questions or comments from the Planning Commission on this particular GMPA amendment?

Ms. Caron?

COMMISSIONER CARON: Just a quick question.

Does it have to be in the GMP listed as zoned height?

MR. YOVANOVICH: We can put that if you need to. But I think it's understood --

COMMISSIONER CARON: Okay.

MR. YOVANOVICH: -- that zoned -- when we talk about height, we're talking about zoned heights, not actual heights, but --

COMMISSIONER CARON: I just don't want --

MR. YOVANOVICH: And I'll defer to David on that one.

MR. WEEKS: I'll simply say that if it's not specified, then that leaves it up to the discretion of the hearing bodies during the zoning petition.

CHAIRMAN STRAIN: Richard, the reference to the 35 feet, which page is it on of our staff report?

MR. YOVANOVICH: Well, since I don't get a copy of the staff report with the backup information, Mr. Strain, I hate to tell you I don't know. But it's under the language that's in bold. It says soup kitchens and homeless shelters are prohibited in this subdistrict. And then you'll have a paragraph that says, the maximum total floor area allowed in this subdistrict is 90,000 square feet.

COMMISSIONER MURRAY: Mark?

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: The maximum height --

COMMISSIONER MURRAY: It's right under the tab, second page.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: But it's in the general description of the subdistrict.

CHAIRMAN STRAIN: Okay, understand. Just wanted to make sure it got in there. I didn't see a problem with it, but I wanted to make sure it was there.

MR. YOVANOVICH: I know it's in what we sent back.

CHAIRMAN STRAIN: Gotcha. Okay, anybody else have any other questions on this particular amendment?

(No response.)

CHAIRMAN STRAIN: Staff, do you have a report, anything you want to say?

MR. WEEKS: Simply to say that the only -- the recommendation from the staff is not to adopt, and the single reason is because of the reason we expressed at transmittal for all of the petitions in Golden Gate Estates, and that is that we prefer to have a restudy to take a comprehensive review of all of the petitions, whether they be commercial or other nonresidential uses such as proposed here to allow the Estates residents the opportunity to voice their opinions as to where these nonresidential uses should be located, the size, the intensity of use, et cetera.

CHAIRMAN STRAIN: Thank you.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Is there any public speakers registered?

MR. WEEKS: There are none.

CHAIRMAN STRAIN: Anybody from the public wish to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay, hearing none, we will entertain a motion.

COMMISSIONER SCHIFFER: I'll make it.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: I move we forward Petition CP-2007-3 to the County Commission with a recommendation of approval.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER VIGLIOTTI: I'll second it.



CHAIRMAN STRAIN: Now, is that subject by the motion maker and the second to the change that was told to us by the applicant --

COMMISSIONER SCHIFFER: Yes.

CHAIRMAN STRAIN: -- making it 35 feet?

COMMISSIONER VIGLIOTTI: Yes.

CHAIRMAN STRAIN: Okay. Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: Thank you.

\*\*\*Next item up is CP-2008-2. Again, it's the Golden Gate Area Master Plan. And this is for the Randall Boulevard Commercial Center, Randall and Immokalee Road.

All those wishing to participate on this item, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of Planning Commission?

Ms. Caron?

COMMISSIONER CARON: Yes, I had a meeting with the

petitioner and the petitioner's agent.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: And let's see, I've had a meeting with the petitioner, the petitioner's agents, and I have been flooded with a lot of e-mails saying how badly the people would like to see this project for the most part. A couple of the e-mails had specifics in them about things they would like to see, although at this stage, getting in the development standards isn't customarily done at the GMP level, so that will come back during the rezone process. But I have had -- all the ones I can remember are all complimentary in favor of the project.

So with that in mind, we'll move forward. Bruce?

COMMISSIONER CARON: I should say e-mails as well.

CHAIRMAN STRAIN: Okay.

MR. ANDERSON: Good morning, Commissioners. For record, my name is Bruce Anderson from the Roetzel and Andress Law Firm. I'm here on behalf of the Emergent Development Group. Its principal, Jack Sullivan, is with us today. And also with me is Tim Hancock, the director of planning for Davidson Engineering.

You will probably recall this application from your prior hearing. This amendment enjoys widespread community support.

It was recommended for approval by the Planning Commission and approved for transmittal by the County Commission with a unanimous vote.

The Department of Community Affairs raised two objections to this amendment. The first objection was that the amendment language did not adequately identify the types and maximum densities and intensities of the uses that would be allowed. Their concern was that the amendment language would allow for a self-amending comprehensive plan amendment.

Their thinking is that if the county later decided to amend the uses

allowed in the C-4 zoning district, that the effect of that would be to amend this comprehensive plan language and add uses that were not contemplated at the time this was approved.

DCA didn't like that. I think they like to maintain control.

County staff and I held a subsequent discussion with the Department of Community Affairs staff, and I believe that we reached an understanding that tying the uses that are allowed to the C-4 zoning district as it exists on the date of adoption would address their concerns.

This same type of issue had been handled in the same manner on another commercial district in the Golden Gate Master Plan.

Their second objection concerned transportation planning. They contented that the proposed amendment was not consistent with Objective 5 and Policy 5.1 of the transportation element of the comprehensive plan. Objective 5 states: The county shall coordinate the transportation system development process with the Future Land Use Map.

In more detail, Policy 5.1 states that the county shall review all rezone petitions, amendments to the Future Land Use Element and other types of applications with consideration of their impact on the county's overall transportation system.

And the county will not approve any application that would significantly impact a roadway segment that is operating or projected to operate below the adopted level of service unless, quote, specific mitigating stipulations are also approved, end quote.

Again, this matter was discussed with county staff, with the Department of Community Affairs staff. And to address their objection, phasing language is to be added to the last paragraph of the subdistrict. I'm going to let Michelle or Nick read you the final version that was arrived at about five minutes ago.

And you may recall from the first hearing that a developer contribution agreement was being negotiated in connection with this

plan amendment. Under the broad parameters of that agreement, my client is donating right-of-way for the eventual six-laning of Randall Boulevard abutting this subdistrict.

At present the property is bracketed on the west side by the Big Corkscrew Island Fire District. It includes their fire station and an administration building in the rear.

At the eastern end of this subdistrict is a parcel that is owned by the county and leased to the State Forestry Division.

A fire tower is also located on the county's property. And when Randall Boulevard is widened, both the Forestry Service building and the fire station -- not the fire administration building, but the fire station itself -- would both have to be moved because of the widening.

Under the DCA, both of these essential service governmental agencies would collocate on the eastern corner of the parcel of Eighth Street and Randall Boulevard where a traffic signal will go.

That relocation will be at the sole cost of my client and another property owner. And that sole relocation cost includes the cost of either rezoning or obtaining a conditional use approval and getting Site Development Plan approval and providing site plan -- or site improvements as well.

My client will also be acquiring from the fire district a five-acre parcel to the south, which will be used primarily for water management from the Randall Boulevard widening and Immokalee intersection improvements. Ultimately that five acres would also be donated to the county.

There is one owner who has withdrawn from the proposed developer contribution agreement. It is the owner of the convenience store gas station that already exists there. His company was included simply because they were an adjacent owner already in the subdistrict, and it was anticipated that they would become a party to the agreement if the road design was acceptable to them. However, they determined

that the road design was not acceptable.

All of the other provisions of the developer contribution agreement remain intact. Exhibits are being prepared at the request of staff to be attached to the final version of the agreement, which is scheduled to go to the County Commission on the day before this plan amendment would be heard by them. That developer contribution agreement will also contain the phasing language that you'll hear today.

The other change to the amendment is that my client has agreed to add language that a grocery store anchor of at least 35,000 square feet must be included in the Phase I portion of the project. And the Phase I portion of the project is limited to 100,000 square feet.

I'll ask Mr. Hancock to come up now and address some of the other factors. And after that, he and I will make ourselves available for questions.

MR. HANCOCK: Good morning, Mr. Chairman, Commissioners. Commissioner Ahern, welcome.

COMMISSIONER AHERN: Thank you.

MR. HANCOCK: The amended documents before you today were prepared in response, as Bruce mentioned, to the two comments received from the Department of Community Affairs, as well as to accommodate the property owner of Tract 71, who has again decided to withdraw.

The change has not impacted the transportation objectives for the future widening of Randall Boulevard, which was the primary reason my client sought to include them in this amendment.

Regardless, the numerous public benefits associated with the project, which include the Big Corkscrew Island Fire District and Forestry Service relocations, along with transportation commitments to accommodate the future widening of Randall Boulevard remain intact.

The only noticeable change is reduction of 10,000 square feet of retail development that was briefly allocated to Tract 71.

Also included in your revised information are updated tables that identify the demand and supply of neighborhood and community commercial in the primary and secondary trade areas, as well as the larger Estates area two miles east of 951.

As has been documented well in these proceedings, there continues to be a shortage of sites that are sized appropriately to provide for what constitutes neighborhood and community commercial demand in this area, not just today, but into the future.

As you may have noted from the response from DCA, the demand and supply issues were not raised in the request for additional information.

I'd like to briefly update you on the plan roadway design. We had some significant discussion on this, and again, it has been a developing issue, as the consultant for the county continues to work on the design, which then has impacts on the project, which then has impacts on what's before you today. But before you is something I think we can use to walk you through the most recent iteration of that.

As Bruce mentioned, phasing language has been placed in the proposed GMP language that would limit the first 100,000 square feet to an initial phase of development. That would occur primarily in that center portion that you see here.

The project access will be limited to three points along Randall. The first point is really on the western edge of what we call the core portion of the project. And the purpose of that access is yes, to provide some access to the core development, but primarily to provide access to the western parcels on this side.

So again, you'll -- there are two through lanes, which is a continuous part of this design that will be from west to east along Randall Boulevard. And the first turning movement here will provide access both to the project and to the parcels to the west.

Ultimately, as you know in your Land Development Code,

commercial projects are required to interconnect. We think there will be additional opportunities as these sites develop for additional interconnection. But at this time that will preserve the access conditions that exist today.

Secondly is an access point right here, which will initially be a right in/right out access for the project. Ultimately in the Phase II construction, that particular access point may be severed. We're aware of that and planning for that as a part of our project moving forward.

The third access point on Randall right here will constitute a right in/right out, as well as a westbound left in. Beyond that, the only additional project access is back here on Eighth, which is a reverse frontage road that ultimately we think will carry a fair amount of the traffic for the project, because Eighth will be signalized at this point.

So that makes the most sense. We're trying to accommodate to make sure that the through movements for the Estates residents are preserved and protected, while the project still has ample access to be market viable. We think this plan will help us get there.

The land use merits of the project remain in primarily bringing much needed commercial service to a currently underserved area. The larger benefits of this approval are numerically quantified in the amended greenhouse gas analysis, but are easily recognized in reduced trip lengths for residents in the area, as well as increased employment opportunities, all in a location that enjoys a great deal of support.

There are two changes to the language that staff has approved. And by the way, we are working from the staff amended language that was in your supplemental staff report. We have no issues or concerns with that language. But Ms. Ashton picked up on something after the withdraw of Tract 71. And if I can take you to supplemental staff report, Page 4 is the subdistrict text as revised by the petitioner and further revised by staff.

In paragraph -- the first paragraph three under Randall Boulevard

commercial subdistrict, the last sentence which states: Development intensity in the subdistrict shall not exceed 401,950 square feet of floor area.

Because that may affect Tract 71, that sentence is recommending to be struck. And I will go over its replacement language in just a moment.

The second strike-through is under 3.E.1. It states: The development shall be limited to 21,000 square feet. Again, that's a limitation on Tract 71 that was not in the original language. So we are requesting that that be struck also.

And the comfort you have that the cap on the square footage for the new commercial area exists under Item F.1 wherein development intensity on the tracts listed, which are basically for all intense and purposes all the yellow areas you saw in the previous exhibit is capped at 360,950 square feet.

In a sense the overall square footage that can be constructed on this site has gone down 10,000 square feet. But because Tract 71 is no longer part of the application, we are reverting back to the previous GMP language for that tract which did not have a square footage limitation on it.

So those two changes are in essence returning that parcel back to its ability prior to this amendment but still retaining a cap on the balance of the parcels you see here.

I have a strange feeling I've lost people on that, but we'll be happy to address any questions you may have on that.

With that, I will turn it back over to Bruce for any closing comments.

Also, if you have any transportation related comments, Jeff Davidson is also here with us to address those issues.

Bruce?

COMMISSIONER MURRAY: Well, I have a question.



CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: Tim, the issue that you just brought up about reverting that language back to it, do you have any concerns with DCA taking any interest in that? And what is your -- I mean, you have no control over it, they've opted out, right?

MR. HANCOCK: Correct. And because we're reverting back to language that was previously approved by DCA in the current comp. plan, we're just leaving them alone.

COMMISSIONER MURRAY: Because it's acceptable, or deemed acceptable.

MR. HANCOCK: That is correct. And that way any limitations you see on square footage therefore only applies to those parcels that are being added to the subdistrict. We --

COMMISSIONER MURRAY: Okay, that makes sense.

MR. HANCOCK: -- think that's appropriate.

COMMISSIONER MURRAY: Makes sense. Thank you.

CHAIRMAN STRAIN: Okay. Was Bruce going to make any -- okay, any questions of the applicant at this stage?

Mr. Schiffer?

COMMISSIONER SCHIFFER: I have a question. You know, you're showing a road layout plan. How does that affect the parcel it's not in? In other words, is that the roadway that's going to have to be there?

MR. HANCOCK: Yes. And that's the road design that's going to be there with or without this project.

And that's kind of the interesting point. It does not affect the parcel that is Tract 71. Actually, it was designed to really kind of go around those parcels. So that the road design you see, with or without this project, is going to look very much like that.

COMMISSIONER SCHIFFER: Okay. And what that's going to mean is you're going to have to drive past that facility, turn around and

do a 180 and come back to it.

MR. HANCOCK: Yes, sir. Which to a great degree is the existing condition. If you drive out Immokalee Road and turn right on Randall, you've got to make a pretty tough jug handle move there.

COMMISSIONER MURRAY: Yep.

MR. HANCOCK: And so it really -- to be honest, it's safer.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: Was that road design dictated by you or by county?

MR. HANCOCK: If it was dictated by us, it would have about seven more access points. So it was primarily by the county, sir.

CHAIRMAN STRAIN: I know it was, and I wanted to get that on the record. Because you had -- it's not your doing that's cutting this other piece of property or changing the other piece of property's access, it's being done because it's a county requirement.

MR. HANCOCK: Yes, sir. And that was explained to the property owner by Nick in a meeting with him also. Because we felt that was very important.

This is coming. This road design is coming one way or the other. And for safety reasons, the existing conditions cannot be maintained.

CHAIRMAN STRAIN: I had a resident in the area up there sent me an e-mail discussing issues that were really not pertinent to a GMP amendment, but they're development standards. But I thought I'd take this opportunity to read them to you so that when you do come in for your rezone you can take them into consideration. It may solve some issues that could potentially come up.

And it's from a gentleman by the name of Dan Brett, B-R-E-T-T. First thing he said was the height of the buildings, will they be visible above the Valencia Lakes barrier wall when standing in the back yard to those homes along Randall Boulevard.

Now, I'm not asking you to respond to this, I'm suggesting when

you come in you might want to bring sight view studies, if you get through adoption okay. When you come back and when you rezone, address these issues.

The second one is light from the shopping center parking lot shining into the back yards of houses along Randall Boulevard.

And the third one is noise. Will there be any outdoor dining or live music from any tenant in the shopping center.

So I think in your future presentations, assuming we get that far, please make sure you address those issues. GMPA is not the necessary tool now to address them, but you can in the future.

MR. HANCOCK: Agreed.

And one thing that Mr. Sullivan made a commitment to in our prior hearing to you and remains is that we will be working with a community group as we go forward with the design of this shopping center to remain very interactive and inclusive as best we can, and we'll specifically reach out to Mr. Brett in this process.

CHAIRMAN STRAIN: Okay. And I did receive a lot of e-mails and comments, but all the rest of them were just generalities on how much they would like to see this center go forward, so I don't have any other specifics.

Are there any other questions of the applicant at this time before we hear staff report?

Ms. Caron?

COMMISSIONER CARON: I know that we haven't discussed the DCA yet, but number five says: At the time of rezoning, consideration shall be given to imposing appropriate restrictions on the amount of development allowed in this subdistrict prior to moving the fire.

Does that conflict in any way with what was in the DCA? Because the DCA essentially says you get it. And there's -- I'm not sure -- and again, I haven't seen the final DCA, so it makes it really hard

to --

MR. HANCOCK: I let Mr. Anderson handle all the difficult questions.

COMMISSIONER CARON: Okay.

MR. ANDERSON: Typical planner.

No, I don't think there's a conflict. This was inserted by staff as a general flag. I'll let them explain it or try to justify it.

COMMISSIONER CARON: It actually is probably more of a staff question at this point.

MR. ANDERSON: Yeah. And we went along with them. I think the DCA is going to address the timing and those types of things. It would probably be just repeated in the zoning document.

COMMISSIONER CARON: Okay. Because timing in that DCA was not available in the draft that I saw. A lot of timing issues that I think needed to be addressed, so --

MR. ANDERSON: Yeah, we have to coordinate it closely with when they start construction of the road and those types of things. Because we've made a commitment to the county that these buildings will be relocated before the road work really commences so that there's no downtime.

COMMISSIONER CARON: Okay, that's good to hear. Because again, that was not readily ascertained from the draft DCA that I saw. And that would of course be a major concern for the people who live out there.

MR. ANDERSON: Absolutely.

COMMISSIONER CARON: And we have been caught in the past with agreements that were not specific enough with timing issues, and people have drug them on for 10 plus years before granting whatever they were supposed to have granted, so -- thank you.

CHAIRMAN STRAIN: Okay, we'll --

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: -- go to staff report.

MS. MOSCA: Good morning. For the record, my name is Michelle Mosca with the Comprehensive Planning staff.

Commissioners, there have been several changes that have occurred since the Planning Commission's transmittal hearing that affects staff's evaluation of the petition.

As you can probably recall, there were two commercial plan amendments proposed within the Estates that were withdrawn from the amendment cycle.

Also, the commercial plan amendment proposed at Wilson and Golden Gate Boulevard was not transmitted to the state, it was continued indefinitely by the Board of County Commissioners so that it could appear on November's ballot, to give the voters an opportunity to make a decision whether or not they were in favor of the project or not.

And the third item is the subject petition was modified to add a commitment to provide a 35,000 square foot grocer within the first 100,000 square feet of development.

As a result of these changes, staff looked at the subject petition only when evaluating population and commercial supply and demand within the petitioner's market area.

Based on this evaluation alone, staff can agree with the petitioner that there is a demand for neighborhood and community commercial within the petitioner's market area within the 10-year planning horizon. The subject project should be able to meet some of the Estates commercial demand.

However, staff's recommendation today is the same as it was at transmittal. Staff does not support the adoption of this petition. Instead, staff recommends conducting a restudy of the Estates in context with the surrounding area.

The community should be evaluated as a whole to determine the short and long-term needs for commercial and other non-residential

uses.

Regarding any new commercial centers, consideration should be given for their size, their acreage and building square feet, the location, the intensity of uses, types of commercial centers, whether or not it should be a neighborhood center, community center or regional center, and specific development standards.

A restudy of the area would provide the community with an opportunity to voice their preferences. For example, it could be determined that a few smaller commercial centers able to accommodate a grocer and other neighborhood and community uses may be preferable to a large-scale project, such as the one proposed by this amendment.

Smaller commercial centers strategically located throughout the Estates could provide more commercial opportunity to area residents proximate to their homes, thereby lessening the distance traveled to the shopping centers.

Finally, as the commission is aware, the ORC Report contained two objections: One pertaining to the intensity and density of uses, and the other to transportation impacts.

As Mr. Hancock stated, they are in fact in agreement with staff's revised text which appears in your supplemental staff report.

The only outstanding item is the transportation mitigation language, which I'll put on the visualizer. I think it's going to have to be cleaned up somewhat prior to consent, and then we'll report back to you at consent hearings. So let me put that on the visualizer and I'll read it into the record. There's been some additional changes.

So it reads: Excluding the commercial zoning on Tract 71 and the existing approved commercial zoning on the east half of Tract 54, any additional commercial development in the subdistrict shall be developed in phases. Phase I shall be limited to 100,000 square feet of gross leasable floor area. Subsequent phases shall not receive building permits until the Randall Boulevard/Immokalee Road intersection

project, as shown in the Exhibit A below -- and we'll have to either include the Exhibit A within the subdistrict text or we'll have to somehow put that into some format, some text format to describe the exhibit has commenced.

No certificates of occupancy for subsequent phases shall be issued until the project is substantially complete.

So that's what we're proposing to add into the subdistrict text number seven, where there's a placeholder presently.

CHAIRMAN STRAIN: Okay. And I want to clarify something, Michelle, you got into, which I was a bit surprised at.

You seem to want to hold off any approvals for another restudy. The last restudy took two years. It was finally approved through the process I believe in 2004, which is not that long ago, five, six years ago. And now you want to hold off any changes such as this one for that restudy to be complete, yet this one is consistent with the restudy.

The intent of the restudy was always to have peripheral commercial along the main corridors, exactly how this one is being laid out. And I'm not sure what's gained by saying you want to have another restudy, unless it's to get another objective that has nothing to do with this particular project.

So I don't believe that you need to dismiss the current restudy. It was done with all the community participating, the rooms were filled with people. Commercial was the most significant issue ever discussed in that restudy. I was chairman of it for two years. And I can assure you that the commercial outcome of that was what the people at the time wanted.

And over the last five years the demographics supposedly changes. They believe there's been an increase in population. But with all the foreclosures and the demise of population right now in Collier County, I would suggest that maybe we have a situation in Golden Gate Estates that's more similar to the way it was in 2003 and '04 today than it is (sic)

say two years ago.

So I'm not sure that you need to dismiss the restudy that was done, hoping for another restudy to have this thing done all over again when we've already said what we needed to say in that previous restudy.

MS. MOSCA: And Mr. Chairman, I understand your comments. And I think from a staff perspective, it's more the intensity of the project rather than the location. We're talking roughly over 400 -- 402,000 square feet of commercial development at that area, at that intersection, that segment along Randall Boulevard to Eighth. We're talking about the relocation of the fire district, the Division of Forestry to the -- it would be the east side of Eighth, which then you have new impacts, visual impacts, noise and so forth to those residents. It's really a matter of intensity, intensity of uses and the size of the center.

CHAIRMAN STRAIN: Well, I think the intensity is in staying on the peripheral areas and the main thoroughfares, arterial roads, as predicted by the Golden Gate Master Plan study, follows the intent closely to that study.

Now, as far as moving the government facilities, I just heard testimony they'd had to be moved anyway, so that's a moot point. I don't know what that has to do with this particular project. If anything, it's a favor to the project for having to get involved and doing the move, which would have -- leave it up to government, it probably would have cost the taxpayers a fortune.

So I have -- I think that's all a benefit, not a negative. That's all I need to say on that.

MS. MOSCA: I just wanted to address perhaps the impacts that it may have on the property owners in that area.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Before Mr. Anderson spoke of the requirement that they put in there that -- to satisfy the ORC Report that all buildings would have to be moved back to facilitate the



construction of a road, I'm just curious, just for the record to make certain that we don't have a contradiction in any form, with regard to this particular phrase, this particular paragraph, I read the possibility here, no certificates of occupancy for the subsequent phases shall be issued until the project is substantially complete.

So that means that the road must be substantially complete?

MS. MOSCA: It's a segment of roadway. It's the intersection -- David, would you --

COMMISSIONER MURRAY: I want to be sure that we don't put them in a trap where we find ourselves in a circle.

MS. MOSCA: Right. It's the intersection of Immokalee and Randall, and the segment of Randall to Eighth, I believe.

COMMISSIONER MURRAY: That's a big segment, isn't it? I mean, that's the whole project, isn't it, basically?

MS. MOSCA: Yes.

COMMISSIONER MURRAY: So they're constrained to do 100,000 square feet initially.

MS. MOSCA: That's correct.

COMMISSIONER MURRAY: But Mr. Anderson indicated that they had to move the buildings back to facilitate the road. That's what I heard him say. Or maybe I misheard him.

MS. MOSCA: I'll defer to Mr. Anderson.

COMMISSIONER MURRAY: I thought, Bruce, that you had said the buildings must be moved back.

MR. ANDERSON: They do. They need to be relocated. But that won't need to be during Phase I.

COMMISSIONER MURRAY: So there's no impact on -- there's no impairment to the development and no impairment to the road one way or the other with that particular paragraph that they're looking to insert?

MR. ANDERSON: No, I don't believe so, sir.

COMMISSIONER MURRAY: All right, I just want to be absolutely sure. Because you know how these things go later on.

MR. ANDERSON: Oh, believe me, I do. Thank you.

CHAIRMAN STRAIN: Bruce, before you sit down, can we get your acknowledgment that you as the applicant's representative are accepting the paragraph proposed by staff? Or if you're not, I'd like to hear it. Let's get it on the table now.

MR. ANDERSON: No, no, we're accepting of it as it's listed today. We reserve any rights to object to what finally comes to you on consent.

CHAIRMAN STRAIN: Okay, if it's different than what's here today.

MR. ANDERSON: Yes, yes.

CHAIRMAN STRAIN: Michelle, would you at some point formalize that, clean it up and get it to each member by e-mail or otherwise so that we have it for our records?

MS. MOSCA: Yes, I will.

CHAIRMAN STRAIN: Okay. Anybody else have any questions of the applicant or staff before we hear public speakers? Ms. Caron?

COMMISSIONER CARON: Does that paragraph get the people what they want, which is that grocery store? I'm assuming that it relates back to three so that that's covered.

MS. MOSCA: The subdistrict's text specifically states that a grocery store is required within the first 100,000. It's not stated here. This language here will be inserted into the subdistrict text as number seven. And it appears on the second page.

CHAIRMAN STRAIN: Okay?

Okay, anybody else before we go to public speakers?

(No response.)

CHAIRMAN STRAIN: Okay, we'll start out with the registered

public speakers, then I'll ask for general public speakers after that. So if you haven't registered, don't worry about it.

David, you want to start with the --

MR. WEEKS: Sure. And Mr. Chairman, just let me put on the record, each of you planning commissioners did receive two anonymous letters of objection to this petition.

CHAIRMAN STRAIN: Right. And I didn't mention those, because if it's anonymous, that means my dog could have written it and I don't really put a lot of faith in my dog's opinions on these things, so --

MR. WEEKS: That would be impressive. Okay, sorry.

Karen Aquard, followed by Pat Humphries. And those are your only two registered speakers.

CHAIRMAN STRAIN: You can pull that mic down to you, Karen. There you go.

By the way, we did swear in in the beginning --

MS. AQUARD: Oh, I'm sorry, I was late.

CHAIRMAN STRAIN: -- I think some of you came in late. So anybody who came in late who wishes to testify on this petition, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

MS. AQUARD: Good morning, members of the Planning Commission. For the record, my name is Karen Aquard. Our home is located directly behind this proposed development. And once again, I have been asked by my neighbors to speak for the neighborhood.

We are in favor still of this project going forward.

I too was on the master plan from its inception to its sunset. Out of two years, I missed two meetings, and I want you to know, we met every other Wednesday for about four hours. This was a long commitment, it was a big commitment.

And I don't know how staff can misinterpret our intentions, but I can tell you for certain that this development meets the intent of what

the public told us they wanted and what we intended to put in the master plan.

Yes, things are changing out there. You have tons of foreclosures. This is not the time to do a new master plan. Things need to become more stable before a new one is done.

The other thing that staff does not understand or realize is that when you live in the Estates, one of the biggest problems is getting quality commercial and services out there. It took us 10 years to get a mini Walgreen's. And this is because the big corporate offices in Chicago and Atlanta and New York cannot comprehend the idea of estate-sized lots, and almost 200 square miles where the smallest lot is one a quarter acres and they can go up to 15 or more. They don't comprehend it. They count rooftops.

This commercial development is our primary way of getting quality commercial out there. Because with Waterways, Citrus Greens, Valencia Lakes and Orangetree, the bean counters can count their rooftops and they'll be happy to come to Randall Boulevard. And it won't be all just little moms and pops that are failing over on the corner of Wilson and Golden Gate Boulevard. That one is mostly empty. This is the rooftop demographics that the big businesses want. And this is our chance to get it.

As they stated, Emergent is working with the residents, so it will be what we want.

And I wish to point out in the end here, it will be a shot in the arm for the economy -- for the county, but basically for that area. You're talking road construction, you're talking building construction and you're talking with offices, restaurants and stores, you are talking hundreds of jobs that will come into that area. Yes, it's going to cut down on trips into town and everything else. It's just -- this whole package, I urge you to pass this forward, because I see it as a home run, a touch down and the checkered flag all rolled into one. Thank you.

CHAIRMAN STRAIN: Thank you, Karen.

Pat? Good morning.

MS. HUMPHRIES: Good morning. My name is Pat Humphries. I'm presently on the board for the Homeowners Association of Golden Gate Estates and formerly on the board for the Golden Gate Estates Area Civic Association. Today I'm speaking for myself.

I am in favor of this proposed shopping center, because it fulfill a long awaited need for a grocery store and retail shops in the Estates.

Because this shopping center is located in the peripheral area of the Estates, it will serve the residents without impacting the rural character of the community. The shopping center is located at the intersection of Immokalee Road, a six-lane highway, and Randall Boulevard, a soon to be six-lane highway. It will be in close proximity to three residential developments known as Orangetree, Waterways and Valencia, as well as approved commercial property north of Randall Boulevard on Immokalee Road.

This location will be a magnet to attract quality retailers. I think this project would be a positive addition to Golden Gate Estates.

Thank you.

CHAIRMAN STRAIN: Thank you.

Next speaker, David?

MR. WEEKS: There are no more registered speaks.

CHAIRMAN STRAIN: Okay, I know there's others that want to speak. If you don't mind coming up to this podium one at a time, whoever wants to come first, you're more than welcome to.

MR. OLMEDA: For the record, my name is Frank Olmeda, and I live at the Valencia Golf and Countryclub.

THE COURT REPORTER: Could you spell Olmeda, please?

MR. OLMEDA: O-L-M-E-D-A.

Gentlemen and ladies, I live at the Valencia Golf and Countryclub,

which is right next to -- right on Randall Boulevard, and will be very close to the proposed commercial development.

Personally my wife and I are in full support of this development. And in addition to that, I am also the chair of the advisory committee for the association.

I have spoken to the majority of the residents and they have -- they are all in favor of the proposal. It's something that is needed by the community and very much supported by the community. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Next person, please, whoever would like to speak? I saw two other -- if you don't want to, that's fine.

(No response.)

CHAIRMAN STRAIN: Okay, with that, we will I guess not quite close and see if there's any final statements by Bruce. None.

Anybody from Planning Commission have any questions?

Ms. Caron?

COMMISSIONER CARON: Yeah, I just want to go back to the draft DCA. And that's not really been discussed at all here today and I think it should be.

I'm concerned -- again, I will state that I'm concerned about milestones being addressed in this DCA. For example, let's just pick something out, that it says under county emergency management services commitments. It says: The developer has entered into an option to purchase this swap parcel. But it doesn't say when he has to do this. There's no deadline. And I'm concerned that this draft is in really rough form for us to be looking at it.

MS. MOSCA: Commissioner, my understanding is that the DCA is a work in progress. It's not near completion, but will be complete by the July 28th BCC adoption hearing. Unfortunately it's not complete at this time. And I'll defer to Bruce Anderson, if he wants to comment about the DCA further.

CHAIRMAN STRAIN: Before you do, Michelle, didn't I -- based on the paragraph that you have here, in testimony I thought I heard earlier, the swap parcels and the moving of the fire service and the rest of them I believe have to be done before the road work can be completed; is that right?

MS. MOSCA: That's what I heard as well, correct.

CHAIRMAN STRAIN: So if this paragraph survives, which I imagine it would, then the concerns that Ms. Caron has over the phasing and the timing of those other issues would all have to fall in place in order for them to get past Phase I by the intent of this paragraph, because you couldn't put the road in without it? Is that a fair statement?

MS. MOSCA: I believe it is a fair statement. Hopefully it will be restated in the DCA that way. Hopefully the DCA --

COMMISSIONER CARON: If it needs to be --

MS. MOSCA: -- will be revised to reflect --

COMMISSIONER CARON: -- stated in the DCA that way.

Because as we know, we have, A, had DCA's fail on multiple occasions in this county. And C (sic), we've had other instances where when we didn't put milestones in for people to reach that they just didn't do it or they will hold off for as long as possible.

Because suddenly they don't have to have the money to do this or suddenly they don't have -- you know, they're holding it up because they think they can get something else out of the deal if they hold over our heads the fact that, you know, they're supposed to do this other thing that we would like them to do.

I'm very concerned about the way these DCA's have been coming forward and that the county is not caught in a bind that it doesn't want to be caught in, and the people as a result, so --

CHAIRMAN STRAIN: If we recommend adoption with this phase, it forces the issue to be addressed and the DCA would have to come out consistent with the GMPA language, which is in front of us.

So it's almost a trap to make sure the DCA comes out right, the way I'm reading this.

MS. MOSCA: That's correct. I mean, the additional language that will be included in the subdistrict as number seven, that's intended to protect the county in terms of the roadway construction, the intersection improvements and so forth in the phasing of the project.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay, is there a motion from the Planning Commission?

COMMISSIONER SCHIFFER: I'll --

COMMISSIONER MURRAY: So moved.

COMMISSIONER SCHIFFER: -- make it again.

I move we move Petition CP-2008-2 as modified with a recommendation of approved.

CHAIRMAN STRAIN: Okay --

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: -- Mr. Murray, will that be a second okay with you?

COMMISSIONER MURRAY: Yes, I did, I seconded it.

CHAIRMAN STRAIN: Okay. I'm assuming the motion maker and the second are including the paragraph that's in front of us and the other couple of small strike-throughs that were outlined to us by I think the applicant?

COMMISSIONER SCHIFFER: All the modifications presented.

COMMISSIONER MURRAY: All of them.

CHAIRMAN STRAIN: Heidi?

MS. ASHTON-CICKO: Mr. Chair, could we clarify that you're approving the version that is on Page 4 of the supplemental staff report of June 15th, which is the subdistrict text as revised by petitioner at adoption and further revised by staff, and that is further modified --



COMMISSIONER MURRAY: Today.

CHAIRMAN STRAIN: Today.

MS. ASHTON-CICKO: -- today?

CHAIRMAN STRAIN: Yeah. And that's kind of --

MS. ASHTON-CICKO: Thank you.

CHAIRMAN STRAIN: -- where I was trying to go. But that's said much better, so -- does the motion maker and second accept that clarification?

COMMISSIONER MURRAY: Agreed.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Yes, I do.

CHAIRMAN STRAIN: Okay. Discussion?

(No response.)

CHAIRMAN STRAIN: All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0, unanimously.

Thank you very much. I think it's going to be an asset to the Estates when you finally get this done.

Now the hard part comes dealing with the rest of the issues you've got to go through.

\*\*\*Let's see, with that we'll move into our next item on the agenda. It's CP-2008-4. It's a Future Land Use Map amendment for the sending lands to neutral lands property in the Rural Fringe Mixed Use district

down by the county landfill.

All these wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission?

(No response.)

CHAIRMAN STRAIN: I spoke briefly to Mr. Ramsey, and anything -- we'll be talking about the project as we go forward.

Go ahead, Mr. Nadeau.

MR. NADEAU: Good morning, Commissioners. For the record, Dwight Nadeau, Planning Manager for RWA, representing the Filmore Recycling GMP Amendment CP-2008-4.

The subject property, as you recall from our transmittal hearings -- and by the way, good morning, Commissioner Ahern. Welcome aboard.

COMMISSIONER AHERN: Thank you.

MR. NADEAU: This subject property is approximately 29 acres, located off Washburn Road in Section 31, Township 49, Range 27 east. It's directly adjacent to landfill.

In very -- in brief, the petition was to change the future land use designation from sending lands to neutral lands in the Rural Fringe Mixed Use district to provide for operation of a construction and demolition debris which would be the receiving of construction/demolition materials, the processing of crushing, and then the transfer of those process materials off-site to a qualified receiver of these materials.

We successfully went through the Environmental Advisory Council, the Planning Commission, as well as the Board of County Commissioners through the transmittal process, and each and every advisory board and the Board of County Commissioners recommended

and did transmit this amendment unanimously.

Subsequent to that we received the ORC Report from DCA and there was an objection related to transportation. It was mostly associated with all of those land uses that could have been permitted by the sending designation.

On April 30th, I provided a response and rebuttal document to the DCA wherein we addressed their concerns. We had our environment -- our transportation consultant address the transportation issues. And subsequently received an e-mail from Mr. Massey at FDOT withdrawing his objections to the proposed amendment.

Now, prior to the Environmental Advisory Council, I made a call to DCA to see if their concerns had been completely resolved. And I spoke with Brenda Winningham up at the DCA who was speaking for Mike McDaniel.

She said that they didn't have really too much of a problem with what the intent was, but it may have been precedential if we were going to do a map change.

So we went to the Environmental Advisory Council on June 2nd and we did receive a unanimous recommendation to adopt to the Board of County Commissioners.

Subsequent to that meeting, staff has had an opportunity to discuss the precedential matters with DCA, Brenda Winningham, and they were trying to find an alternative solution to just providing for a map change to change the designation.

And what staff and DCA have come up with is an exception within the sending lands portion of the Future Land Use Element where a similar exception for conditional use is being provided for, and it is similar to that being utilized by Collier County for their solid waste park that's currently in process with their conditional use.

So staff has provided you with language as a supplement to your staff report for this adoption hearing, and I can read it into the record, or

if it's familiar to you all, the client -- the applicant has no objection to the language as proposed. They understand that there will not be a map change, that this property will remain a sending designation.

Even though it has passed the test of providing compelling evidence that it may not meet the definitions of what a sending designation may be, the end result is that they want to have the opportunity to do the construction and demolition debris processing and transfer opportunity, land use opportunity, and this can be accommodated through this amendment.

For the record, I would like to ask the Assistant County Attorney if she finds that the proposed language of staff's adequately addresses the request of the Growth Management Plan amendment petition wherein construction and demolition processing and transfer will be permitted, utilizing this language, or if you feel there may be a need to add the term processing -- including processing and transfer of construction and demolition debris, which would make it a little bit more clearer in that language.

CHAIRMAN STRAIN: Before you put the County Attorney's Office on the spot --

Have you had time to review these proposals with staff in regards to this conditional use and all the parameters of that before today's hearing?

MS. ASHTON-CICKO: I received the amendment the same time that you did, which was I think late last night, so I haven't been able to review it in the context of the current GMP and then what the amendment is proposing.

In answer to Dwight's question, I believe the language he was relying on in requesting this sending designation change was the language in our GMP under sending lands section, and which says facilities for the collection, transfer, processing and reduction of solid waste.

So to the extent that he was relying on this section in the sending lands, the placement of it under the conditional use under the --

MR. NADEAU: Neutral lands.

MS. ASHTON-CICKO: Did I misspeak?

MR. NADEAU: Under the neutral lands.

MS. ASHTON-CICKO: Under the neutral lands will accomplish what he was attempting to do through the sending lands, with the exception that it requires a conditional use.

MR. NADEAU: And the conditional use would have been required in either case if this Growth Management Plan were adopted.

MS. ASHTON: I can't answer that question.

CHAIRMAN STRAIN: And that was my question. And I wouldn't be asking it of you, I'd probably be asking it of staff. Because if your whole intention was to move from sending to neutral, in neutral is the use that you have a permitted use by right, or does it still require a conditional use?

MR. WEEKS: Still require a conditional use.

CHAIRMAN STRAIN: Okay, so they're no worse off than if they abort this process to use the language that is being proposed, more or less, they're no worse off than if they'd gone forward. They still need a 4-0 vote or four-vote at least going through another process, another step all over again.

MR. WEEKS: That's correct. The difference in the proposed text versus changing the designation to neutral is they will be limited to this one additional use only. That is the only additional use eligible for the property. If it's changed -- the designation is changed to neutral, then that opens up a variety of other uses in addition to this one. For example, a church or day care center or various other uses allowed in neutral.

CHAIRMAN STRAIN: Okay. And Dwight, how does your applicant feel about this change?

MR. NADEAU: We feel that it's going to achieve the end result. We would just like certainty that what we're proposing is being accommodated in this language.

It is my opinion that it does. It may need the inclusion of reference to construction and demolition debris, but if I can get assurances from the county that we've followed the process and that the language being proposed is appropriate going through this Growth Management Plan amendment today and hopefully with -- on July 28th with the Board of County Commissioners, we're absolutely satisfied.

CHAIRMAN STRAIN: David?

MR. WEEKS: I was going to suggest this: These amendments will come back to you on July 1st for consent hearing, consent review, so we have a little bit of time. As long as the intent is clear. Dwight has made it very clear what his intent from his applicant's perspective is. Staff is in agreement with that. That would give us additional time to consult with the County Attorney's Office as to whether we need to tweak the language further.

But as long as we're very clear on the intent, then leave it up to staff to figure out the exact wording we need and present that to you on July 1st.

CHAIRMAN STRAIN: Okay, before we go to Heidi, the only concern I would have is if somehow it doesn't work, we're not allowed to vote and change our motion on consent. And so I'm wondering if that's the best timing. Maybe we ought to be looking at discussing this to make sure you've made acceptable progress at our next regular Planning Commission meeting at the end of this month.

MR. WEEKS: That's another option.

CHAIRMAN STRAIN: Or I guess there's another one.

MR. WEEKS: In two days.

COMMISSIONER CARON: We can do it in two days.

CHAIRMAN STRAIN: If they can work it out in two days.

Heidi?

MS. ASHTON-CICKO: I just have an additional comment for the record, since Mr. Nadeau asked me a direct question.

This amendment is a little bit different in that it restricts it to existing uses, and I don't know that the prior amendment shifting it -- you know, the designation would have restricted it to existing uses. So thank you for letting me state that on the record.

CHAIRMAN STRAIN: Okay. And I think that they acknowledged it would -- the prior amendment would go beyond the existing uses. This would limit it to existing uses, and they seem to be satisfied with that.

MS. ASHTON-CICKO: Right. But the prior one would have allowed an expansion of the existing use, and I just wanted to state that for the record, since he asked me the question directly.

MR. NADEAU: Well, if I may respond --

CHAIRMAN STRAIN: Sure, go ahead.

MR. NADEAU: -- Mr. Chairman.

While there would be an exception of land use opportunity, there would be no expansion of facilities on the property that would encroach into any existing permitted conservation areas or the like.

So the mulching, horticultural mulching operations that are currently permitted by the conditional use previously approved in the sending designation, they would continue in operation. It would be the expansion of those mulching operations to include the construction and demolition debris receiving, processing and transfer that would be added as a permitted conditional use exception within the sending lands designation of the RFMUD.

CHAIRMAN STRAIN: Corby, looks like maybe you can contribute to this? Let's hope.

MR. SCHMIDT: Thank you. For the record, Corby Schmidt with the Comprehensive Planning Section.

Just on this idea alone, the language previously in the proposed comprehensive plan amendment, along with what's in front of you today, is viewed as a larger set of possible uses. The phraseology is existing in the FLUE for those facilities for resource recovery, and another listing for the collection, transfer, processing and reduction of solid waste. That's a bigger umbrella term or set of terms than is demolition and construction debris. A smaller set of uses or a more limited kind of use.

So we don't have a problem with the interpretation meaning that it includes those items, because as the previous proposal, it did, and it still would.

CHAIRMAN STRAIN: Okay. With that in mind, Heidi, if you and Corby and David were able to get together in the next couple days and we continued a decision on this till our Thursday meeting after we finish this, we're probably going to spend a half a day Thursday, maybe five hours, and we can finish up with this in the afternoon, wrap it up and make sure that everybody's on the same page. And if not, look at alternatives and go forward.

Does that work for you, Heidi?

MS. ASHTON-CICKO: Yes, it does.

CHAIRMAN STRAIN: Corby? David?

MR. WEEKS: That's fine.

CHAIRMAN STRAIN: Okay. Dwight, is that okay with your team?

MR. NADEAU: Yes, absolutely.

CHAIRMAN STRAIN: Okay. So let's just get -- air all the other questions or concerns we have now about this. But I think we're going to hold a decision off until Thursday, and we'll listen to any public speakers that are here today.

So with that in mind, if the applicant is finished with his presentation, I'll ask for any further staff comments before we go into



Planning Commission comments.

David, do you have anything? Or Corby? Anything else.

MR. SCHMIDT: Sure. Perhaps just a few more comments.

Mr. Nadeau covered all the bases quite well.

Just to add to the presentation a bit, the Department of Community Affairs did have a continuing concern with the proposal as previously proposed. And it was the subject of one of their objections in the ORC Report.

They had concern with the Rural Fringe Mixed Use District designation as a whole, the integrity of the program in its entirety, and that beginning to make small individual changes, as this one would have been, that there would be no protection from a continuation of that, a continued eroding of the program.

With the change that you see in front of you now, it does eliminate that possibility. Instead of redesignating one kind of land, sending in this case, to neutral, this simply finds a place, a niche in the sending lands themselves with no redesignation, which will allow the continuation of this existing use and the expansion of uses on the property within the confines of the boundaries to the satisfaction of the applicants.

Now you've already gone over the language that's being proposed. You have a hand-out that states that in front of you.

We looked a bit further ahead to make sure that the language worked. And I mentioned just a moment ago that generally it does. But should this be adopted and that conditional use would be asked for, in the agricultural rural designations under which the sending lands FLUE designation falls, the LDC's entry for this kind of use, the conditional use being asked for, would be the collection and transfer sites for resource recovery.

And within that, we've already heard testimony previously and today as well that that construction and demolition debris would be the

single use being asked for in that expansion.

And your second bite at the apple, that conditional use hearing, or that consideration, would be that chance to limit this even further.

CHAIRMAN STRAIN: Okay, thank you.

Are there any questions of either staff or the applicant at this time? Ms. Caron?

COMMISSIONER CARON: Yeah, this whole business of further encroaching and further encroaching I brought up in the initial round. And I think that this makes it better.

But does -- this exception in sending, is that going to allow other people to say --

COMMISSIONER MURRAY: It's precedential.

COMMISSIONER CARON: -- yeah, I now have a precedent because you did it for Section 31, why can't an exception to made for me over here in Section 93 or whatever.

MR. SCHMIDT: I think that remains a possibility, just like it did to these applicants. Which is why staff was very careful to craft the wording so we're looking at existing uses out there that have previous approval. This was a provisional use, when that's what conditional uses were called. And it also predates the creation of the Rural Fringe Mixed Use District. And we're trying to write in some of that history into that language.

So if there are other examples that may come along, the suspicion was there would be few.

COMMISSIONER CARON: Okay, was that the assurance I got before. I'm hoping that that's still true.

MR. WEEKS: I'd like to add to that, Mr. Chairman.

As this Commission will recall, the county's position collectively, both staff, the Planning Commission and ultimately the board in adopting the rural fringe amendments, I believe has been very consistent in what we referred to as not wanting the Swiss cheese concept. We

want the sending lands to be a continuous block, not containing holes in the cheese that allow higher designations; that is, not having sending and/or receiving designations within. That that would be incompatible to have higher intensity uses within the interior of the sending land.

Conversely, we've consistently said it's okay to nibble at the edges, you know, if -- and specifically you might recall there was a provision with the original adoption in 2002 that allowed landowners to come in that were -- had property on the edge of the sending land that was abutting receiving or neutral lands to submit materials to the county to demonstrate Collier County, you made a mistake, my property should not be designated sending lands; here's my evidence. And then through that process in fact some properties did have their designation changed.

If we look at the Future Land Use Map for the subject site, notwithstanding the fact that the landfill abuts this property to the west, the landfill is designated sending. So this property is a small hole in the cheese.

So that to support the redesignation would seemingly, and I would have to say it is, a departure from that consistent position of don't create a hole in the cheese or a hole in the doughnut.

By carving out this text provision, the map itself maintains its integrity. And that might seem like semantics, okay, leave the map alone but go change the text.

The difference here, number one, is as Corby's already pointed it out, it's limited to a pre-approved use on the property. How many other properties can make that same argument.

Secondly, this property is adjacent to the landfill, and its uses are complementary to the landfill.

There's an existing exception right now in the future land use element in the sending lands on the same page of the text that you have provided to you today. It's number 8.A.2, and that's for the county owned property in Section 25. It allows similar uses and even more

than the type of use being discussed today.

So an exception is already there for a similar type use also complementary to the landfill. So this is, in my view, an extension of that. You know, it's applying the same type of rationale to another property.

That's the reason and I would say the only reason for that collective analysis and rationale for why staff would support this change.

COMMISSIONER CARON: Thank you.

CHAIRMAN STRAIN: Okay, are there any other questions of staff or the applicant before we seek any public speakers?

(No response.)

CHAIRMAN STRAIN: Okay. Were there any registered public speakers, David?

MR. WEEKS: No.

CHAIRMAN STRAIN: Anybody from the public wish to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay. What I think we're looking for then is a continuation to vote on this particular item at our Thursday, June 17th meeting after our regular meeting.

Mr. Murray?

COMMISSIONER MURRAY: Move to continue.

CHAIRMAN STRAIN: Mr. Murray made a motion to continue. Is there a second?

COMMISSIONER CARON: Second.

COMMISSIONER VIGLIOTTI: I'll second.

CHAIRMAN STRAIN: Second by Mr. Vigliotti.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Okay, this one will be continued to Thursday afternoon, or I should say Thursday when we finish our regular agenda. But it looks like it'd be in the afternoon.

I'd like to suggest to staff and the applicant, we don't need a representation of everything, just focus on the issue that is being -- it's being continued for, the one paragraph, we get our business done at that time and be done with it.

MR. SCHMIDT: Thank you, Mr. Chairman.

CHAIRMAN STRAIN: Thank you.

And let's take a break. We'll come back at 10:05.

(Recess.)

CHAIRMAN STRAIN: Okay, David?

MR. WEEKS: Okay, if everybody will please take your seats, we'll go ahead and resume our meeting. We have two items left on the agenda.

\*\*\*The next one up is absolutely the most difficult one we could ever approach. It's a proposal by staff. It's CPSP-2008-7. Staff's requesting a change to the Future Land Use Element to align some policies in the GMP.

Is there a motion?

COMMISSIONER CARON: Motion to approve.

CHAIRMAN STRAIN: Motion made by Commissioner Caron.  
Seconded by?

COMMISSIONER VIGLIOTTI: (Indicating.)

CHAIRMAN STRAIN: Mr. Vigliotti.

Is there any discussion?

(No response.)

CHAIRMAN STRAIN: All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

David, if you bring in those more difficult ones forward like that again, I don't know how we're going to find the time to deal with them.

\*\*\*Now, let's move on to CP-2009-1. This is a Future Land Use Element map change. It's for the Dade/Collier Cypress Recreation Area District. It's a conservation designation. It's located near the Miami/Dade/Dade Collier County border.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Okay, are there disclosures on the part of the Planning Commission?

Ms. Caron?

COMMISSIONER CARON: I spoke to Nicole Ryan of The Conservancy.

CHAIRMAN STRAIN: And so did I.

Anybody else?

COMMISSIONER MIDNEY: Also.

CHAIRMAN STRAIN: Mr. Midney did too.

Okay, that in mind, gentlemen it's all yours.

MR. ASHER: For the record, my name is Kevin Asher, representing the applicant, Miami-Dade County. I'm accompanied by Andrew Paul, also with Miami-Dade County.

The amendment before you is the Dade/Collier Cypress Recreation Area. The last time you heard it and this time it hasn't substantially changed. At its heart it is an amendment to permit a transition from airport use to a recreation use. And the specific part of the amendment is to permit an area already allowable as passive recreational uses to include -- some of which include motorized use to include passive motorized recreational use. So at its heart it's a very simple amendment.

The amendment has gone through the transmittal phases. It went to DCA. DCA came back with a very lengthy report that included a variety of comments, recommendations and objections.

After speaking with -- the applicant spoke with DCA staff and those staff who provided input to DCA because we were kind of concerned and surprised at the extent of some of the comments and the objections from DCA on a transition from an airport to a recreational use, from an area that does not protect natural resources to an area that does protect natural resources.

So I wanted to go through kind of in a little more detailed manner to discuss some of their objections. And specifically their objections, because their recommendations and comments are -- do not have a bearing, as David has said. So that kind of helps you further understand it.

And I wanted to address specifically where the amendment -- where the applicant is recommending that the amendment be changed to specifically or fully comply with DCA concerns, after having talked to them and fathomed out some of their

issues. So I'd like to go through very quickly some of their concerns.

I have a board here that Andy will turn the pages.

So there was a concern. One of the initial concerns of DCA was that this area did not support environmental -- it wasn't environmentally suitable for the amendment. And we were kind of curious about that. Because right now the entirety of the property, as you see here -- Andy, I'll handle that -- the entirety of the property is an airport for aviation purposes, which uses buffer lands only as a means to protect the integrity of the runway.

This amendment very clearly transitions it from aviation use to park and recreation use, relying on the passive intact natural areas as the basis of the park use. So we were a little cautious about that.

The second one was that the -- they were also concerned about the issue that some of the uses were nonconforming. And again, the uses that they were concerned -- remember that the existing uses permitted on the property are a variety of recreational uses, passive recreational use for camping, hunting, fishing, so on and so forth, and those ancillary uses.

Now, at present -- Andy, you got it? Go to the next page, if you would.

At present the existing uses are no different than the uses that have been taking place on that property for the last 70 years; essentially gladesmens activities in terms of hunting and fishing and camping. Access to any of those includes swamp buggies and a whole array of things that our application proposes to eliminate or mitigate.

For example, we -- as you may recall, in this particular area we would eliminate swamp buggy uses because we believe it's adverse. We would eliminate hunting because we believe it's inconsistent to have a recreational park that allows hunting. There's kind of an inconsistency there.

We would eliminate sport camps. And many of them are mobile



homes that are pulled in there, or long-term; some of them have been there 50 years or so.

Nevertheless, on the southern part of this property -- remember this property is 24,000 acres and is an outparcel of Big Cypress National Preserve, fully owned by the county, operated by the county as an airport, not subject to the National Park Service, although we do partner with them in order to essentially try to coordinate land use issues and natural resource issues. But it is not part of Big Cypress, not subject to their governance.

However, I think it's important to understand that this amendment brings this property far closer to the compliance and the definition of the conservation designation area than does leaving it as an airport.

The state was also concerned that the amendment does not establish kind of appropriate guidelines for some of the uses. And in fact, much of the text we have here in the existing amendment does in fact provide that there's going to be an adaptive management plan for the property. But a land use plan is not the appropriate context to provide a 20-page detailed guideline of policies. In fact, it was our premise and that of staff that the more detailed management plans, as in the guidelines and policies, that would be adapted and adopted for this property would be in what's called an adaptive management plan, not unlike what Big Cypress has. Big Cypress has an adaptive management plan which prescribes the type of uses, where they are, the capacity of those uses and the governance of them.

So we would in a sense mimic what the federal government has already successfully developed and used. And I've already provided for that in the language.

However, we are not above making some minor changes to this to essentially abide by the more explicit language that DCA has proposed in terms of consenting that we will have guiding policies, standards and/or policies that detail it more fully. So I think that we will provide

that to staff.

And again, we didn't have the markup here, but that's -- it's unfortunate that we're not able to provide it today, but in our response we did allude to what it is.

COMMISSIONER MURRAY: Sir, when you speak of staff -- sir, when you're speaking of staff, whose staff are you referring to, DCA's?

MR. ASHER: In some areas we have spoken to DCA staff and those staff from respective agencies, DOT, Fish & Wildlife, DEP, even down to the Corps of Engineers. Because there were comments. The -- remember, DCA depends fully on regulatory staff reviews. Some of those were either misinformed or misguided. And some of that I'll touch on.

So we wanted to kind of drill down. We know Ray Eubanks and Brenda Winningham, and so we were kind of a little bit surprised. I mean, I'm a planner and I comment on comp. plans in Miami-Dade County. So we were a little surprised at, how should I say, the vigor at which DCA objected to a transition of an airport on a sensitive natural area to a park that would manage the natural resources on that same area.

COMMISSIONER MURRAY: Let me just interrupt you. Because what I was trying to ascertain, and especially since you made the statement that you're referring to all kinds of staff, would you be good enough hereafter to refer to which particular staff you are relating to when you say staff?

MR. ASHER: Yes, sir.

COMMISSIONER MURRAY: Thank you.

MR. ASHER: Thank you.

If you don't mind, I'm going to -- does this work? I'm going to use this one over here.

The next area, the next objection that the state culled up was that

the applicant did not establish appropriate guidelines to protect the wetlands. And some of these were for areas of critical state concern, others were for intact natural areas.

And I think the most telling of this was that the state took exception to the specific wording for the area of critical state concern. And that means that although this area is not in the Big Cypress National Preserve, it is in an overlay area the state manages that has even higher thresholds for development and protection.

The one item that they took exception was that the language relating to saltwater grasses and marshes was taken out.

Now, in fact, the applicant never took out that language, it was Collier County staff at a later time who excerpted that language. And we didn't object. But at the same time, if state DCA has a concern that the area of critical state concern guidelines fully and completely apply to this property, then we are fully in agreement with it. There is no expectation on our part that it would abide by any less restrictions. In fact, we went through with the coordinator, Rebecca Jetton, who is the State -- DEP coordinator for critical state concerns. And went through it and described that there is not any area of the state statutes governing areas of critical state concern that this project cannot comply with.

First and foremost is that not more than 10 percent of the property be used. In fact, in this particular development, as we presented last time, the developed areas of this project are focused solely on already impacted areas. Remember, this area was developed in '69 as an ancillary area. There were lakes quarried, there were areas that were paved, and nature's not going to grow back in some of these areas. So there are probably about 140 acres or so of heavily impacted areas. Notwithstanding the lakes. This is just areas around the lakes and filled areas. And we will be occupying a small portion of that area.

At the same time, the project committed itself not only to using impacted areas but to restoring others.

Last time we showed a plan whereby there were about 45 acres of existing trails on the property. It is our intent to reduce that by over half; in other words, to eliminate certain non-conducive (sic) trails, trails that are in sensitive areas. And then of that half amount, one-half would go to pedestrian areas and one-half would go to motorized trails. Because remember that there is an intention to have a diverse array of recreational areas and kind of family off-road vehicles in speed-controlled trails, as was presented before, has been an important part of this. In fact, that was one of the basis for looking for property like this, since all of the adjacent land uses to this property already permit off-highway vehicle use, particularly in the over 800,000-acre Big Cypress National Preserve.

Again, the State took exception to the language not having enough definition, or suggesting that we would establish meaningful predictable guidelines and standards to assure that groundwire disturbances are voided, that trails are governed, that people stay on the trails, surface water.

We have no objection to a very minor modification to the existing text to comply with the state's request, such that we would provide those meaningful guidelines and practices in the adaptive management plan, which would then be part of zoning and a site plan, such that it would comply not only with state -- with Florida Administrative Code, but it would comply with the area of critical state concern.

It has always been the Miami-Dade County's expectation and Collier County, since they're essentially a partner in this, in trying to address not only the level of demand for OHV's in this area, but to do so on this property in a way that doesn't adversely impact resources.

At present the property is used solely as buffer land. And there are permitted uses that as a park and recreation department we would just as soon see go away. And I think through kind of a partnership between counties, we can look at adapting this property in a way that

meets both state's concerns and county I guess objectives.

Andy, you can go on.

One of the objections or concerns raised by the state had to do with -- this is five, Andy -- had to do with the CERP project, the Comprehensive Everglades Restoration Program.

The idea that one of the program -- one of the programs, or one of the projects was to eliminate the L28 canal. This is a canal that is just on the -- you see it there, Andy?

The comprehensive Everglades restoration plan proposes a number of measures to the Everglades area to decentralize water. One of them is to remove the L28 canal. That is a levy on the east side of this project. And the state's concern was that an area that is already wet will become even wetter, as in the area will have less and less recreation time open to residents.

Well, in fact the county, Miami-Dade County is a partner in the South Florida Ecosystem Restoration Task Force. We sit with the feds, we sit with state in managing the Everglades restoration, as does I think there are Collier County representatives on it.

We are well aware of the project. And in fact in our application we suggested that there was going to be a management plan governed by hydroperiods. At very high times we already knew that certain recreational activities could not take place. At very low water times, when it's very dry, certain recreational activities could not take place. But during the rest of the year you can adequately manage and supervise certain activities.

If the water is deep, you can still go fishing. They're -- much of the uplands are accessible but you may not be doing any off-road vehicles, you may not be doing any trail rides.

Having said that, our department already is programming this property. We run Everglades Trails and Swamp Tromps through here that originate from Miami-Dade County. They're relatively popular.

And they go about once every two and a half months. And not unlike what goes on in your area, that people want to visit the Everglades. Even though they live very close to it, sometimes it takes a guided tour, a type of a program to provide them a type access and understanding.

MR. PAUL: The visual you're seeing here is our --

CHAIRMAN STRAIN: Sir, you can't speak unless you use the microphone, so please grab a mic if you're going to say anything. Thank you.

MR. ASHER: Another area that the state was concerned about were the lakes. And this was a topic of conversation the last time we spoke. The quarry lakes on the property were dredged in 1969. They were dredged to acquire fill for the runway.

As a runway, the elevations of the profile of the lake edges are one-to-one or one-to-two. So in other words, they're very severe. They were dredged and maintained specifically to avoid allowing migratory wading birds to have shoreline access and then to conflict with aviation purposes.

This airport as an active airport is governed by FAA in its circulars, which prohibit or eliminate wading birds. So there is a conflict at least that the state thought that any type of development would trigger a modification of the lake edges.

But in fact that's not necessarily true, because the same state -- Florida Administrative Code that suggests that development needs to modify it allows for grandfathering provisions for lakes that were in existence prior to or are governed by other federal statutes.

So there is not a true issue that there is a requirement to modify or feather the lake edges on this property. They can coexist. You can have lake edges like that adjacent to an airport and can still function very well in support of fishing or a whole host of recreational activities and be done so in a very safe manner.

Another one of the concerns of the state was for stormwater and

sewage disposal. We had proposed in the application to use on-site septic tank, which is not unlike what the airport uses now, what the National Park Service next door uses, what the Miccosukee Indians use right next door, because there are seven new housing developments for Miccosukees, the Trail Indians.

Having said that, as a proposed amendment, during the evaluation process for site plan and zoning we find that septic is not a viable and environmentally acceptable way, the applicant is open to using a holding tank that would be completely compliant with DCA's concerns and Florida Administrative Code.

So again, these are issues that normally are dealt with in zoning and site planning, not in land use. It seems a little detailed.

But having said that, the applicant is not opposed to including any language that would make us more open to any environmentally friendly or environmentally appropriate stormwater and sewage disposal.

Another one of the concerns, and this is a curious one, was that the proposed amendment is inconsistent with the economic policies of Collier County, ones that encourage the preservation of sensitive natural areas and other things that preserve unique natural resources.

Well, in our mind what would preserve this property more than transitioning it to a recreational and park setting, one whose management and natural area's approach would certainly be more consistent with aviation use which essentially uses it as buffer land, which it sometimes is subject to trespassing and other shall I say adverse uses.

So I think in this particular case the amendment is clearly and demonstratively supportive of many or most Collier County GMP objectives. The first and foremost is the preservation of the intact natural resources.

One of the -- it wasn't an objection, but one that I wanted to touch

on, there was a recommendation by the state that the applicant revisit the alternative sites for this project. And this was premised on that the county, Miami-Dade County, had done a feasibility study in looking at available sites within Miami-Dade County that could support this type of wilderness park, inclusive of off-highway vehicles.

Collier County had done a similar approach to look at available locations because of course Collier County has been confronting the very same high demand and low supply of available locations.

For all practical purposes at this particular time Miami-Dade County has not found another more suitable location as in a publicly owned proximate area that has a history of motorized use on the property. Absent that, the county did not have the funds to buy another property or to force or condemn a privately owned land, or to find other property that had even -- some of them had even more environmental issues.

We went so far as to talk with the Division of Forestry. Division of Forestry is the state entity that manages off-highway vehicles. The state has been an active partner with us. In fact, the county, Miami-Dade County has received three Mark Schmidt grants to look at both the feasibility of an OHV location and to look at the planning and design process for defining what that is.

Miami-Dade County is the only county to have received three consecutive grants in partnership with them. The state has submitted a letter that they are entirely supportive of this property. If there is another alternative, they're not opposed to considering it. But this time it's the only one on the table.

This property, because we have largely restricted the amount of areas where OHV's can go, it's not going to fully solve the problem.

Andy, would you turn to number 11.

The magnitude of the demand in these counties, both in Miami-Dade County and in Collier County, is such that you have like



12,000 titled vehicle riders.

Next one, Andy. It's the next one, it's the map of the two counties. Right there.

Over 12,000 vehicle riders in Miami-Dade County and almost 6,000 in Collier County. This one location is not going to solve it. And in fact there is no intention to provide for all types of uses. This is a very family oriented nature trail type of location that is designed to be restrictive both in speed and location.

We consent from the onset, even among our best friends and whether it's trail-riders or nature walkers, this is not going to solve everyone's problem. It simply is not. It is one part of a larger piece of the puzzle.

The state also brought up the issue that this project was potentially an expansion of urban services into a non-urban area. And the idea that it was going to require additional law enforcement and emergency rescue, there wasn't telephone support, and yet when we talked with the individuals who had reviewed it, they were, let's say, I think maybe surprised that in fact Collier County's Emergency Services -- this is number 13, Andy -- Collier County Emergency Services had already reviewed the property. They had not recommended or not identified that there were any serious problems. Collier County Sheriff had reviewed the project. In fact, they're one of the supporting letters in this. And it goes on and on. Even at the extent that there were issues about cellular service. Well, wow, it's a wilderness location; we fully expect that not all cellular services (sic). When we go out to measure it, we find that Verizon is out there, T-Mobile is out there, AT&T. If you have Metro PCS, you may be out of luck.

But having said that, it's very accessible. Communication is there, and the extent to which an extension of urban services support is minimal.

Now, we have recommended that as management takes over the

property, we'll provide certain first responder type of things. But I'm not certain that we are as apprehensive as the state in terms of their concern about urban services.

One of the very last ones, there was an issue that has come up or begun to come up about carbon emissions, people having to come all the distance. Well, in fact right now people who legally go to OHV's have to go to central Florida or far western, as in northern from here, distances far greater than if they trespass in Miami-Dade County and illegally occupy environmental areas or farming areas.

So we actually did the very first scientific analysis of the project and we used the software recommended by the state to the extent that there was a demonstrated reduction in the project location by probably tenfold, meaning that individuals having to come 50 miles from Miami to this area or Collier to the same area, there was a true and measurable reduction in carbon emissions, greenhouse gas emission to this site. I mean, it's just -- again, it's not going to solve everything, but it will provide the beginning point of the solution to the high demand and low supply of OHV areas.

With that, I'm going to stop and allow additional questions, but to suggest that we will provide a -- based on the information that we submitted to staff, as in David Weeks and company, in our larger response, we will supply a markup, a very brief markup, to our amendment to address State DCA's concerns where we would provide language in our amendment to be explicitly consistent with their recommendations in the ORC Report, and to do so like in a very few days.

With that, we would end our presentation and just ask to be able to rebut at the very end, if there are questions or other information. Thank you.

**CHAIRMAN STRAIN:** Comments from the Planning Commission?

Mr. Murray, then Mr. Midney.

COMMISSIONER MURRAY: Sir, while showing us those various papers, you indicated quite often you were speaking in the future tense, we will, we're going to, et cetera. And I would like to understand whether or not of all of the items that you put on the visualizer, are they to be included in the several days from now submission, every one of the items that you referenced there?

MR. ASHER: Every one of the items was already sent to David's staff, comprehensive management staff --

COMMISSIONER MURRAY: Okay.

MR. ASHER: -- in our response. And what we would propose is that based on where in that response we indicated that the applicant would further amend the application to be consistent with the requests in DCA objections, that is what we would propose. And again, it would be an amendment to this item as it presently stands.

COMMISSIONER MURRAY: Yes, sir. I just want to be absolutely clear for my poor brain. You keep on using the future tense and suggesting that we will, we will. I would have understood it that you would have done so. The submission then that you've made, I would hope then that staff concludes, that is in fact your submission, rather than what we will do in several days. Or am I correct in hearing you that you are now saying you are going to provide what we should have today in several days?

MR. ASHER: I think that the -- what goes to your board and may in fact have been an oversight in ours, is ultimately that your action needs to be less on our response and more on the final markup. But I'll defer to David to more specially answer that question.

COMMISSIONER MURRAY: Well, it may be formulated that way, but I think it's critical that it's based on your response to the ORC Report.

MR. ASHER: I understand.

COMMISSIONER MURRAY: Thank you.

CHAIRMAN STRAIN: David, as the LPA for Collier County, the exhibits and items that we should have received shouldn't be things that were planned to be submitted to the BCC, they should have I believe come through us in order to be recommended to the BCC in one way or another; is that fair?

COMMISSIONER MURRAY: Yeah.

MR. WEEKS: Yes. I mean, your standard protocol -- and Kevin and I were speaking during the break about this, the agent -- the standard protocol as of course you know is that any proposed text changes are provided to you in advance. And of course I as a staff member is well aware that you don't like last minute changes. And your protocol is usually to have that in strike-through, underlined format so you're able to see in your packet here's what was approved for transmittal by the board and then now here's the changes that are being proposed, whether it be by the applicant or staff or some combination.

And through, I don't know, perhaps a misunderstanding, I don't know, but I would respectfully ask that you keep in mind that Kevin's from Miami-Dade County, they have a different process there. And he's not a local agent that deals with you regularly, or us, the county collectively regularly, and I think maybe was unaware that that was the protocol.

He has, in his response, as he's made reference to many times, in their response to the ORC Report objections, they have noted, I'll say in general terms, how an objection can be addressed but not specifically in that strike-through underlined format for you to be able to directly respond to.

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: Yeah, I have a series of questions that basically refers to your statement that you won't be negatively impacting the wetlands. And you said that you are willing to abide by I

think it's 1.D which is that there won't be negative impacts to wetlands and the wetland plants and so forth.

I guess my first question is you say that you'll only be using 140 acres of heavily impacted areas. How do you calculate the acreage of a trail? How much buffer around the trail do you count as being impacted?

MR. ASHER: I'm not certain I have an exact answer. I mean, certainly in the application we proposed that trails would not exceed 10 feet, as in 10 feet wide, where there was motorized, and five to six where it's pedestrian.

Having said that, let's say for the sake of discussion that there may be a small buffer area there now as in on either side of a stabilized trail. And you want that -- rather than leave it open to native soils that are prone to erosion and compaction, we would use the practices borne out of Big Cypress to provide a stabilized limerock trail that would not allow -- that would still allow water seepage underneath but that would still balance -- and it would be at grade, but it would still balance the use of -- the use versus the retention.

I don't have a specific answer for you as in how many feet. And in fact I think that that may be something that is a site design issue. But I think that the intent is to move from what are now very wide swamp buggy trails that proliferate through the property, remove those that are both offensive in terms of poor location or their proximity to sensitive areas, and modify those down as in to reduce the width only to what a smaller OHV would utilize.

Now, these are the same -- these are OHV's that are currently not gaining access to Big Cypress. Big Cypress has principally only larger OHV's.

Now remember, the site is not dominated by OHV's, but it's one of 10 activities that we would like to provide in a wilderness park.

So long story short, there is an intent to remove some of the trails,

to restore some of those areas, and to ensure that the trails that are actually constructed for motorized OHV's have limited or eliminate their adverse impacts.

COMMISSIONER MIDNEY: The reason I asked the question is it's hard for me to visualize that the trails just won't spread. How will you keep the people on 15 miles of trails?

MR. ASHER: I think that we would keep them on 15 miles of trails in the same way that our next door neighbors, Big Cypress does. You have an education course that teaches people before they can access the property. They'll learn what are the rules. There is a permit to govern access and use. And anyone who is seen or found not staying on trails is simply evicted. So I think there's a certain amount of education, enforcement and peer pressure.

COMMISSIONER MIDNEY: You compare this to the Big Cypress repeatedly, but they're very different. Big Cypress has a speed limit of 15 miles an hour and you're talking about 25 and 30. Big Cypress, the motorized vehicle is to gain access for hunting or fishing or whatever, but for this the trails are actually a use in themselves. So I think that there's a big difference in the use, and I think that it's going to be a much heavier use of the wetland.

Will you allow the trails to get muddy?

MR. ASHER: I think that we would avoid that.

COMMISSIONER MIDNEY: By just building them up with limerock?

MR. ASHER: Stabilizing the base as much as possible. Remember, I think that one of our intents is to stabilize them up to but not exceeding ground level so that there is traditional or historic flow across the property when it does get wet.

But the extent to which they may get muddy from erosion from other areas I think kind of remains to be seen. But it's not our intent.

COMMISSIONER MIDNEY: Will you allow a mud riders

course?

MR. ASHER: No.

COMMISSIONER MIDNEY: What are your guidelines for closing the trails when you have wet season? How do you decide when it's too wet to have the motorcycles go on the trails?

MR. ASHER: I think that's an important point. Hydroperiod was addressed and described in our application. I'm not going to tell you at the land use level that I know the exact day or the exact inch of water that would predicate closing trails to OHV's or closing the park to visitors. But I think that we would learn from Big Cypress and Everglades and others at what levels it would be deleterious to provide public use and access to areas.

COMMISSIONER MIDNEY: How would you reinforce the trails with limerock without compacting the soil?

MR. ASHER: Well, I think in some areas you're going to end up having a compacted limerock layer on top. That has never proven to halt subsurface water flows throughout the rest of the property. In fact, you have an airport immediately north of this with a two and one-half mile runway. The same surface flows in that area go under a two and a half mile -- and you've seen, it's not just two and a half miles long, but it's almost a quarter mile wide.

Water finds its way. And a shallow but stabilized OHV trail I don't think is going to prove to be a serious impediment. And particularly since we've obligated the trails would be aligned with the flow, not in opposition. In other words, the flow is northeast to southwest. We would try to adhere to those flow areas.

COMMISSIONER MIDNEY: So all the trails are going to orient in that direction?

MR. ASHER: We're going to attempt to do that, that is correct, sir.

COMMISSIONER MIDNEY: Will the site be bermed?

MR. ASHER: No.

COMMISSIONER MIDNEY: How will you grade out the potholes and the ruts that form when people are riding these trails all day long?

MR. ASHER: I think that we would end up maintaining the limerock base. If it took occasional filling with limerock. I mean, on the site there is still literally piles of limerock that was dredged from the original quarries that was never used.

I'm not certain, or I don't think that we would hope that the level of ridership on here would so undermined a stabilized road as to create potholes. But if it did, we would maintain them in a manner that would least impact the rest of the property.

I'm not certain that OHV use is going to dominate this. It mean, there are other activities in other areas that are -- you know, from bird watching to archery to fishing, a whole array of other affected interests that have kind of raised their hand in terms of looking for other locations.

So OHV is one use, one of 10 uses. It may be the most concern for this board, but it's unlikely that number-wise it's going to dominate. We just can't have that many. The site is just too small, and I don't think we would risk the type of destruction that high levels would take on that property.

COMMISSIONER MIDNEY: So you're going to put limitations on the number of OHV's that can come in on a daily basis?

MR. ASHER: Yes. And that was in the application. Both a capacity in terms of annual and daily.

COMMISSIONER MIDNEY: Because I saw annual of 3,000 users. That would only come up to about eight a day. It seems kind of low.

MR. ASHER: It might be. There's certainly going to be times -- remember, there's no expectation that that OHV use is going to



be open all year long. And I think there is an expectation that we will adapt the -- any capacity for numbers over time.

I don't think that we can -- that the Miami-Dade County Park and Recreation Department can tell you the numbers of people who would come or the frequency at which they would come.

We know that Big Cypress has a threshold for theirs, and they reach it very quickly. And they also don't allow all types. I mean, ours is not designed for swamp buggies and jeeps and airboats and larger ones, it's designed for smaller ones and admittedly family type of use. It's not people going out from our property to hunt or to go to sport camps. It's not designed for people to traverse the property in terms of reaching somewhere else. It's designed for them to come as a family opportunity, a family occasion, and enjoy the property for the intact resources.

COMMISSIONER MIDNEY: I live on a limerock road. And not even going fast or not even using things that kick up mud or kick up dust, that thing has to be regraded often. And I think that if you're going to be having a use that people are going to be riding as recreation, you're going to have to be regrading it a lot. And I'm wondering how you're going to do that without having to repeatedly bring in fill.

MR. ASHER: I'm not certain. I mean, I would venture to guess that it will have to be regraded, it will have to be stabilized and periodically improved.

Nothing that I have heard from you I would disagree with. I think that's an appropriate level of management, to maintain such a surface but to do so in the least possible manner, in the least impact locations.

COMMISSIONER MIDNEY: Those are all my questions.

CHAIRMAN STRAIN: Anybody else have any questions before we go to staff?

(No response.)

CHAIRMAN STRAIN: Okay, David?

Thank you, sir.

MR. ASHER: Thank you.

MR. WEEKS: Well, just as at transmittal, Commissioners, staff certainly acknowledges there are a lot of benefits about this proposed subdistrict. And most of the uses that are being proposed are allowed without the need of a comprehensive plan amendment.

However, we would remind you that as the applicant has noted, this property is an outparcel within the Big Cypress National Preserve. It is within the Big Cypress area of critical state concern. 93 percent of the site is classified as wetlands. Staff does not believe it will be a functional replacement for the former unauthorized ATV trails in the Picayune Strand. And I believe the applicant has readily acknowledged that. There is a limited capacity of the site, given that there will be approximately 15 miles of trails, and the necessary closing during the wettest and driest parts of the season.

Staff believes that there's an inherent compatibility issue between ATV's and off-road motorcycle use and nature viewing by those that are hiking or riding bicycles.

And we particular note, as has already been commented on, that the speed in the backup materials suggests up to 30 miles per hour would be allowed.

The applicant has referred to changing the site from an airport to a park. But to county staff's -- Collier County staff's knowledge, there is no authorized or permitted airport use on this 1,608-acre portion of their ownership. And of course the park proposed is not just for passive uses.

Going back to the transmittal hearings, I'll just remind you, as is noted in your staff report, that the staff recommendation was not to approve the EAC vote of 3-2 to support the petition. This body had a tie vote of 4-4; a motion to approve failed by that 4-4 tie. And then the County Commission approved the transmittal by a vote of 4-0.

The staff position remains not to approve this petition. The adoption hearing for EAC, the vote was 3-2 not to adopt the petition.

As you've seen in the ORC Report and has been discussed extensively by the applicant, DCA did have major objections for this petition. Unlike the other petitions, in this packet and is typical in amendment cycles, there were no recommendations of remedies for this subdistrict.

Of the three objections, two of them, the recommendation by DCA is rather bluntly, do not adopt the amendment. The third is revisit the suitability of other potential sites identified in previous feasibility studies. Which in my mind is a softer way of saying do not adopt the amendment.

Staff has had one telephone conversation with DCA staff, specifically Rebecca Jetton, who is the I believe administrator of the area of critical state concern review staff. And her comment simply is that after reviewing the 51-page ORC Report response document, the same one that's been provided to you, that DCA's position remains unchanged.

Finally, I would note that you have received correspondence. It was provided in your packet. It was received rather late to staff. It's correspondence from Clyde Butcher and also from the Friends of the Everglades.

CHAIRMAN STRAIN: Okay, David, thank you. And do we have any registered public speakers?

MR. WEEKS: We have two. First is Nicole Ryan, followed by Albert Bellevue.

CHAIRMAN STRAIN: Okay. And for those of you who may still want to speak, you don't need to be registered, but after the registered speakers speak, I'll be asking for anybody else that may want to.

Ms. Ryan?

MR. WEEKS: Mr. Chairman, I believe Ms. Ryan was out of the room during the swearing in.

CHAIRMAN STRAIN: Okay.

(Speaker was duly sworn.)

MS. RYAN: Good morning. For had record, Nicole Ryan, here on behalf The Conservancy of Southwest Florida.

And The Conservancy is asking that you recommend not to adopt this amendment. The project has been thoroughly reviewed by county staff, and they have found it inconsistent with the comprehensive plan, the Land Development Code, state statutes and the Florida Administrative Code.

In spite of this, Collier County did move forward at transmittal to get feedback from various state agencies, and feedback you did get. I've never seen so many state agencies in alignment on anything for a very long time.

You had feedback from the Water Management District expressing concern about how this could negatively impact Everglades restoration. You had feedback from the Department of Environmental Protection expressing concern about the inconsistency of the amendment with state statute. You had feedback from the Fish and Wildlife Commission expressing concern. And you had feedback from the Department of Community Affairs, and ultimately they are the agency that has to find these amendments in compliance.

As David Weeks has pointed out, DCA found lots of concerns with this amendment. Their Objections, Recommendations and Comments Report has too many concerns to list individually, but their bottom line was simple and concise: Look for another site for this use for the OHV park, and do not adopt this amendment.

So we believe that that message really has been sent clearly from DCA. Nothing in the transmittal response documents have changed their mind.

There are really dozens of topic areas for this amendment's inconsistency, but I wanted to point out a couple of the key issues that I think are very relevant for the Planning Commission's recommendation.

And first is this proposal's inconsistency with the conservation land use designation as part of the Collier County Comprehensive Plan. The intent of the conservation designation is to conserve and maintain the natural resources of Collier County and their associated environmental and recreational and economic benefits.

OHV use is not going to lead to the further conservation and maintenance of these natural resources. Therefore, it's inconsistent with this portion of the comprehensive plan.

Secondly, the conservation designation allows passive recreational uses. And passive use is further defined in your Land Development Code. And that's defined as nonmotorized. Therefore, the OHV use is inconsistent.

Now, it is acknowledged that swamp buggies and ATV's are allowed as part of the Big Cypress management plan, and these uses are secondary. Therefore, you use your swamp buggy to get to your primary use; your hunting, your fishing, your out-parcel.

Having this ATV use as the primary use is going to really intensify the use. And it's certainly going to be in a much smaller footprint than the entirety of the Big Cypress.

And there are impacts to the Big Cypress from the current secondary use of OHV's. In the Big Cypress management plan's OHV's supplemental EIS it states that panthers avoided the system of trails designated for ORV use. ORV use has been shown to alter marsh plant composition and structure. It increases turbidity, which means that you don't have plant regeneration. So there are impacts with these uses as a secondary use. It's only logical that having it as a primary use would intensify those impacts.

In looking at the subject area, 93 percent of the site is wetlands and

the other seven percent are burrow fits. Therefore, the impacts from this project will be 100 percent in wetlands. The conservation designation states that wetlands are one of the habitats that deserve particular attention because of their ecological value and their sensitivity to perturbations. Therefore, carving 15 acres worth of OHV trails is inconsistent.

And I do have a map that shows just what we're talking about with the wetland issue and the fact that this site is the home habitat for 13 different listed species, including the Florida Panther.

As you can see on the map, the red outlines the site proposal. You have some pink lines that are going from the top left to bottom right. Those are considered panther least-cost pathways or those travel corridors that panthers use. You have the yellow dots which indicate panther telemetry points, so this site is intensively used by panthers. And you have lots of green, indicating wetlands. You can see the borrow pits in brown up at the top. Everything else is green. This site is wetland.

The land in question is also part of the Big Cypress area of critical state concern, and as such there's a heightened level of restriction of activities. The proposed use isn't allowed or consistent with the ACSC designation, which is why they're attempting to create a separate 1,608-acre district within that conservation district.

The Conservancy is very concerned that this would set a dangerous precedent of allowing the carving up of the conservation designation into separate and distinct districts in order to attempt uses that are not consistent with the umbrella conservation designation.

One blatant example of this is the proposed amendment's language that states all development shall comply with the area of critical state concern overlay standards, except for Section 1, site alteration, standard D, which prohibits destruction or alteration of mangrove trees, marsh grasses and wetlands listed by DEP. You can't have a subset of your

conservation designation that's internally inconsistent with that designation. You don't want that, you can't have that.

CHAIRMAN STRAIN: You've got to slow down a little bit, Nicole, okay?

MS. RYAN: The amendment is also inconsistent with the conservation and coastal management element, Objective 7.1, which states: The county shall direct incompatible land uses away from listed animal species and their habitat. Thirteen listed species use this as their habitat.

There's also inconsistencies with Florida Statute, Florida Administrative Code. As I mentioned, DEP brought up some of these inconsistencies with Rule 9J-5 which requires that land uses incompatible with protection and conservation of wetlands and their functions be directed away from those areas.

Water Management District is concerned that with the removal of the L28 levy, that this site which is wet -- a portion of the site is wet for most of the year, and then the remainder of the site is wet for the other portion of the year. So this is a site that at some point is going to be 100 percent wet. And with Everglades restoration, the removal of this levy system, more water is going to inundate this site. So there is concern this will directly conflict with the comprehensive Everglades restoration plan.

These are concerns that the agencies, the county, many entities have brought up. And, you know, DCA in their ORC Report -- you've read ORC reports before, usually if there's an objection, DCA will work with the applicant, find a way to resolve it so the application can move forward. In this case they've said no, don't move forward. If the county does move forward it's going to end up in court. And The Conservancy doesn't want to see that.

So we're recommending that you recommend not to adopt this.

And I did want to bring up just one additional thing. Because at

the EAC meeting, there was a lot of discussion about the feasibility study that determined this site was the most feasible site and really the only feasible site for this use. And The Conservancy took a look, we reviewed the feasibility study and we found some significant concerns with it. And so as you're deliberating, I want you to have these issues in mind.

First of all, the criteria for what sites could be considered have something called showstoppers in it. A showstopper is something that removed a site from consideration altogether. And one of the showstoppers is if the land is public land obtained for conservation or mitigation. So it would seem that something within the ACSC, everything around it obtained for conservation could trigger this.

Well, in fact it's actually just Miami-Dade County's environmentally endangered lands that are considered public lands for conservation that would automatically be removed from consideration.

And I don't want to belabor the ranking system, but I do want to point out a few inconsistencies.

First of all, there were a number of categories used to evaluate the various sites. One was environmental consideration. And this was based on the presence of wetlands, listed species. It also took into account contamination, reclamation needs and disturbance. And the matrix gave a scale of one to five; one being the least desirable site. If you have a lot of wetlands, a lot of listed species habitat, if you have contamination. Five are disturbed areas that you would want to focus this use on.

The jet port range is a three, meaning that the site was neither contaminated or disturbed. A three for a site that is 100 percent wetlands, habitat for 13 listed species. There's a problem with that score.

Another scoring consideration was zoning. And that was based on current Miami-Dade zoning classifications of sites, both the site and



the surrounding areas.

The selection criteria explained that lands preferred for this use would be ag. lands within the urban development boundary, industrial lands or undetermined lands. And the jet port ranked as a four, meaning that it was industrial or ag. located in the urban development boundary or on zoned land.

Well, that doesn't capture this site. This site is conservation, ACSC with an ST overlay. So there's a problem with that scoring criteria.

And I also want to point out the remoteness of this location. Accessibility really is a concern, even though accessibility in the scoring matrix dealt with is there a road leading to the site. This is 60 to 75 minutes away from most urbanized areas on both coasts; it's remote; medical access is pretty far away; it's subject to flooding.

So all of these considerations were taken. Department of Environmental Protection believed that the feasibility study needs to be revisited. The Conservancy concurs. This is an inappropriate use in this location, we believe other sites should be evaluated, and we ask that you recommend not to adopt this amendment based on incompatibility with both county code and state law. Thank you.

CHAIRMAN STRAIN: Thank you.

David, the next registered speaker?

MR. WEEKS: Albert Belliveau.

MR. BELLIVEAU: For the record, my name is Albert Belliveau, and I'm a permanent resident of Collier County.

Unfortunately this staff speaker and Nicole has stolen most of my material. But what I -- I was surprised to hear from the gentleman from Miami-Dade indicating the need to change the use of this from airport to recreational and passive motorized. When he used the word passive motorized I says if that's not an oxymoron, I've never seen one.

I don't know how many of you are familiar with the history of the

Big Cypress, but the reason the Big Cypress is not part of the Everglades National Park is because the campers, the owners, the fisherman, the hunters wanted access to their camps. And there was a marriage between the environmentalists, the state, the federal government that provided for a lot of the rules that control Big Cypress.

Miami wanted to build a big airport, a supersonic airport. As I understand, it's now turning out to be a supersonic car runway. They're not monitoring it. There are trespassers that are using multi uses in this area. And I'm asking, with all their great plans where are they going to get the money, or where are we going to get the money? Because all of this property is here in Collier County.

I know there's going to be lawsuits involved and I think the DCA will be one of the primary plaintiffs. And I look and see that in spite of staff's recommendation not to accept this recommendation that you have the DCA, the Florida Wildlife Commission, the Water District, the DEP, The Conservancy of Southwest Florida, and I'm sure there are numerous other organizations that find this to be an inappropriate use.

And I'm asking myself, well, what is Collier County getting out of this other than increased traffic, increased emissions?

He talks about a trail not being -- interfering with the water. That's what they said about Route 41. That was a dam right across the whole damn state that stopped the water from going into the Everglades.

I look at the water that's coming out of Lake Okeechobee that's being used by Miami and Ft. Lauderdale. Those same two cities who have a 6-1 ratio of off-highway vehicles to ours.

And yet when the lake is to be emptied because there's too much water, where does it go? It comes over here.

We are now being attacked, or at least the possibility of attack of a huge oil spill coming in from the west. Do we need another attack coming in from the east? Why can't the politicians in Miami-Dade find property there? There's property there for this kind of use.

And I would ask you not to approve this plan. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Does anybody else wish to speak on this item?

Yes, ma'am, come on up and please state your name for the record.

MS. CALKINS: Good morning. I'm Susan Calkins.

THE COURT REPORTER: Were you sworn in?

MS. CALKINS: No, I was not.

(Speaker was duly sworn.)

THE COURT REPORTER: Could you spell your last name?

MS. CALKINS: C-A-L-K-I-N-S.

Well, it was a week ago today I was driving across with my husband the Tamiami Trail and we stopped at Big Cypress. And I've been there before of course, but we stopped just to see what was going on, looked, noticed a little sign, you know, register your ATV if you're coming in here. And as I was listening to all the family-oriented activities that were going to be taking place in this proposed facility, you know, I kept thinking but all of this is in the park.

And per the previous speaker's comment, it seems to me that, you know, what -- if there's a need for this family-oriented activity where we have more hiking and biking and bird watching and off-road vehicles, if there's a need for that, then maybe the issue is expanding a little bit on our park rather than creating a park beside the park.

I really have a hard time listening to all of this this morning, recognizing why Collier County would agree to put a Miami-Dade Parks and Rec facility in the middle of Big Cypress in what we know is an environmentally sensitive area. And for all the things we've talked about, it seems to be absurd.

I know that we're looking in Collier County for a place for our ATV riders. This isn't it. You know, I think as Miami-Dade, as Collier, we can find other places.

So it may be difficult, but this is not the place. So I would certainly

urge the Planning Commission not to support this proposal. Thank you.

CHAIRMAN STRAIN: Thank you.

Okay, I believe that's everybody.

Sir, you asked for a rebuttal. I ask that you keep it short and to the point.

MR. ASHER: I'll surrender my time. Thank you.

CHAIRMAN STRAIN: Okay. With that, we'll entertain any questions from the Planning Commission.

Ms. Ahern?

COMMISSIONER AHERN: David, you stated that the EAC vote 3-2 to not approve. And I was looking in our packet it said 3-2 to approve.

MR. WEEKS: The 3-2 vote in support was at the transmittal hearing. At the adoption hearing held earlier this month, their vote was flip-flopped 3-2 not to support.

CHAIRMAN STRAIN: Anybody else have any questions before we seek a motion?

(No response.)

CHAIRMAN STRAIN: Okay, with that, is there a motion?

Ms. Caron?

COMMISSIONER CARON: Yes, I'll make a motion that we do not recommend approval of -- I'll get the number here. CP -- I've lost the number. CP --

CHAIRMAN STRAIN: 2009-1.

COMMISSIONER CARON: Yeah, 9-1.

COMMISSIONER MURRAY: Second.

COMMISSIONER CARON: I think it's -- thank you, Mr. Murray.

CHAIRMAN STRAIN: Mr. Murray's made a second. Ms. Caron's still making her motion. It's still there, though.

COMMISSIONER CARON: I just -- I want to say that as I think most of us stated last time around, it's not consistent with conservation or our own Growth Management Plan. We have issues of 93 percent wetlands. It's in the ASCS -- ACSC, excuse me. It's in outstanding Florida waters. There are multiple listed species issues. It has the potential to interfere with Everglades restoration.

I still believe that there are safety issues with this location and the fact that cell phone usage is not great. And beyond that, safety issues for both police and fire and EMS. Add to that the cost for Collier County. I'm seeing huge costs for Collier County and not great benefits. That's my motion.

CHAIRMAN STRAIN: Okay. Second still holds?

COMMISSIONER MURRAY: Oh, my second is going to hold, and I'd like to make a comment, if I may.

The last time this came before us, I voted for it. And in this case I've very strongly changed my mind. 140 miles of trails would not satisfy the ATV needs that we have. And with the things that have been said here by Conservancy and restated by Commissioner Caron are certainly valid.

If that was what we were attempting to do to satisfy some of the needs of the ATV riders, it doesn't do the job. And on top of it, it destroys property that really needs to stay pristine. So I'm happy to change my mind.

CHAIRMAN STRAIN: Any other comments?

Mr. Midney?

COMMISSIONER MIDNEY: Yeah, I think that we really do need an ATV facility in the county, because there are just a lot of -- I'm thinking of a lot of teenage boys and a lot of young people who for them it's something very positive to do, it's a good family activity for a lot of people.

But our job as a planning board is to site development in the

appropriate places, and this unfortunately is not the appropriate places. And this unfortunately is not the appropriate place.

After questioning the applicant about how they would try to mitigate the impacts to the wetlands, I'm not convinced that this would not have a big impact on the wetlands and on the endangered species, so I'll be supporting the motion.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah. I mean, I prior voted in favor of this. I think the land has kind of been messed up by the prior activities.

But the problem I have is with some of the comments, especially the comment not to resubmit or not to retransmit. I can't overcome that.

CHAIRMAN STRAIN: Okay, anybody else?

(No response.)

CHAIRMAN STRAIN: I'm going to be supporting the motion. First of all, there's no excuse why the applicant couldn't have provided the information that they have eluded to as being willing to do or will provide in the future. This board is the LPA of Collier County. I don't care what the processes are in Miami-Dade. If you come here, you need to know our rules, and you should have been providing that information that was sought to finalize those issues that were outstanding.

I see no practical benefit of this to Collier County. In fact, I see detrimental impacts to both our emergency services and the emergency service response times. I find it to be inconsistent with various elements of 9J-5, our Growth Management Plan, the standards of the ACSC and the Big Cypress Preserve, and I believe it's incompatibility with the surrounding area as well as the conservation designation that overlays this property.

So with all those reasons in mind, I will be supporting those

motion.

Anybody else?

(No response.)

CHAIRMAN STRAIN: All in favor of the motion to recommend denial, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

\*\*\*And that takes us to the very end of our agenda today. I wish to thank staff for all the help they've done in participation, and of course Cherie' and Kady in the records departments.

I would like to make a note to the Planning Commission that on Thursday afternoon after we finish our regular hearing -- I keep saying afternoon, only because I think it will take that long. But whenever we finish our regular hearing on Thursday we will finish a discussion on Item 5-C, CP-2008-4. And we'll take a vote at that time.

So with that in mind, is there a motion to adjourn?

COMMISSIONER MURRAY: So moved.

COMMISSIONER VIGLIOTTI: Motion.

COMMISSIONER SCHIFFER: So moved.

CHAIRMAN STRAIN: Mr. Murray, seconded by Mr. Vigliotti.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: We are out of here. Thank you all.

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There being no further business for the good of the County,  
the meeting was adjourned by order of the Chair at 11:18 a.m.

COLLIER COUNTY PLANNING COMMISSION

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MARK STRAIN, Chairman

These minutes approved by the board on \_\_\_\_\_ as  
presented \_\_\_\_\_ or as corrected \_\_\_\_\_.

Transcript prepared on behalf of Gregory Reporting Service,  
Inc., by Cherie' R. Nottingham.