

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
September 2, 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 REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

CHAIRMAN:	Mark Strain, Chairman
	Melissa Ahern
	Donna Reed-Caron
	Diane Ebert
	Karen Homiak
	Paul Midney
	Bob Murray
	Brad Schiffer

ALSO PRESENT:

Jeffrey Klatzkow, County Attorney
Nick Casalanguida, Growth Management Division/Planning & Regulation
Ray Bellows, Zoning Manager
Thomas Eastman, Real Property Director, CC School District

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the September 2nd meeting of the Collier County Planning Commission.

If you'll all please rise for Pledge of Allegiance.

(Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay, Ms. Caron, would you mind doing the roll call.

COMMISSIONER CARON: Ms. Ahern?

COMMISSIONER HOMIAK: Here.

COMMISSIONER CARON: Mr. Schiffer?

COMMISSIONER SCHIFFER: Here.

COMMISSIONER CARON: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER CARON: Ms. Caron is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER CARON: Ms. Homiak?

COMMISSIONER HOMIAK: Here.

COMMISSIONER CARON: Mr. Murray?

COMMISSIONER MURRAY: Yes.

COMMISSIONER CARON: And welcome Ms. Ebert.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Yes, I was going to welcome our new Commissioner, Diane Ebert, lives in the Olde Cypress area, from District -- what Commission District, District 3?

COMMISSIONER EBERT: Uh-huh.

CHAIRMAN STRAIN: Okay, welcome aboard. You'll have plenty of entertaining reading to do here.

***Addenda to the agenda. Any changes, Ray?

MR. BELLOWS: I don't have any changes.

CHAIRMAN STRAIN: ***Under new business we had an introduction of the new Engineering Review Manager. That was accomplished last week at the EAR, so we won't be doing that today, unless he wants to show up and be introduced again for some reason.

We also have our regular scheduled meeting which is two weeks from today. But after that, I kind of want to give a heads up to everybody, we have the AUIR. And I'm trying to catch the dates. I have them --

COMMISSIONER EBERT: 24th.

CHAIRMAN STRAIN: Well, the first one is the 20th. And the second one, the follow-up, if we need it, is the 24th. Actually, yeah, both of them -- no, actually, I the 23rd.

Ray, what do you have?

MR. BELLOWS: For what month?

CHAIRMAN STRAIN: AUIR, 20 and 24th?

MR. BELLOWS: Yes, 20th and 24th.

CHAIRMAN STRAIN: The 24th is only if we need it. The AUIR this year from what I've been told so far is going to be similar to what it was last year. There's no money, so no expenditures, maybe. And if that's the case, we might finish it up on the 20th. But so your schedules are aware, those are the two days we have allocated for it.

Go ahead, Ms. Caron.

COMMISSIONER CARON: I guess the only thing to point out is that those meetings are going to be over at CDES; is that right?

CHAIRMAN STRAIN: Yes, yes, they are.

MR. BELLOWS: That's correct, it will be held at the Growth Management Division conference room --

CHAIRMAN STRAIN: It will be in the conference room 609?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Okay. Ray, that meeting in the AUIR takes a lot of research in order for us to discuss them adequately. I hope we're not going to get those books five days before the meeting.

MR. BELLOWS: I will relay that information to Mr. Bosi and we'll get them to you as soon as we can.

CHAIRMAN STRAIN: Would you mind e-mailing him while the meeting is going on, ask him to bring them this afternoon.

I mean, honestly, that sets the budget for the county. We could use some extra time with those books, so as early as possible as you guys can get them to us, it would be helpful.

MR. BELLOWS: I'll e-mail him at the first chance.

CHAIRMAN STRAIN: Thank you, sir.

***Planning Commission absences, does anybody know if they're not going to make it to our next regular meeting?

(No response.)

CHAIRMAN STRAIN: ***Approval of minutes. Two sets were e-mailed -- actually three sets were e-mailed to us. We'll take them one at a time.

Is there a motion or correction to the June 15th 2010 GMP amendment?

We've got to do something. Brad?

COMMISSIONER SCHIFFER: Move to approve.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Seconded by Melissa.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 8-0.

Next one is the June 17th set of our regular minutes.

Motion?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER SCHIFFER: Second.

CHAIRMAN STRAIN: Motion by Ms. Homiak, seconded by Mr. Schiffer.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

All opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

And finally the July 1st regular meeting.

Motion?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER SCHIFFER: Second.

CHAIRMAN STRAIN: Okay, Ms. Homiak, seconded by Mr. Schiffer.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0. Thank you.

***Ray, the recaps for the July 27th meeting.

MR. BELLOWS: Yes, that was where the Meridian Village amendment was heard, and it was approved by the Board of County Commissioners.

CHAIRMAN STRAIN: Okay. As -- was there any stipulations from us? I can't recall.

MR. BELLOWS: Well, from staff?

MS. DESELEM: For the record, Kay Deselem.

It was approved as you recommended it be approved on the summary agenda.

CHAIRMAN STRAIN: That's what I was looking to know. If we forward something and our stipulations don't get approved, it would be good for us to know why they didn't and maybe we can try to do better next time. Thank you.

***Chairman's report. I think we've got a long enough day, so I'll defer that report to another time.

***Consent agenda items. There are none.

***The first advertised public hearing we'll move into next. I know there's a lot of the members of the public, the bulk of you are here for either the Davis Reserve or the Robert Williams Trust, which is on Corkscrew Commercial Center. We're going to hear those, Davis Preserve first, Corkscrew second.

The first one up is a dock case that we've heard a couple times before so it will probably go pretty fast. So I just ask for your patience.

***The first advertised public hearing today is BD-PL2009-1157, Michael and Debra Rotkvich, represented by Michael Kelly for a dock extension at Lot 43 of Southport on the Bay.

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?

(No response.)

CHAIRMAN STRAIN: With the exception I had a conversation with Mr. Kelly after our last meeting and a couple of e-mails, and that's it.

Sir, it's all yours.

MR. KELLY: Thank you, sir. My name is Mike Kelly, I'm the builder for Debbie and Michael Rotkvich for the proposed plan. I have to state an apology for the Commission. I have a copy.

CHAIRMAN STRAIN: I'll give you mine when we're finished, okay?

MR. KELLY: Did you need one?

CHAIRMAN STRAIN: She needs one for the record, if you have an extra. If not, we can give one of ours or I can give her mine.

MR. KELLY: Yes, I do.

For the record, this is the -- this is the boat dock that was approved by Mr. Rotkvich. I had another one that I had sent in tentatively upon Mr. Rotkvich's approval, and that's the one that got into your Planning Commission paperwork.

This one was sent in about a week after the meeting. And I apologize for it not getting into the paperwork there, but I don't know what happened exactly.

The previous dock design was identical to this. The one that I first brought in, with the exception of the outside walkway, was eight feet wide. And that was a concern of the board, and we understand that. And I assured Mr. Rotkvich that all he needed was really an access walk to get onto his little pontoon boat that he has elected to purchase.

So what we did is we reduced the outside walkway from the eight-foot -- or outside platform from eight foot to a five-foot walkway to access his boat.

The reason he didn't go with the one on the -- that's in your paperwork is because that large platform seemed to be a problem. And by having that large platform, it would facilitate possibly, you know, putting lawn chairs or something out there that isn't -- that's prohibited from use in Collier County.

So what we want to do is comply with the Commission's request so we don't have anything but walkways out there to access the boat.

The second reason he wanted this design is so that he could pull the large boat around and load and offload on that outside walkway, the five-foot walkway, as well as the deck boat -- or the -- it's a pontoon boat, correction.

So that would facilitate the request in reducing the dock square footage, as well as reducing the outside platform from an eight-foot -- 19 by eight-foot platform to just a five-foot walkway.

The second issue was the lift there, making sure that it wouldn't be -- facilitate a double jet ski lift. And it's 11 foot -- it's the smallest cradle that we could get. The current jet skis can run up past four-foot in width, so it wouldn't really facilitate putting two jet skis on there. It just wouldn't facilitate that.

Is there any questions from the Commission?

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER MURRAY: I do.

CHAIRMAN STRAIN: Mr. Murray.

COMMISSIONER MURRAY: Let me call your attention to the area where you reference 12 point -- 12 feet, two inches on your plan. That's at the top, if you will.

MR. KELLY: Yes, sir.

COMMISSIONER MURRAY: I notice that you have your arrows indicating 12 feet, two inches. They stop short of the walkway. And there are three boards left. I wondered why you chose to end at that particular point.

MR. KELLY: The lift, the dimensions of the top beam is 12-foot, two inches.

COMMISSIONER MURRAY: So you were measuring the lift and not the length of the board.

MR. KELLY: Oh, yes, sir, that's just the lift. As you notice on the other lift as well, it's 12-foot -- the top beam is 12-foot, two. That's for my -- for the setting of the pilings. We have to -- I have to show my crew. Because every lift company is different. And if I didn't show this dimension, then they may set it up for a different lift.

COMMISSIONER MURRAY: Okay. And the walk directly abutting it at right angles there, that one doesn't appear to me to have a dimension that's shown either for width or length. Maybe length. I can't tell for certain at this point. I guess 11 and five, 16 feet, would that be right, in length?

MR. KELLY: In length? Well, there's a --

COMMISSIONER MURRAY: Yeah, I see, it looks to me like 11, six -- it's 16 feet, excuse me. I don't see a width there. And what I'm looking at is the difference between the width on the 12, two boards and the width of the hatched line there, those boards. They look to be a little bit different.

I wondered why you made it so much wider.

MR. KELLY: Yes, sir. The width of the boards, it's a flaw in the drawing program that I have. The actual width of these boards would not be like this. And that diagonal pattern that you see --

COMMISSIONER MURRAY: Yeah, the hatch, I call it that.

MR. KELLY: Yes, sir, it's all called the hatch in the drawing program. In the quick draw program that I have that's perfect for this, it does not have the ability and the --

COMMISSIONER MURRAY: It's not quite perfect then.

MR. KELLY: Yes, sir, it's just not quite perfect.

COMMISSIONER MURRAY: Are you saying to me that the widths are the same?

MR. KELLY: Yes, sir, exactly the same --

COMMISSIONER MURRAY: Thank you, you've answered my question.

CHAIRMAN STRAIN: Are there any -- Melissa?

COMMISSIONER AHERN: On the proposed walkway going out, it looks like on the original one we received it was 22, six, and this one's showing 26.

Did that actually extend out or is it somewhere else and the dimension's not shown?

MR. KELLY: No, ma'am, it did. In the original one, what was the dimension that you said?

COMMISSIONER AHERN: 22, six.

MR. KELLY: Okay, it extended --

COMMISSIONER AHERN: And the other one is 26.

MR. KELLY: It extended the four feet out because we reduced the outside walkway from the eight-foot down to five. And the -- let's see --

COMMISSIONER AHERN: You just brought it in.

MR. KELLY: Yes, ma'am, I did, that's correct. It just reduced to come out as far as we had to go to be able to get the larger lift in there. We had that boundary on the outside. So by reducing that eight-foot down to a walkway, that shifted the whole walkway out, or the whole dock out.

COMMISSIONER AHERN: Okay, thank you.

MR. KELLY: Giving us a little more depth too, which is good.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay, is there a staff report?

Thank you, sir.

And Nancy, when you -- in your report, make sure address this new design that we've now got in front of us.

MS. GUNDLACH: Good morning, Commissioners. Staff is recommending approval of the design that you received in the packet. And like you, I just received a copy of this new design.

CHAIRMAN STRAIN: What I'm asking is if we are to consider this new design, we really can't do it unless staff evaluates it. Is your evaluation to tell us that this is consistent enough with the prior submittal that you approved be approved?

MS. GUNDLACH: Well, it is consistent with the boat dock extension request for 48.5 feet. It's still consistent with what was advertised. So if we would like to approve this today, we could.

CHAIRMAN STRAIN: Okay. That's all your staff report?

MS. GUNDLACH: Yes.

CHAIRMAN STRAIN: Anybody else have any questions?

COMMISSIONER MURRAY: I have.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: I would recommend that if we do that, that we date this some way to identify it as the document.

MS. GUNDLACH: Okay.

CHAIRMAN STRAIN: Anybody else have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Okay, any public speakers for this one, Ray?

MR. BELLOWS: No registered speakers.

CHAIRMAN STRAIN: Anybody wishing to address us on the matter? No?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll close the public hearing and entertain a motion. Is there a motion?

COMMISSIONER SCHIFFER: I'll make a motion.

CHAIRMAN STRAIN: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: I move we approve BD-PL2009-1157 and note that it's based upon the

design submitted today.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Seconded by Mr. Murray, made by Mr. Schiffer.

Discussion?

(No response.)

CHAIRMAN STRAIN: Just one comment. We sent this back last time because the plan showed the design that's in front of us now but it showed a jet ski more or less, or a very narrow boat with the potential of having another one next to it.

Now we're having the same design but this time knowing that they can only have two boats on any dock space, this shows the ability of only putting two boats there. I'm concerned that this could go back to two jet skis in the future. And while I'm going to vote for the motion because our hands are tied, it's showing two boats.

I hope that when this comes through for final permitting or any kind of observations done in the future that we make sure that it was maintained for two boats and not two jet skis.

I don't like the way this has developed, but I think it's nothing we can deny at this point. Therefore, with that, is there any other discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Mr. Kelly, thank you. I know it's been a long and enjoyable journey.

MR. KELLY: My wife said I could claim homestead if I keep coming down.

CHAIRMAN STRAIN: Well, if it matters, you kept a lot of county employees employed, so --

***Okay, the next one, and I'll read it off, it's PUDZ-20004-AR-6829, the Davis Reserve MPUD.

This is one that had been in front of us a year or so ago. It's come back after more communications and changes in design.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. Speakers as well. Anybody that's going to speak, testify, that's going to stand up here and want to say anything, it doesn't matter if you're registered or not. I'm going to ask for general audience comment at the end, and if you think you're going to comment, now is the time to stand up. You have to stand up, and this lady will swear you in.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Thank you. And now for the issue. We have had a flood of e-mails to all the Commissioners on this matter. And we have to go through disclosure. So I'll start.

Melissa?

COMMISSIONER AHERN: Just e-mail.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Just what came through the county e-mail.

COMMISSIONER MIDNEY: Same.

COMMISSIONER CARON: E-mail.

CHAIRMAN STRAIN: Diane?

COMMISSIONER EBERT: County e-mail.

CHAIRMAN STRAIN: Bob?

COMMISSIONER MURRAY: County e-mail, and perhaps a year ago I met Mr. Goldmeier at an East Naples Civic Association meeting where he was boosting his project.

CHAIRMAN STRAIN: Karen?

COMMISSIONER HOMIAK: Yes, I was at the same meeting that Mr. Goldmeier was at for the Civic Association in the past. And I just want to mention that I received through the county e-mail 45 e-mails. I received one written letter and one phone message at home, all opposed to this.

CHAIRMAN STRAIN: Okay. And I too have received a slew of e-mails. I had met with one of the community associations a long time ago, I can't remember if it was before or after the last time we spoke on this issue. I did talk to Mr. Pritt yesterday about some issues that we will discuss today, as well as county staff. And I believe that's everything I can remember right now.

So with that, Mr. Pritt, it's all yours.

MR. PRITT: Thank you, Mr. Chairman, members of the Commission. My name is Robert Pritt. I'm with the law firm of Roetzel and Andress.

And speaking of long journeys, this is something from 2004 and we continue to be in front of you. And we're seeking today for your final approval of the Davis Reserve PUD document.

Barry Goldmeier is here with me. His brother, Lee Goldmeier cannot be here. But together they are owners of Collier Davis, LLC, the owner of the property in question.

Also with me is the project team, Robert Andrea, who's the agent and the planning consultant, he's with Coastal Engineering Consultants.

Brian DeLony, you may see his name with regard to the documents, he was the project engineer with -- also with Coastal Engineering. He is -- he continues to be deployed in Iraq. Regardless of what you may have read in the paper, we still do have people in Iraq. And he's not able to be here.

But we do have Mike Delate, who's from Q. Grady Minor, and he's here with us today. He's done a review of the engineering aspects of this application.

And Tammy Lyday -- is she here yet? Tammy's here. She's an environmentalist with Earth Balance.

You've heard from most of the project team at the previous hearing. I know that not all of you were on the board. But they have previously been sworn and accepted as experts in their fields, with the exception of Mike Delate. But I understand that he has testified here many times. And we would ask that he be qualified, recognized as an expert project engineer -- or an engineer for this project.

We also have traffic engineering, Ted Treesh. Same goes for Ted, he's been here on behalf of us and in front of you on many occasions.

And also Matt Polak of Chisolm Architects. He was here last year also. There was a discussion at that time concerning what typical buildings might look like in a project, in a finished project. And he's here today also for anything that he can add on that issue. I know that there's a lot of concern about what a project is going to look like, so he's back with us today.

I would like the opportunity for cross-examination and would like to reserve a few minutes for rebuttal and a closing statement. I think that's standard with this Commission, as well as any other quasi-judicial body.

This is PUDZ-2004-AR-6829, Davis Reserve MPUD. This is the culmination of a planning and zoning process that's been going on since at least 2004. It's a proposed mixed use PUD with affordable housing -- with an affordable housing element.

The petitioner requests that the Collier County Planning Commission consider the rezone for the subject site from Estates, which is E zoning district, to mixed use planned unit development, MPUD zoning district, for this project. And it is named Davis Reserve, MPUD.

As I said, I think the Chair said this, a petition came on for hearing on May 7th before this body -- May 7th, 2009. At the behest of the Planning Commission at that hearing, my client has reduced the proposed density from 286 units to 234 units and has eliminated the request for an affordable housing density bonus. You don't need an affordable housing density bonus if you're not asking for -- you don't need more than 234 units if you're not asking for the density bonus. So that, we've removed that.

Some of you may recall, or if you look at the notes in the transcript from the last hearing, you will see that that was a big issue at that hearing. So the application you have in front of you is 234 units.

Also, at the Commission's request Mr. Goldmeier has obtained the access easement agreement with the next

door neighbor, Berean Baptist Church. And that was an issue that was -- there was a question at the time whether or not the agreement to provide an easement was sufficient. And during the interim period of time between then and now, we just went ahead and got the easement from the next door neighbor.

As Mr. Andrea will confirm, and as has been provided in the April 29th, 2010 resubmission, all deviation requests have been removed, the buffer's been changed from a Type A 10-foot to a Type 15-B.

Park locations have been depicted on the revised master plan. The rear yard setback has increased to five feet. Minimum space between buildings has been revised. Specific permitted uses are shown now per the SIC codes. And as Mr. Treesh, our traffic engineer, will show, the transportation issues are no worse than last year, and we would qualify for the -- for approval on the transportation issues.

The geographical location is -- it's 22.83 acres. It's located in the southeast quadrant of the intersection of Davis Boulevard and County Barn Road. It's in the Davis Boulevard/County Barn subdistrict in your Growth Management Plan. And that's important, because that has been a -- turns out to be more of a curse than a blessing, perhaps. But there is a special subdistrict for this property, for this project that was created by the county commission. And the subdistrict reflects the wishes of the county commission to provide for affordable housing.

Going back to 2004 and 2005, back in the gilded age, the affordable housing issue was perhaps the biggest, most important issue facing local governments at the time. My, how times have changed.

But at that time the county commission requested and Mr. Goldmeier agreed to provide for affordable housing, and up to 20 percent; it was 10 percent and 10 percent in the Comp. Plan. That has become problematic, as we have learned with the neighbors.

We have had four neighborhood -- four, that's right, four neighborhood information meetings. The neighbors in the last information meeting especially have risen up and said that they don't want affordable housing. Whether that is justified or not is something that's in front of you.

However, there's nothing that we can do about it. As a matter of fact, I went to the county commission and filed an application last -- I think it was November or October, was heard in January. I asked the commission to consider in this current round of Comp. Plan amendments to please provide some relief with regard to this subdistrict. I asked that that be done prior to November 2nd, which is Amendment 4 election day. It's election day for other things, but Amendment 4 that you are probably familiar with, will be on the ballot.

And after November 4th -- or November 2nd, if Amendment 4 passes, which a lot of people think it's going to pass, there will be no changes to comprehensive plans without a vote of the entire county. And we certainly did not want to get caught in that situation, especially in light of the changes that have occurred in the economy as a whole.

The response was that it could not be done after -- in good faith, the county, I think, looked at it. And the response was that it could not be done in the current round and it could not be done in time to beat the deadline on Amendment 4. So it was no longer feasible for us to try to make any changes. And we're not at all sure that the county commission would make any changes. That's something that was not -- there was no commitments made one way or the other on that.

So the fact is that there's no question -- no matter what you hear today, you'll probably hear a lot of different things from different people. I don't know what they're going to say. But in the neighborhood informational meetings we heard things to me were code words for we don't want affordable housing. One of the code words for we don't want affordable housing were, we don't want affordable housing.

As I have testified before in my -- one of my gigs in my earlier career was as general counsel to a large housing authority. I was also in charge of new development. We had 100 percent federal money from HUD for developments. I have heard every single argument that possibly can be made, I think, with every single code and buzzword about why we don't want affordable housing and we don't want it anywhere near us.

And I heard the same thing in the neighborhood informational meetings. Some people were at least courageous enough to say, we don't want those kind of people here.

Now, I know what those kind of people mean. And I know that that's a buzzword for improper consideration of affordable housing. Other people may be thinking they're more clever saying well, we don't like this, we don't like that, this is this, this is that. But bottom line, that is the main issue. We know that. We can't do much about that unless there were some type of relief that could be proposed and be granted by the county commission through interpretation.

But we stand before you today with a Comp. Plan amendment that has that in it.

I've probably beaten that to death already. But I just wanted to indicate to you and to the public, members of the public, that it's in the Comp. Plan.

Should it have been ever put in the Comp. Plan? Well, there are a lot of things in comp. plans and the GMP that should not be in comp. plans. And cities and counties all over this state are now rethinking what a comprehensive plan is all about. It may be too late with Amendment 4 coming. At some cities -- many cities, some counties have rushed to the Department of Community Affairs to change their comprehensive plans to beat the deadline. And whether or not that will occur, I don't know. But they're starting to learn that you don't put zoning into comp. plans, zoning issues into comp. plans, and you keep the plan the plan and the zone the zone.

However, that would be nice, that would be something for the future perhaps, but we're kind of stuck with what we have.

So we stand before you with a good project. I hope that you've all read the Comp. Plan subdistrict regulations. But -- and if you haven't, just to give you a very brief overview, it's a little bit long, but a brief overview is this particular subdistrict is designed for exactly what we're trying to do, and that's a TND, the traditional neighborhood design.

It's a little bit different from a lot of the designs that we have here in Collier County, although there are a couple. I think Mercato would be an example of one on a very large scale. But this is something that is very much still alive and still a very important type of design. Mr. Polak will tell you a little bit more about that, and also Robert Andrea.

And it's a -- it's in the Comprehensive Plan that it would be this type of a design, and we're trying to design in accordance with that.

With that, I would like to turn this over first to Robert Andrea and have him give you the details of the -- some of the details of the proposed plan.

CHAIRMAN STRAIN: And first, I'd like to mention to the public the procedure that we're going to go through. You all -- anybody in this room that wants to comment on this project will have the opportunity.

The way we process is the applicant makes a presentation. His experts makes their comments. This commission then asks them questions. We then go into a staff report. We then query the staff any questions we have of them. And then we'll finally at that point open it up to the public comment.

So I ask that you wait patiently. Some of the presentations you hear may impact what you may want to say as we move on.

Second thing, Nick's not here today for the first hour and a half, and Jamie French was going to fill in for him. And he's afraid to sit in that seat, I understand. But it's good to see you here, Jamie. If we have any questions, we'll make sure to drag you into them.

Thank you, Bob.

MR. ANDREA: Good morning. I'm Robert Andrea with Coastal Engineering. Bob did a great job of explaining what we have going on here today. I'll try to expand on some of the details.

As Mr. Pritt said, we are here today requesting a rezone for the 22.83 acres from Estates zoning district to a mixed use planned unit development to be known as Davis Reserve MPUD.

And there's the map there. You want the future land use?

MR. BELLOWS: If you want. I'll put on whatever you need.

MR. ANDREA: This is how it appears on the Future Land Use Map.

As you can see, it's on the southeast corner of Davis Boulevard and County Barn Road.

The properties surrounding this are Napoli Condos to the west, Glen Eagle to the north, Seacrest schools to the south and east, and Berean Church to the south.

The subject property lies within the urban land use designation area. As Mr. Pritt stated, this property has been designated with its own location-specific subdistrict within the urban mixed use district since June, 2005, when the subdistrict was approved.

It's the Davis Boulevard/County Barn Road mixed use subdistrict. It was later amended by the county with some language changes and an EAR-based amendment in 2007.

The subdistrict is comprised of the 22.83 acres. And the intent of the subdistrict is to provide for development that incorporates traditional neighborhood design and mixed use neighborhood design features and concepts, as well as address the recommendation of the Collier County Community Character Plan.

These will include pedestrian friendly and bicycle friendly streets, small park areas, small plazas, and other open space, and a mix of residential and neighborhood commercial uses.

We also will be integrating the residential and the commercial in the same buildings.

The mixed use portion of the project is at the corner of County Barn Road and Davis. And that's where the commercial will be integrated with the residential. The portion on the west side of the project is the residential portion. We've located the commercial there. That is the commercial component. And it will be easily located by surrounding properties that will be able to walk to it. We have sidewalk connections that will come out to County Barn Road, to Davis Boulevard. We'll be fully accessible by the inside of the property and surrounding properties.

UNIDENTIFIED SPEAKER: Where's County Barn Road?

CHAIRMAN STRAIN: Sir, I'm sorry, you won't be able to speak from the audience unless you come up, and you'll have to wait until we call public speakers. Thank you.

MR. ANDREA: There's County Barn Road on the side there. All right, County Barn Road is right here. Davis Boulevard is our north boundary. Here's Seacrest Schools down here, and Berean Baptist Church.

As Bob mentioned, this subdistrict is required to develop 20 percent of its units as affordable workforce housing. As it reads in the subdistrict, a minimum of 91 residential units shall be developed in the subdistrict. This reflects the density rating system's base density of four dwelling units per acre applied to the total site acreage.

For the project's total density, whether it is the minimum of the 91 dwelling units or a greater amount as allowed by the density rating system and bonus provisions, and approved via the rezoning, a minimum of 10 percent must be affordable workforce housing units provided for those earning less than or equal to 80 percent of the median household income for Collier County.

Another minimum of 10 percent must be affordable workforce housing units provided for those earning greater than 80 percent but no greater than 100 percent of the median household income.

What this equates to is the 80 percent median income for a family of four in Collier County is \$57,850 a year. A hundred percent of the median income for Collier County for a family of four is 72,300. This is not low-income housing, this is workforce housing.

What we have proposed is a mixed use planned unit development where we'll be applying the traditional neighborhood and mixed use neighborhood design features and concepts. This includes a denser pedestrian friendly design, bicycle friendly streets that are integrated with all the buildings and walkable areas, and parking along the street with small plazas and open spaces. And again, like I said, the mixed use here up in the corner with the residential and commercial.

We envision people being able to work and live here. People that will have small offices in the commercial portion will be able to either live on top or live on the east end of the property.

And what we will propose is up to 35,000 square feet of commercial uses in that corner. And the project is proposed for 234 multi-family residential units, which equates to 10.25 units per acre across the entire 22.83 acres.

Twenty percent of the 234 units, or 47 units, will be the workforce housing units.

There'll be a preserve area there. That is in the southeast corner of the property, approximately 5.29 acres. There will be a lake up at the top there along Davis Boulevard, as well as other public recreational open spaces and usable areas.

There'll be an access point on Davis Boulevard, which will be a right in and right out, right there. And also the shared access with Berean Baptist Church, off of County Barn Road.

We've provided all the landscape buffers, setbacks, open spaces as required.

The architectural theme throughout the entire project will be a common architectural theme. There will be no deviation, no mix matching. Everything will be a common architectural theme.

Last time we were here, May 7th, 2009, there were some concerns over the PUD documents. We went back and addressed those concerns. And what we've done is we've increased the level of detail on the master plan. As you can see, we've added the footprints, parking areas, sidewalks, access points. Pretty much laid out the entire area there.

We have reduced the proposed density from 286 to 234 units. And as Bob mentioned, that is to -- by reducing the density bonus we were after for affordable housing, we have eliminated that from our proposal.

We've removed any and all deviation requests from what is normally expected.

We have increased the buffer area to the south adjacent to the Berean Baptist Church, which is here. We've increased that from 10 feet Type A to a 15-foot Type B, which is a thicker buffer area.

We have depicted all the park areas on the master plan.

We have finalized the access agreement with Berean Baptist Church and had that recorded in Collier County records.

We have provided the supplemental analysis of the traffic impact statement that provides for all the worst case scenarios, including supermarkets.

We've relocated as requested the drive off of Davis Boulevard, and we moved that closer to County Barn Road. I believe now it's within about 660 feet, which is the minimum space requirement.

We have revised the development standard tables, increased minimum setbacks, increased the distance between each of the buildings to half the building height, as well as reduced the building height. We have also increased the minimum size of residential units.

When we added the exact uses in the permitted uses, we have also included the SIC codes, the standard industrial classification codes, to better clarify the uses.

Since we met last, we've worked real closely with staff. We've had another neighborhood information meeting. Staff has given their staff report. We agree with them. They are recommending approval of this request. And we feel that this project will fit nicely into the area, it will give some diversification to the area, and it will be a real nice complement to the area.

That is what I have, and I will turn it over to -- Mr. Goldmeier would like to say a few words.

CHAIRMAN STRAIN: Okay. At some point tell us when it's convenient and we'll start asking our questions. I know each of you have something to contribute and it may answer some of our questions ahead of time.

MR. PRITT: If it's okay with you, I'd like to have -- we'll go ahead and have the presentations, because I do want to have our architect talk to you about some of the issues before we field questions.

CHAIRMAN STRAIN: That sounds fine.

MR. GOLDMEIER: Thank you very much. Since we saw you last, we had another neighborhood information meeting, and I've met with two neighborhood groups, trying to explain the project.

And I'm here specifically -- I'm not only here as a developer, I'm here basically to explain what the affordable workforce housing restriction means.

This was not -- at first this was not our idea when we went for the consolidated plan amendment. We did not propose it. This came up at the Board of County Commissioners, and it came from the dais, and was inserted into our plan as a condition of approval. So it was not something that we sought. And what we're trying to do is make the best of it.

But I'd like to clarify one thing, that there are I think a misunderstanding, mainly in the community, that I've tried to alleviate, I guess unsuccessfully, as to what the label affordable workforce housing is.

Because affordable workforce housing -- let me tell you first of all what it's not. It's not low-income housing, it's not HUD housing, and I don't believe it's anything to be afraid of. I would be concerned if I lived in a neighborhood and somebody was putting a HUD project near me, I would be totally concerned. And HUD projects are usually 100 percent extremely low income, which is 30, 35 percent, maybe reaching up to 50 percent of median income. This is 80 and 100 percent of area median income.

Now, Collier County itself has an area median income -- and by the way, all of these are for families of the -- I'm going to be giving you numbers stated for the average family of four. Collier County's median income is 22.7 percent higher than the state median income. So I'm going to compare what these numbers are in absolute dollars to the state.

The 80 percent affordable -- and I think the big misunderstanding comes with Collier County labeling 80 percent affordable. If you look at various HUD documents, 80 percent of median income is considered moderate. Fifty and 60 percent, 50 percent is considered low income -- 60 percent is considered low income, fifty percent very low income, and 30 and 35 percent extremely low income. So 80 percent in HUD documents is considered moderate income.

But here it's been labeled affordable income. Affordable. And I think that's the big problem. But that affordable 80 percent number is \$57,800. That's the income. There are many people I believe in this room who would fit into this category. Most people who are working for the county and for service entities would fit into the income bracket of making \$57,800. And that's what people are afraid of.

Now, in the state, the 80 percent of median income is \$47,500.

Now, what's labeled workforce income by Collier County as 100 percent of area median income is properly labeled, because HUD considers 100 percent to be workforce housing. But in Collier County, with 22 percent higher median income, 100 percent is \$72,300. Those are the people that we're going to be required to include in our property. I think they'd be included in most properties throughout the county anyway, aside from the highest and, you know, oceanfront condos. They'd be many of your neighbors.

So the main point of this is that Collier County's 80 percent of median income of \$57,800 is practically the same as the state's average income or 100 percent of median income of \$59,400. So the 80 percent of median income affordable group is practically the average person living in the State of Florida. It's not a low-income project.

And yet -- and there are only 10 percent of the residents will be in that 80 percent affordable category. That's what we're talking about. A hundred percent of median income is \$72,300. And those are usually homeowners. Those are your workforce housing people. And those people are 120 percent of the state's median income. In other words, these are not what people are picturing as affordable housing residents.

They're not -- they're picturing a HUD project or a tax credit project. And by the way, there is a problem -- a vacancy problem and problems that the county's having with vacancy and other areas in the low-income housing projects. And I understand that. And that's not what we're intending to build, again.

We have just been saddled with this requirement that we have to work with and make the best of. But it's not something to be afraid of, at least in my estimation.

Now, what we're actually trying to do is we're trying to build something which is similar to a traditional neighborhood design community. Traditional neighborhood design which Matt Polak will understand (sic) I believe is a step up from the old run-of-the-mill garden apartment buried in a sea of parking that you see most places around the state, including Collier County.

Traditional neighborhood design is more expensive to develop. One of the reasons it's more expensive to develop is because the building has no back and no front. It in effect has two highly decorated fronts. Many buildings that you'd see that are backed up that are behind a sea of parking and backed up to their property line may have an attractive front but have a just plain unattractive rear. You can't afford that with a traditional neighborhood design community.

The visitors are going to enter from the front and the residents are going to enter from the rear. There's going to be visitor parking in the front along the streets, and resident parking in the rear, so you have to have two fronts to the building. It's a much more expensive type of project to develop.

And as a matter of fact, people who are concerned about the type of project that's going there, this is going to cost more to build than a run-of-the-mill apartment project. And because of that, we have to try to make it better and attractive, a more -- a group of people who could afford to live there because the costs are going to be higher, whether it be a rental cost or a sales cost, in order to compensate for the fact that we have a more expensive type of design.

Now, when surveyed, 60 percent of Americans stated that they wanted to live in walkable communities. And that trend is especially true among baby boomer retirees who are going to be your next wave of people coming in and who we'd hope to attract as residents to this community. That's why baby boomer retirees are moving back to the cities and the ring communities around cities, because they want to be within walking distance of most of the amenities that they enjoy, which we intend to incorporate into the project.

The trend, as a matter of fact, the design trend is to go back to what is popular in European cities and many planned communities in the United States; that is, deemphasizing the use of automobiles and increasing the walkability and use of bicycles. And this is one of the advantages of this type of design in this community.

Mixed income communities are generally thought to be more attractive, especially in an area with a high snowbird population. Because it's the higher range of the income people are not there all year round, and the community becomes more of a community with people who are permanent residents who live there throughout the year. And that's considered a desirable aspect.

In all parts of the county, you know, including abroad, energy efficiency has become an issue. And this -- and the type of design, energy efficient design is usually a smaller, more efficient design.

So looking at the project and commenting on sheer numbers is not taking the whole thing into consideration. Because, you know, the trend is to smaller, more energy efficient, more usable units.

In order to attract new residents, especially new retirees, a fresh approach has to be made and to differentiate this community from the other communities around it, especially in this market. And we believe that a traditional

neighborhood design type of community, one that has been successfully done in Collier County, there's an example of a project called Ole', and -- what's the other one, beginning with an M? Mercato. And a few other projects that have been done which are a new approach.

And this is more expensive to build. And as a matter of fact, those two communities are high end communities. And the only places where traditional neighborhood design has been used has been in higher end communities because it is more expensive. And of course we're going to have to economically justify that and do a nice community, because we're doing a traditional neighborhood design community, which will cost more.

The commercial aspect is not a typical commercial aspect of a CVS on a corner or a grocery store. We envision this to be a live-work community. We envision the commercial aspect to consist of architects' offices, maybe tutors because there's a school next door, maybe a dentist, maybe an ice cream shop. But things that can survive off of a walkable community and maybe off of the adjoining communities.

We don't see this as something that would attract many people from the outside. We view this as an amenity to the community. And we also think it's an amenity that will draw in people who want to live there, because they'll be able to have their businesses there or their professional practices there, et cetera.

And that's the -- and in this day and age people are telecommuting, and telecommuting people who will be able to live and go downstairs to get the dry cleaning or whatever, you know, this is one aspect of the community that we believe will make it more appealing to people and be able to command a higher price for the units.

We have a mega shift in the economy. There are many distressed projects. So we feel that this new design and new approach to the project, and getting away from the old design will pay off economically.

And there's one other aspect. And the aspect is the organic nature of the design and the development. In order to support the retail, we need a certain amount of residential. In order to support the residential, we need a certain amount of retail. This is a very small example of how urban development -- or new -- traditional neighborhood design communities work. And this is probably the smallest that you can go. Usually these things are new towns. Usually these things are places that are, you know, hundreds of acres, not 22.8 acres.

So in -- so we believe that the numbers and the balance between the units, number of units and the amount of retail is important to -- and affects one another. So we can't cut down on either one of them, because there is a critical mass that we have to reach.

Basically summarizing, I think we have -- the neighbors have unfortunately been misled by labels. The label of affordable housing I don't believe -- I don't believe that the lowest income level being the median -- average median income for the State of Florida would qualify as what I would ordinarily think of as affordable housing.

And I believe that although the community is different and it's not what's been done many times before, except in a couple of high end cases, it's going to be a benefit to the neighbors. It's going to differentiate itself from them. And it's going to probably add value, not detract value from the surrounding communities.

CHAIRMAN STRAIN: Thank you.

MR. TREESH: Good morning, Chairman, Commission. For the record, Ted Treesh, TR Transportation.

Just quickly, the transportation conditions out there really haven't changed since the last time we were before you. In fact, traffic, as you're well aware, has dropped over the last few years in the county. So we're still consistent with the Growth Management Plan. We're still -- have conditions within the staff report that we're in agreement with.

The County Barn issue is hopefully resolved now with the Santa Barbara Boulevard extension. There was -- in the initial analysis we provided back in 2008 showed some potential level of service issues on County Barn, but that was going to be resolved with the Santa Barbara extension to the south, which is, I believe, now complete. So as new traffic data becomes available in the next year, we fully anticipate that the level of service issues on County Barn will be resolved and will be consistent with the Growth Management Plan.

That's really all I had to offer this morning on the record.

CHAIRMAN STRAIN: Thank you. We'll have questions, I'm sure.

Mr. Pritt, is your presentation done now?

MR. PRITT: We have Matt Polak.

CHAIRMAN STRAIN: You'll need to come up and -- okay.

MR. POLAK: Good morning. My name is Matt Polak, Chisolm Architects.

I did want to take some time to go over the master plan, site plan that Robert had put forward.

I went ahead and rendered a plan. I recall at the last time that we met there was, I guess, some questions as to

the building, you know, what we're showing on the master plan being building pads.

You know, there had been the concern about, you know, those buildings look awfully big. And we were trying to convey both to you and to the public that, you know, that's just identifying where the buildings are going to go in relationship to the streets and to the parking and to the preserve areas.

So what I've gone ahead and done is rendered up a site plan based upon that same graphic that was -- that Robert had presented.

I apologize for it being that dark. It doesn't (sic) look that dark when we printed it. What we're trying to convey here, I think one of the aspects of the design that has sort of not been discussed maybe in as much detail as when we started the process is that we had a great deal -- we spent a great deal of time engineering the preserve area and the on-site drainage for this site.

And as you go through that process, you begin to -- you want to begin to realize what are the opportunities that you have, what are the things you don't want to touch, what are the things you want to stay away from.

So in developing that, we tried to keep the preserve area, which borders along the east and south sides of the property. We wanted to try to keep that as natural as possible. And I'm sure Tammy will come up and discuss those -- can discuss that in a little bit more detail.

Additionally, you know, how do you address your on-site drainage and how do you put it into some sort of -- make a design statement and make it something that would be amenable and becomes part of the overall development and ties -- helps you tie together the commercial component along with the residential component.

You begin to start looking at those aspects, you begin to say it starts to make more sense to start looking at traditional neighborhood design concepts. And what you're trying to create when you do this is you're trying to create open space. You're trying to define it and trying to develop it.

And one of the things we began to look at there is where do those opportunities begin to exist and how do you begin to do that.

So one of the key aspects was circulation. How do you get into the site, how do you get out of the site, how do people view the site. And if I put up -- I guess we can put up this graphic real quick.

CHAIRMAN STRAIN: As you speak, if you just slow down just a little bit. She has to --

MR. POLAK: Oh, I'm sorry.

CHAIRMAN STRAIN: She has to type as fast as you speak, and it's actually for everybody's benefit that we have a good record.

MR. POLAK: I'll try to slow down.

This is an aerial graphic that shows the project site. You see Davis Boulevard to the north, you have County Barn happening to the west.

As everyone knows, Davis Boulevard is a divided road, a divided roadway, as is County Barn. And the future of County Barn as it's going to be is going to be subdivided.

So what we really have here is we only have access from Davis Boulevard on eastbound traffic. And our access from County Barn is predominantly from -- is northbound traffic, although we have worked out an agreement with the church adjacent to us to allow us to have a left turn in and a left turn out at that area.

So what we've gone ahead and done is, as you can see, which is a change from the previous design, is that we've gone ahead and created an entryway here, which is a right turn in off of Davis Boulevard. And then what happens when you come off of Davis Boulevard, we're trying to create a space there where the street, you have a building about, you know, between two and three stories high, creates a wall, which is buffered with the street and then has the lake. And at the termination of the lake we have our commercial component.

The commercial component is a mixed use component. We kind of envision that area to be as well as, like what Mr. Goldmeier said, having live-work units there. It also could house a recreational space. We envision that a park for all the residents to use would be in that area there. And also internal to the building you could have a gym, a multipurpose room, spaces that could be used by the entire community for social gatherings.

The key element here is that we wanted to create focal points as we go down. So as you come to this point here, you have a focal point that takes you into the predominantly residential component of the project, which is surrounded by smaller buildings that are broken up on the pad. What we've done there is broken the buildings up. Those are -- those pods can be anywhere from 12 -- anywhere from six to 12 to 18 units between two and three stories high.

And what you're traveling down is a main street with parking on both sides. And the building's relatively close to the streetscape. I have a graphic that I'll bring up next to discuss how we try to create that sort of streetscape.

One of the elements we like about this is that we create -- in going with this type of building is that you kind of create some passive security with that. Vehicular circulation has to pass through buildings, you have eyes on the street at all times. It's very difficult to do something bad when you kind of have to drive through at a relatively slow speed and have a lot of people on you.

So there's a psychological concern for people who want to do bad things, they typically don't like to go into areas that make it very difficult to get out, or make it possible that they won't be able to get out unnoticed. It's a very passive way of doing that and that avoids us from having to wall in the entire community or put a security gate or handle those aspects of it. So that was one of the other items that we began to look at when we started laying out the building.

What we discussed there -- actually, if you can actually kind of show this part there.

Really, what we were trying to show here is how the streetscape and how we create space, open space within the development. The top graphic you're seeing there is a preferred pedestrian section that kind of tells you if a building is "X" high, you want it to be "X" width. And that's a very comfortable way of creating space for people to walk through. And what we've done is we've created that.

Those spaces begin to occur between buildings here and here, as well as over here and over here. So at the same time we're breaking up the building, we're creating pedestrian connectivity between buildings, between parking areas, and we're also creating very well defined spaces that are very pedestrian -- very pedestrian friendly.

The second graphic is really a graphic -- is a graphic that really discusses the streetscape and how you want to be in a ratio of the building height to the width. Our widths of our streets from buildings are about 62 feet. So what that equates to, our buildings are going to range in height anywhere from 28 to 35 feet, depending where the roof line is and if we have any special characters.

So what we've tried to do there is keep it in a ratio of one to two, again creating kind of an outdoor room and corridor for people to feel very comfortable walking down there. So that's where you see all the roadways are designed with that concept.

And basically what we envision there is that is you have a main building. The units that front that would have either small porticoes or porches, depending on the final design, small, you know, 10 feet of a front yard space. It wouldn't be their front yard, but it would be a green space. It could be either grass or it could be landscaped.

And then a sidewalk, parallel parking for visitors, and then a narrow road anywhere between 20 and 24 feet in width. And the reason we like that width is that it keeps traffic at a low speed and allows bicycles to use the same road without having to do a separate bicycle path. Traffic here will be relatively minimum, given this density of the project.

And then the bottom graphic is really what would be an acceptable open space for a parking area. And we've tried to keep the parking areas behind the buildings so that -- we go at a ratio of one to six, so that again going to a, you know, a 25 or 30-foot radius, you're looking at parking widths somewhere in the range of anywhere from 60 to 120, maybe 180 feet, no more than that.

So what we've tried to do is take every aspect of the design and create space, comfortable space where people are going to be comfortable, whether they're parking their car, whether they're parking on the street, whether they're walking to their neighbors or walking to the commercial component.

And then this last graphic is we went ahead and we overlaid our -- can you pan it back out a little bit more so people can sort of get an idea. We went ahead and overlaid our graphic to kind of -- well, that's probably a little too far -- to overlay the graphic to show how this is going to work in the context of the adjoining neighborhood.

As you can see we're beginning -- you know, we begin to define Davis Boulevard. Although we create a buffer between Davis Boulevard, you know, we create a line that traffic going east on Davis Boulevard is going to see an attractive development that's not necessarily hidden by anything.

We create a secondary series of roadways that allow for circulation, take a little bit of the traffic off of there for our community, at least, allows them to go either to County Barn or to Davis Boulevard, gives them that flexibility there.

And then we've gone ahead and created a focal point to the east, which is our commercial component, a major view vista, which is our water -- our waterfront lake, and then a small little focal point for the community area

there.

And then we envision around the perimeter of the entire site -- this is my last slide, I promise -- you can see around the site here we have a -- kind of a walking path, we kind of envision as an exercise path. It would be a pervious path that would bring -- the residents would have a chance to at least walk, I don't want to say through the preserve area, but would be able to walk adjacent to the preserve area. Create a nice area around the property.

I said that was my last slide, but I misspoke, I actually have one more, which was a quick rendering that we had done that I'd like to show.

This is just a rendering where we try to give an idea. This could be basically a view at any of the circles, although the one you're -- this one you're looking at now is probably more indicative of what you would see at the commercial -- at the termination of the commercial where on the corners you would have large kind of focal points. You would potentially have retail on the bottom with some units on top.

And along that area there you could have either -- you could have live-work units, which could be small offices on the ground floor with a walk-up, or you could have small little retail offices that could occur there, or you could have just straightforward apartments there.

So the idea there is that, you know, in keeping with that you see the sidewalks on the street and it's sort of carried -- and we would carry that -- whatever final architectural style we choose, whether it would be Mediterranean or Florida Vernacular or whatever, we would carry that through on all the building, so that the buildings themselves would all look as if they were part of a larger plan.

And with that, I'll pass it off to Bob.

CHAIRMAN STRAIN: Okay, Mr. Pritt. We're going to take a break at 10:00 for 15 minutes. When we get back from the break, we will start asking our questions, no matter where you are, so you have 13 minutes --

MR. PRITT: As a matter of fact, I think we may be finished. We do have the engineer and the environmental expert here to answer any questions that you may have, or attempt to, anyhow. And I think that we are finished with our presentation. And we'd be glad to answer any questions, if you want to start now.

CHAIRMAN STRAIN: Okay, I'd like to get a procedural issue out of the way that involves the County Attorney's Office.

Mr. Pritt, you said in the beginning you'd like the ability to cross-exam?

MR. PRITT: Yes.

CHAIRMAN STRAIN: Did you intend that to apply to the members of the public?

MR. PRITT: My request would be, but yes.

CHAIRMAN STRAIN: Jeff, there was some recent court decisions on regards to public speakers and the ability to be cross-examined in a quasi-judicial hearing. I don't recall the details of that. But is that something we have to allow?

MR. KLATZKOW: If somebody wants to come up here and speak to you as in a factual nature, he's got the right to ask them about that, okay?

CHAIRMAN STRAIN: Okay.

MR. KLATZKOW: I mean, people don't come up here just to give opinions, I don't like this and sit down, there needs to be some sort of rationale that you can grasp on to, because you have to come up with substantial competent evidence, all right?

He's got the right to question them about those factual allegations.

CHAIRMAN STRAIN: Okay. I just wanted to make sure the public was aware that -- should you pose an issue or a concern to us, Mr. Pritt would have the ability to ask you how you verify that or more questions about it.

MR. PRITT: I will try to exercise restraint.

CHAIRMAN STRAIN: Thank you, sir, I would appreciate that.

MR. PRITT: I'm not sure I'll succeed, but I'll try.

But I will be glad to try to answer any questions. But I wanted to make sure that Mr. Polak had the opportunity to show you what some of the thoughts were, anyhow.

The last thing I would say on this is we're talking about concept. We're really here at the -- we're not at the Site Development Plan phase. We're here trying to answer some of the concerns that were raised in the meeting last May, to try to show graphically or pictorially what this might look like. And so I just wanted to make sure that everybody understands that, that the board understands it and that the people in the public understand that we're trying

to show conceptually what this plan might look like.

CHAIRMAN STRAIN: Okay. And Cherie', since we are going to have a lot of questions, it will take a lot of time, we could just as soon -- I'd rather take our break before we start asking questions. So why don't we break now and we'll come back at five after 10:00 and resume with questions from this panel. Thank you.

(A recess was taken.)

CHAIRMAN STRAIN: Okay, if everybody will please take their seats, we'd like to resume the meeting.

Okay, we left off and we had finished the presentation by the applicant with his various experts. And we're going to be going into questions from the Planning Commission.

Because of the volume of questions that we probably are going to have, the approach on this will be that we'll take a section of the application and the distribution by staff at a time for questions from the various Planning Commissioners and then move on like we did through the EAR and the GMP.

But first, the overall encompassing document that drove this project is the Growth Management Plan. And it's about two pages of information that is really the basis under which they had to move forward with their design.

I'm sure that the Planning Commissioners have read it. It's in their packet. In fact, I'll try to turn to the page. There's a consistency review memorandum. It's Page 1 of the second submitted packet. And that basically has a lot of the GMP stuff in it.

I'd like to ask the Planning Commission to first ask any questions they may have of the Growth Management Plan issues, and then we'll move into the rest of the document.

Brad, do you have any?

COMMISSIONER SCHIFFER: Are we going to go through this or --

CHAIRMAN STRAIN: Yeah, the consistency review page?

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: Yeah. We can hit that a page at a time, or if you have any questions about that document, that would be the beginning, because it's the GMP.

COMMISSIONER SCHIFFER: Okay, yeah.

CHAIRMAN STRAIN: Does anybody have any questions on that document they'd like to ask at this time?

COMMISSIONER SCHIFFER: Well, I have questions on the GMP compliance, so yeah. I guess I can go first.

You know, the one thing, Bob, I'm not really -- and I'm an architect and I'm not really set as to how we're going to guarantee that we get a traditional neighborhood or all the other kind of things. I mean, we've seen what we've seen. This sketch is the only sketch.

So how we -- and it's going to go, I guess, in the SDP process, which is a process that the public isn't even privy to. How are we going to assure that it actually becomes what would be considered a -- the intent to be the traditional neighborhood mixed use design?

MR. PRITT: I'll take the snap and then hand it off as fast as I can to the experts. Since it's kind of a legal question, I think, it's my understanding that there is an SDP process, and that is something where -- something we still have to go through.

The -- I think the precise question was how do we know that. And if we means this Planning Commission, the structure of your government is set up so that Planning Commission has certain powers and those powers go so far and they do not go to the SDP process.

What we have tried to do, notwithstanding that, because of concerns that were expressed at the last meeting, is to try to give you some idea and give the public some idea as to what you might be seeing.

The -- I have every reason to believe that during the SDP process the administrative staff is going to continue to be very careful in its review, and will make sure that what you approve, should you approve it, and what the county commission approves, should they approve it, is followed, because they have to.

I'm not sure that that's an adequate answer, but I think that that is something that goes into that process, and that's just part of the fabric of county government.

COMMISSIONER SCHIFFER: Okay. I mean, and we've seen some documents. I mean, and the document look good. The site plan has all the asphalt colored green, which I don't think will be the case.

The sections that he showed as here's our traditional town sections, well, you know, the height of these buildings can be 55 feet, so -- the road right-of-way sections are 53 feet and one 63 feet; I mean, it doesn't even match

those sections.

I'm just, you know, wondering -- so there's nothing we're going to see past this to see if it really met the intent of the opening paragraph of the GMP?

MR. PRITT: Again, giving you my opinion, during the site development process the staff will go through what has been ultimately approved by the County Commission, and we'll still have to meet all of those requirements.

But this is not a call that you make at this level. This is -- the level of detail I don't think has been assigned to the Planning Commission by the Board of County Commissioners. That -- once you get into saying what the buildings are going to look like, all the details that an architect would be involved in, most of the details, I think those are SDP --

COMMISSIONER SCHIFFER: And we can stop that. I'll go to staff.

The commercial component --

MR. PRITT: Maybe Matt could -- I don't know if you'd like to hear from a fellow architect on that, but --

CHAIRMAN STRAIN: Brad, do you mind if I make one comment to his?

COMMISSIONER SCHIFFER: Sure.

CHAIRMAN STRAIN: Bob, I understand what you said about the details normally being in the SDP. But that's when they're silent as to reference normally in the GMP. As you started out, the GMP is usually not as detailed as we have in this particular case.

In this case, the GMP -- one of the second sentences, the opening statement in the introductory paragraph says the intent of the subdistrict is to provide for a development that incorporates traditional neighborhood and mixed use neighborhood design features, as well as recommendations of the Collier County Community Character Plan.

So I think because it's in the GMP, it becomes an element open to this board to understand how you've met that criteria. And I think that's where Brad may be going is, we haven't seen yet how that's coming into play, except for some of the concept sketches you've shown, and they seem to be inconsistent with some of the data in the application. I think that's what we're trying to flesh out.

MR. PRITT: The -- it says the intent. We're talking about a description in the Comp. Plan of what a TND is like. I think that we have presented that. But that does not mean that you get into every detail right up to site development plan review of this, anymore than you do anything else.

Now, maybe you do that in others, but I would suggest to you that that's really not -- that's beyond the jurisdiction of the body -- this body in this type of an application.

Now, I know nobody likes to hear that, but that's -- that has been assigned -- it's not that it hasn't been assigned, but it's been assigned to staff at SDP.

And, you know, the law could be different, the code could be different in another city close by. I'm aware that sometimes it is assigned to the council, sometimes it's assigned to the planning commission. But here that seems to be the way that it's set up.

We're trying to give you as much information as possible, but we don't want to be locked in to what are otherwise SDP matters.

That's the best I can answer. I know it's not a happy answer, but I --

CHAIRMAN STRAIN: Well, I'm not sure it's an answer that I agree with, or maybe the rest of us. I didn't bring my entitlement document for the Planning Commission ready here with me today to debate with you, so I'd like to ask the County Attorney if -- I believe that this Planning Commission has a right to ask for and to review any criteria we'd like.

Jeff, where are our limitations; do you recall?

MR. KLATZKOW: As far as site development plan review goes, I think if the Board of County Commissioners wanted to kick this back to you to make sure that the site development plan met the intent of the Comp. Plan, everything else, I think that's an appropriate mechanism.

And I think that could be a recommendation by the Planning Commission, that the Board as condition of approval, if the board approves this, ask that the Planning Commission review the site development plan. And that's how you would get it.

CHAIRMAN STRAIN: At this level of review today, based on the language I read from the Growth Management Plan, is it within our review to seek further clarification as to how they intend to meet the intent of this subdistrict?

MR. KLATZKOW: I don't think they're there yet. I mean, usually at this level -- they don't usually have this level of detail at the rezoning stage.

That's why I'm suggesting that if you're concerned about it, I think the appropriate and the fair thing on the applicant would be to, okay, I'll -- you know, at that point in time if the Board wants, the Planning Commission will review the site development plans. We've done -- this Board has seen plans before on controversial projects as well.

CHAIRMAN STRAIN: Okay, thank you.

MR. PRITT: Could I ask the --

CHAIRMAN STRAIN: Yes, sir.

MR. PRITT: -- just a question back on that?

I'm not aware of any -- have there been matters where the Board has sent it back to the --

COMMISSIONER MURRAY: There certainly has.

MR. PRITT: -- Planning Commission for site development review?

CHAIRMAN STRAIN: Mr. Murray.

MR. PRITT: I'm trying to think -- I don't know of any but --

MR. KLATZKOW: The Planning Commission has the authority to review any matter that the Board wishes them to review. That's just part of their inherent powers and the ordinance powers.

MR. PRITT: Did you want to hear from --

CHAIRMAN STRAIN: Well, yes, I think you need to finish your response to Brad's question.

MR. POLAK: What I just wanted to further discuss was that the graphic that Mr. Andrea had presented at the beginning of our presentation was the graphic that was submitted as part of the application. So in respect to that, the streets and the streetscapes are shown, you know -- you know, we developed a concept based on that document that was presented.

To go to your discussion about the building heights and that, you know, we're looking at two and three-story buildings. So, you know, really, the 55-foot element is really -- if at some point during the design process there's a tower or some sort of focal point that would require, you know, an architectural element that would need to extend beyond, you know, what would be considered, you know, on a three-story, you're looking at anywhere from, you know, 33 to 43 feet probably on a three-story and probably 10 or 12 feet less than that on a two-story.

So, you know, it's not our intent to try to build a, you know, 55-foot -- you know, a three-floor, 55-foot high building. It's not where we're going with that.

COMMISSIONER SCHIFFER: But taking that data, your three-to-one ratio for your vehicular cross-section, that would be 90, 40 feet, 120-foot wide cross-sections, and they're really narrow.

MR. POLAK: Well, what we were -- you know, what I was trying to convey there is that what we were trying to do is maintain -- on those ratios is to really, you know, three -- you know, we figure between one-to-one and three-to-one is really where you want to fall in creating that space.

So when you're talking about a, you know, a 25 or -- you know, 25 or 28-high two-story building, let's say, you know, you are looking at a two-to-one ratio. You're at, you know, 50, 60 feet. A three-to-one you're a little bit wider. You know, we have a 52-foot right-of-way and then we have the buildings are set back and then the buildings rise up. So you have another 10 feet on top of that.

So you're looking at 52, plus the building setbacks on the property could be another 10 feet on both sides. So you're at 52, 60 -- you could be at 72 feet ultimately on how you situate those buildings along the streetscape.

COMMISSIONER SCHIFFER: I mean, the exhibit, which I think is prepared by your office showing the cross-sections, so these would probably be wider than --

MR. POLAK: I don't know which exhibit you're looking at, that's why.

COMMISSIONER SCHIFFER: Exhibit G. It shows three cross-sections of the street.

MR. POLAK: I'm looking --

CHAIRMAN STRAIN: Brad, one of the concerns that we should have is that these cross-sections, because they're exhibits to zoning, are a little more blocked in than -- we probably need to find out what we're really trying to talk about, versus how this is locked in when staff gets it.

COMMISSIONER SCHIFFER: Then let me -- I tell you what, let me -- let's move the answer to that when we actually review the PUD document as part of that.

MR. POLAK: Okay.

COMMISSIONER SCHIFFER: And then the other question is you're not going to use green asphalt, right? I mean, even though your renderings -- if you put your site plan up there, it's a beautiful site plan, but all the paving is green.

MR. POLAK: Well, I think the paving is showing green. We actually -- it was a -- we went with a gray, kind of an off-gray color. It didn't print. And then from the printing to the visualizer -- well, in the TV I can't tell you. It's not going to be green, though. It's --

COMMISSIONER SCHIFFER: It does look nice green, though.

MR. POLAK: Yeah, green always looks better than black, usually. But that was -- again, we went with a gray, and it just -- I think between our computer, our printer, the visualizer and the monitors, we ended up having it green.

COMMISSIONER SCHIFFER: And my next question, and maybe the engineer could answer this, is the commercial component, I don't have a drawing, or do we, that actually shows the perimeter of that?

The site plan shows mixed use, the PUD references mixed use, but it's just showing it in shaded buildings. Is there a boundary for the commercial component?

MR. ANDREA: As stated in the GMP, I believe it can be no larger than five acres for the mixed use portion.

COMMISSIONER SCHIFFER: But is there -- so there's no boundary at this point, you'll determine that during the SDP process also?

MR. ANDREA: Correct, right.

COMMISSIONER SCHIFFER: In the general criteria there's a requirement that the parking area is to be internal to the site and screened from County Barn Road and Davis Road. The site plan appears to have achieved exactly the opposite of that; is that right? Or what is --

MR. ANDREA: Our feeling on it is that it is actually internal to the site. I can't recall the exact, but the architect and I were talking about there seemed to be issues a while back about the buildings being right on County Barn Road. So we brought them internal to do his architectural features. And there's no other spot to put the parking, so we did screen it with the extra vegetation there.

COMMISSIONER SCHIFFER: Okay. I'm -- let me just double check real quick, but I think I'm done, Mark, on the GMP stuff.

CHAIRMAN STRAIN: Before we move into the application of the PUD document itself, are there any general GMP questions from the rest of the Planning Commission?

Melissa?

COMMISSIONER AHERN: It looks like you're providing great access within the community. Are you making -- do you have any plans to provide access to the neighbors to the east or south to -- where they would be able to access the commercial areas without having to go all the way around?

MR. ANDREA: That's all Seacrest School property to the east and to the south. And that's through our preserve area. And I believe they have a fence there. I don't believe --

COMMISSIONER AHERN: So you couldn't provide access to Falling Waters?

MR. ANDREA: Falling Waters I believe is two properties over.

COMMISSIONER AHERN: Okay. It doesn't look like it on the map.

MR. ANDREA: Let me see if I can get a better map.

Okay, this here, this is all Seacrest Schools, here and here. And I don't believe they'd be interested in us having -- giving them access.

COMMISSIONER AHERN: Okay, that's fine. Thank you.

CHAIRMAN STRAIN: Okay, before we leave the GMP issues -- Karen?

COMMISSIONER HOMIAK: The commercial tract is mixed use and should include residential and commercial. How many units, residential units will be in that tract?

MR. ANDREA: I don't believe we have a final determination on that. I know it will be at least 40, 50 units in that area.

COMMISSIONER MURRAY: Wow.

MR. ANDREA: Is that -- I mean --

COMMISSIONER HOMIAK: Forty or 50?

MR. ANDREA: Right. We're planning to put the affordable housing --

COMMISSIONER HOMIAK: -- of commercial --

MR. ANDREA: -- units there above the commercial.

CHAIRMAN STRAIN: Okay, we're still on the couple of pages of the GMP first.

Anybody else have any questions of the GMP?

(No response.)

CHAIRMAN STRAIN: And I'm going to start off where Brad had gone but kind of didn't finish it.

The parking area, under the general criteria it said, parking areas shall be internal to the site and be screened from County Barn Road and Davis Boulevard.

David Weeks, are you here? Yes. David, would you mind coming up?

Or Corby, I guess you're -- but David -- I guess David, whoever is most familiar.

This is a general issue. Would there be any sense if we had said in the following, parking areas shall be external to the site? Can a parking area be external to the site?

MR. WEEKS: No. That -- for the record, David Weeks of the Comprehensive Planning section.

To me to say external to the site means off-site.

CHAIRMAN STRAIN: Okay. So when we refer to this general criteria as being internal to the site, what was your department's position on that? Would you expect that, meaning it's not exposed directly to the visual roadways that adjoin the site, meaning the buildings go forward and the parking goes behind them, or what did you expect by that kind of a statement in the GMP?

MR. WEEKS: Generally I would agree with your latter statement, that the building would be along the frontage and the parking would be behind the building so that it's completely blocked from view.

However, I must acknowledge that there's another scenario that could still, I think, be considered internal to the site, and that would be if you had a significant landscape buffer, whether it's natural or manmade, but a significant landscape buffer along the frontage and then had your parking and then have your buildings.

Arguably that would be internal to the site as well, because that parking is still not adjacent or abutting that roadway. You have a segment of land in between the roadway and the parking.

What would be unknown is at what point you say that buffer is of an adequate width, you can now say that the parking is internal. If the minimum code requirement is a 10-foot buffer and that is what's provided and you have parking, I would say no, that is not internal to the site.

Again, I don't know what that number would be, but if -- 50 feet, 75 feet, you have some major buffer area, then you have your parking, I think reasonably one could say that is internal to the site, just because you have a separation from the minimum buffer area and then the roadway to where the parking area actually begins.

CHAIRMAN STRAIN: Okay. I know you probably have not memorized the Collier County Community Character Plan done by Dover-Kohl.

MR. WEEKS: That's true.

CHAIRMAN STRAIN: I read it to see -- since they are supposed to be -- or they are suggested to look at recommendations from that in their design. That plan does address this issue. And one of the statements from the plan says acres of surface parking between storefronts and the street are responsible for the negative visual impact of typical commercial strip. They don't recommend it. Resist parking lots in front of buildings. Yet we see that in three different occasions.

Now, I don't know why this would come through when the statement seems so straightforward under the general criteria that it shouldn't be like that. But I wanted to get staff's position on it because in your write-up you deferred that to an issue to be handled by the SDP.

Since this Board has to approve a master plan that is attached to the PUD, that would require a master plan change if those buildings had to be moved to be more consistent with the interpretation of the Community Character Plan. And that means they'd be back in here again and doing this all over.

So I would think we need to get the master plan right. I'm concerned that the intent of the general criteria by putting the parking areas internal to the site has not been met in at least three different locations on this plan. And that's kind of why I wanted your thoughts, and I appreciate that.

MR. WEEKS: I'd like to see if Corby has any additional input, as the staff reviewer.

CHAIRMAN STRAIN: Corby?

MR. PRITT: Could I cross-examine first?

CHAIRMAN STRAIN: Sure. David?

You're going to have to get to the other mic, Mr. Pritt.

MR. PRITT: We've been arguing about statutory interpretation since, well, at least the days of our constitution. That's why we have the 11th Amendment, because the Supreme Court disagreed with the framers over the word between.

So I want to talk about the word internal and external. In fact, there is no difference between the term external and off-site, is there? I'm talking about in the dictionary. Is there any difference?

MR. WEEKS: I couldn't say without looking up the definition.

MR. PRITT: Of course not. Why don't you just say of course not, there's no difference.

Now, internal is the opposite of external, is it not?

MR. WEEKS: Yes.

MR. PRITT: And to the site does not say to the buildings, does it, it says to the site.

MR. WEEKS: That is correct.

MR. PRITT: So if you were to look at nothing but the -- do nothing but statutory interpretation -- are you a lawyer, by the way?

MR. WEEKS: I am not.

MR. PRITT: Okay, thank you. But I understand that part of what you do is you look at the laws and try to interpret them.

But just looking at dictionary interpretations, the site is what, the site is the 22.83 acres, is it not?

MR. WEEKS: Yes.

MR. PRITT: All of the roads and the parking are internal to that site, are they not?

MR. WEEKS: They're on the site. By default they'd have to be.

MR. PRITT: Internal to the site as opposed to external, right?

MR. WEEKS: In that sense, yes.

MR. PRITT: And there's not a whit of parking or a whit of access whatsoever from County Barn Road or Davis Boulevard except for those two entrances; isn't that correct?

MR. WEEKS: Would you repeat that? I'm sorry.

MR. PRITT: There's not -- I'm sorry, a whit. It's an old-fashioned word. There's not a scintilla, any difference whatsoever -- there's no parking from County Barn Road; you can't pull up to any of these sites, whether they're -- whether commercial or residential and park your car on County Barn Road or Davis Boulevard and get access to any of the buildings, can you?

MR. WEEKS: That's correct.

MR. PRITT: So in that sense they are internal, the parking and the roadways are internal to the site, are they not?

MR. WEEKS: Sure, they have to be.

MR. PRITT: Now, part of the reason for that I believe came up in one of the hearings. And I may stand corrected, but one of the concerns was, as I recall, at least at some point, whether it was staff or here in front of the Commission is there was a concern about having something like a corner drug store, a pharmacy, some type of a building, convenience store where people could just pull up to the convenience store or to the store off of Davis or County Barn, and from an external -- to the site area, and then you'd wind up with this business being operated on the corner, which is what business is like. Is that fair to say?

MR. WEEKS: I think that was certainly part of the concern, yes.

MR. PRITT: And so what we have done is made the access to the commercial area off of Davis Boulevard. You have -- in order to get there, you have to drive --

CHAIRMAN STRAIN: Mr. Pritt? And Mr. Klatzkow, I don't want this to be an opportunity to open up a whole nother presentation on the aspects and pros and cons of this project. Mr. Pritt wanted to cross-examine. I'd like you to be very specific and get on with the business. Otherwise every time one of these people come up and make a sentence to us we're going to be here for several days to get this accomplished. And this isn't the forum for that kind of procedure.

MR. PRITT: Thank you. And with due respect, I think that because of what has been raised -- let the record show that people in the audience are clapping and that's improper.

I have a record to make and to maintain and to protect. This is a quasi-judicial hearing, and we're talking about the question as to whether or not it's internal and whether or not that -- whether or not we have made the roadways internal to the site.

My last question to him is, as you head east on Davis Boulevard, you have to go all the way past the commercial site, past the lake and come in and then come down around a roundabout and -- to get to the commercial area. And that's a way of making sure that you don't have that problem; isn't that correct?

MR. WEEKS: That is one way, yes.

MR. PRITT: Thank you.

MR. WEEKS: Mr. Chairman, I'd like to make an additional comment --

CHAIRMAN STRAIN: Go ahead, David.

MR. WEEKS: -- which Mr. Pritt may wish to cross-examine me on.

I would submit that if we view internal as simply meaning on-site, then there is no meaning to have the word internal in the subdistrict. It has to -- I would suggest to you that it has to have some meaning other than simply on-site.

Of course, now by county regulations in the LDC, parking has to be located on-site. Now, there is some provision for a certain percentage of that parking through a process to be located off-site. But parking, at least most of it, has to be located on-site.

To say that internal equals on-site in my opinion is meaningless. There has to be some meaning, and there was some meaning for using the word internal in the subdistrict language.

MR. KLATZKOW: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. KLATZKOW: The one thing I want is everybody be treated in the same manner, so this development gets treated as every other development.

And Mr. Weeks, you've been with the county for a number of years here working in the Comprehensive Planning Department. Do you have any other districts or areas within the county that utilizes similar language in the Comp. Plan to this?

MR. WEEKS: None that come to mind, Jeff. I would actually have to -- to give a firm factual answer, I'd have to look it up.

MR. KLATZKOW: So this isn't the only one?

MR. WEEKS: Possibly not. I can't say for certain.

CHAIRMAN STRAIN: Okay. Any other questions of David while he's up here?

(No response.)

CHAIRMAN STRAIN: Thank you, David.

Okay. Hi, Corby. I don't think my next question was of you, but did you want to contribute something?

MR. SCHMIDT: Certainly did, Mr. Chairman.

For the record, Corby Schmidt with the Comprehensive Planning Department.

Certainly the use of the term and how staff approached our interpretation of it from the subdistrict provisions was not as simple as considering whether it was on the property. It has as much to do with the orientation of the buildings and the association or relationship with parking areas as it does with the fact that it's on the property.

We also in our staff report made mention of areas that were not internal in our consideration, and we would look forward to seeing those changes. And that's mentioned under your general criteria number two. I think that's right where you are in your staff reports now, where we had expected to see those changes at the stage of site development plan.

And there are two or three locations here, certainly along the frontage of County Barn Road and a portion of the parking along the north edge on Davis that could be considered internal to the site, in staff's view, if it had additional landscaping, buffering or other physical aspects that would separate it and make it internal to the site and not adjacent to a frontage or roadway.

So not as simple as being on property.

CHAIRMAN STRAIN: Thank you, Corby.

Since --

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: And this is on topic, so let me just do a quick.

Ray, will this commercial area have to meet the architectural standards?

MR. BELLOWS: In my opinion they would, they're mixed use commercial.

COMMISSIONER SCHIFFER: And in the architectural standards there are requirements to not allow parking or a percentage of parking visible on the street and stuff, so they'll get caught someplace else too.

CHAIRMAN STRAIN: Well, see, you just brought up the problem. Because this master plan should never have gotten this far without this issue being corrected before it went on record as part of the PUD.

And I understand where many times you all have referred to the SDP as the solution. In some cases it may be. But when this Board has to review something for zoning consistency and a map is part of the PUD, and we even have a provision for going through map changes, I don't know how we could have got something this far inconsistent with the GMP and deferring it to an SDP process, if in fact the internalization should have been accomplished, either by a larger buffer, which is not culled out here, there's a 10 -- a 20-foot wide buffer, or if that isn't sufficient, why hasn't someone said what is. And if in lieu of that, the buildings should have been turned around.

I think either one could be accomplished rather easily. I'm surprised at the resistance I'm seeing to it. But I wish this -- as I said, I don't know why this wasn't accomplished before today. It's a mistake having it come into this public hearing in this manner today.

MR. SCHMIDT: Understood, Mr. Chairman. And let me address that for a moment, if I may.

You had earlier mentioned the Community Character Plan. And in those visioning sessions, the county saw that in comparison those seas of blacktop or those large parking areas were visually unappealing and in very low ratings. And so to screen them visually was expected today to be explained to you, and it was alluded to that along County Barn Road there would be additional screening.

To the extent you may not be clear enough yet, or to the extent what additional screening or landscaping or buffering may be proposed along Davis, you have yet to hear from them perhaps to the extent you wish.

CHAIRMAN STRAIN: Okay. But if staff was approached with this plan as it's shown here today to meet the requirements that you're now saying should be addressed, whether it be a better buffer or a relocation of the parking behind the buildings, would you have accepted this plan? Would this have been approved?

MR. SCHMIDT: The SDP stage has lengthy review on landscape considerations and buffering, and the staff's involvement at that level is also considerable. So I think that in deferring it to the staff level review could be appropriate.

CHAIRMAN STRAIN: No. If you -- if you got this plan, knowing the discussion we just had on internalization of this parking and on it it showed a 20-foot Type D buffer and it showed those buildings and commercial located like they are with the parking in front on the frontage of the road, would you have -- is this acceptable? Would you have approved this plan?

MR. SCHMIDT: Not as proposed. I would have asked for clarification and additional screening to get that far.

CHAIRMAN STRAIN: Okay. Well, that's the position we're in here today.

Let me read the Community Character Plan, a couple of elements. I'd like to know if staff is using the Community Character Plan to review as guidelines against documents coming in to them.

One item I found on -- I don't even know how to define the pages. It looks like it's 2.55, strategies for designing great streets. A ratio of one-to-three for building height to street width is often cited as a benchmark of success.

I'm not sure how mandatory that is, but do you look at that as a guideline? And if so, did anybody look at that in relationship to this project?

MR. SCHMIDT: That specific cite I do not use as a guideline. I use a number of guidelines, including that one. A range of anything from a height relationship, building facade to building facade across streets, one-to-one to one-to-three is acceptable.

This is supposed to be a traditional development and pedestrian scaled, and you've heard a lot of terms over the years about what traditional development means and how much the Community Character Plan goes into it or how much we draw from it. But certainly those pedestrian-scaled buildings or street widths, relationship to the building heights, the pedestrian scale means shorter and not taller.

So in this case, if we were asked to interpret the taller buildings, the three-to-one ratio would be less favorable than about a one-to-one ratio.

CHAIRMAN STRAIN: Okay. The rest, I guess, are more items we'll get into when we get into the PUD. I think that's my last question from the GMP. Does anybody else have any follow-up questions from the GMP?

COMMISSIONER SCHIFFER: No, just want to point out, though, Corby, what you're saying is that we could screen from the street the parking, correct? And then thus we won't have that sea of parking. Is that what you're saying is the solution here?

MR. SCHMIDT: Staff suggests that that could be acceptable. And that's a decision that you can recommend on and the county Board may have yet to make. But we suggest that could be acceptable.

COMMISSIONER SCHIFFER: Wouldn't that hurt the exposure of the commercial uses to the street? I mean, people want signs, people want visibility, they certainly don't want to be screened from the major streets with the commercial component.

MR. SCHMIDT: Well, this would not be the only development with commercial uses in the county that is screened or set back where you really don't have the vision or visual contact with the commercial uses. So it should not be a detriment to this location either.

COMMISSIONER SCHIFFER: All right, thanks.

CHAIRMAN STRAIN: Okay, thank you.

Ms. Caron?

COMMISSIONER CARON: Yeah, I just want to clarify this business with the master plan.

So what you're telling us is that when you get to the SDP level you can change this master plan to increase demands on any development?

MR. SCHMIDT: I'm not sure what you mean, increase.

COMMISSIONER CARON: Well, you just said you could require a greater buffer width.

MR. SCHMIDT: It's not that I would be looking to increase it at the SDP stage, I'm looking for the applicant to propose the increases before you today so I can review those when they come to us with the site development plan.

COMMISSIONER CARON: Okay, that was really not made clear, Corby, at all. It was sounding like you were going to be making wholesale changes at the SDP level of a master plan.

MR. SCHMIDT: I'm sorry if it came across that way, but staff was very careful about which items were minimal enough to include in the site development plan review later. And obviously this is one of them that came too close to the board.

CHAIRMAN STRAIN: Okay, Brad?

COMMISSIONER SCHIFFER: Mark, and we never had a staff thing, so Corby, this is one question that is yours. There's this criteria that the frontage of the commercial component shall be no greater than twice its depth. How do you figure that out?

Because if you look at the County Barn, it's pretty wide, probably more than twice its depth. If you look on Davis, the depth is really great. I mean, how do you figure that -- how did you come -- analyze that? I'm not sure how I would.

MR. SCHMIDT: There were a few requirements in the subdistrict language, including that it front on County Barn and that the dimensions or relationship between the dimensions amount to no more than five acres in size. So it's a simple matter of -- what the developer decided to do is take the entire length of the frontage on one roadway and increase the depth until it rose up to five acres.

COMMISSIONER SCHIFFER: Okay. So what you did is you took the width of the building on County Barn, but it's wider than twice its depth. And I'm giving -- it's an L-shape building so I'm giving the benefit of the depth to be -- you know, if there was a bounding box around that thing, it still looks wider. So that's how you did it, or -- on County Barn?

MR. SCHMIDT: It is how they did it.

COMMISSIONER SCHIFFER: Okay. So if you drew a box around the perimeter of those things -- and you checked it? Because it doesn't look like it to me.

MR. SCHMIDT: That can be double checked. But in the previous versions of the master plan or the conceptual plans we've seen of this, those dimensions or that boundary between the two components were shown. It

just simply isn't here.

COMMISSIONER SCHIFFER: Because I think the intent of this was to not have it be the whole length of the property or to be narrow in its length.

But anyway, we'll move on. Check it because it doesn't look like it.

CHAIRMAN STRAIN: Thank you, Corby.

MR. PRITT: Cross-examination?

CHAIRMAN STRAIN: Go ahead.

MR. PRITT: Just a couple of questions. The Dover-Kohl study, when was that done?

MR. SCHMIDT: I'm unsure of the exact date.

MR. PRITT: In the gilded age or after the meltdown?

MR. SCHMIDT: Before the meltdown --

MR. PRITT: Before 2008; is that correct?

MR. SCHMIDT: Yes, it was.

MR. PRITT: And has that been reviewed or updated since then?

MR. SCHMIDT: It has not been.

MR. PRITT: Is it your belief that the Dover-Kohl study is part of the Comp. Plan, the GMP? Or is it a -- I'm sorry, that's the first question.

You shook your head no, I think.

MR. SCHMIDT: You were going on to and.

MR. PRITT: I'm sorry.

MR. SCHMIDT: No, staff does not consider it to be part of the Comprehensive Plan. There are elements of the Dover-Kohl study which were brought into the language of the subdistrict. So there are elements involved, but not the entire plan.

MR. PRITT: Was that before this subdistrict was created, the Dover-Kohl study, was that done before the --

MR. SCHMIDT: Yes.

MR. PRITT: -- this subdistrict?

And is the Dover-Kohl study an ordinance? Was that adopted by ordinance? Or how was that adopted; do you know?

MR. SCHMIDT: That is not my understanding.

MR. PRITT: But yet you're using that as a determination as to whether something is consistent with your Comp. Plan, your GMP?

MR. SCHMIDT: Not at all. In fact, the staff's use of the document has been a useful guide that's a compilation of a number of aspects of traditional neighborhood development that are deferred to and referred to in the subdistrict language.

Some of the aspects that you've shown us, such as including that pedestrian scale, those public spaces, having an architectural theme throughout and, not necessarily in this case a grid, a street system but that interconnectedness of streets are all components of that Dover-Kohl study. And as well as the visioning and the visual aspects of that study in the background are parts that the staff has drawn from.

MR. PRITT: And that is why you review those as part of the SDP process, is it not?

MR. SCHMIDT: "Those" means? Those elements of the Dover-Kohl?

MR. PRITT: Yes.

MR. SCHMIDT: No, not necessarily. They would have been drawn into the project before then.

MR. PRITT: If there were an inconsistency between the Dover-Kohl study and the GMP subdistrict language of this particular subdivision or this particular project, do you know which would control?

MR. SCHMIDT: In the subdistrict language governing this project?

MR. PRITT: Yes.

MR. SCHMIDT: That's the answer --

MR. PRITT: With the subdistrict language governing this project being more specific and being later than the Dover-Kohl study, that would control, would it not?

MR. SCHMIDT: It certainly would.

MR. PRITT: Then one other question. I think you said that you thought that this is something that should be

considered at this level.

Did you ever send a memo indicating that these issues are issues that can be determined at the SDP level?

MR. SCHMIDT: Yes. Part of our staff report.

MR. PRITT: Do you see an inconsistency with what you said a minute ago versus what you said in the staff report?

MR. SCHMIDT: None whatsoever. Again, I'm asking the Planning Commissioners to make a decision on how to interpret aspects of the Dover-Kohl study, if they're going to do so, and/or the language in the subdistrict itself as it's applied to the PUD. And after they choose to do that, I'm able to use that at SDP.

MR. PRITT: Thank you. No further questions.

CHAIRMAN STRAIN: Corby, is there other examples or other instances in the Growth Management Plan that utilize external documents?

MR. SCHMIDT: A number of them.

CHAIRMAN STRAIN: Right. I think during the EAR process I had actually counted. I think I said there was 34 or 36 to the best of my recollection at the time.

If those external documents provide information that is further defined as verbatim -- or not even verbatim, brought into a subdistrict to be spelled out as criteria, does that criteria carry weight because it's more spelled out in the GMP as it was pulled out of -- or may have pulled out of another document?

MR. SCHMIDT: It carries more weight in that subdistrict language in the GMP, yes.

CHAIRMAN STRAIN: Thank you.

MR. PRITT: If I could further cross, since you raised the issue, going to that question.

So what you do is you refer to external documents that are not part of the GMP in order to determine the standard to be applied for the GMP? To determine whether or not something has been --

CHAIRMAN STRAIN: Objection, you're characterizing my question. That's not what I asked.

MR. SCHMIDT: Which is why I have the confused look on my face.

MR. PRITT: Okay. Well, let me ask my own question my own way.

Do you use external documents that are not part of the GMP, that are not part of the Land Development Code in determining -- in making determinations whether or not the standards for this project comply with the GMP?

No confusion, you know your answer's yes. Just say it, yes, you do, you use Dover-Kohl, you use other things. And I just want to make sure that that's what you're saying you're doing.

MR. SCHMIDT: The staff does, but not necessarily in that order, ranking or priority.

MR. PRITT: Thank you.

COMMISSIONER SCHIFFER: Mark --

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: And maybe I -- in building codes we constantly reference other standards. So did not this introductory sentence reference the recommendations of the Community Character Plan? I mean, the reason you're looking at it in this project is because it's a way to help define what a traditional neighborhood, mixed use development, as well as the Collier County Community Character Plan, which is the, quote, Dover-Kohl.

MR. SCHMIDT: Certainly.

COMMISSIONER SCHIFFER: So it is by reference part of this subdistrict.

MR. PRITT: I'm sorry, what is, the Dover-Kohl study?

COMMISSIONER SCHIFFER: Yes. The Collier County Community Character Plan that's referenced in the subdistrict is the, quote, Dover-Kohl plan; correct? I mean, it's the title of the one I have.

MR. SCHMIDT: You have elements of the Dover-Kohl plan in the GMP or in the FLUE. You have elements of the Dover-Kohl plan in this subdistrict language. And we've referred to elements of the Dover-Kohl plan in the staff report.

MR. KLATZKOW: Corby, the GMP says that for this district you incorporate recommendations to Collier County Community Character Plan. And when you reviewed this, are you looking at the Collier County Community Character plan or not?

MR. SCHMIDT: When we reviewed this plan --

MR. KLATZKOW: Yeah, when you read this application.

MR. SCHMIDT: Yes.

MR. KLATZKOW: Thank you.

CHAIRMAN STRAIN: Okay, let's move on. Are there any other questions from the GMP before we go into the rest of the application?

(No response.)

CHAIRMAN STRAIN: With that, we have a staff report. And we're still asking the applicants -- I guess the applicant's presentation people questions from the staff report. It starts on Page 1. Let's just take it up to the PUD first.

Do we have any questions from the Planning Commission on Pages 1 through 8? Which is the body of the initial staff report. And these are questions of the applicant at this time before we get into the staff report, the staff's own report.

We'll move to the PUD. It's 18 pages. Why don't we start right off with a couple of pages at a time. Anybody have any questions on Pages 1, 2 or 3 of the actual PUD?

(No response.)

CHAIRMAN STRAIN: And you are the -- Mr. Andrea, right?

MR. ANDREA: Yes, Andrea, correct.

CHAIRMAN STRAIN: Thank you.

On Page 1 of your Exhibit A, the PUD, item four, you added from the last time you presented to us the words maintenance shops and equipment storage under permitted uses within the residential tract. What is your intention?

Because I didn't see where those were possibly located on this site plan in front of us.

MR. ANDREA: Actually they were put in there as accessory uses.

CHAIRMAN STRAIN: Right.

MR. ANDREA: Basically if -- any of the areas may be within the commercial or within the residential buildings needed to be designated as such, like an on-site management or on-site caretaker type shop, things like that.

CHAIRMAN STRAIN: Like a repair shop or minor maintenance --

MR. ANDREA: Minor maintenance --

CHAIRMAN STRAIN: -- door handles and odds and ends?

MR. ANDREA: Correct.

CHAIRMAN STRAIN: Okay. On Page 2 and 3 we move into the permitted uses of the commercial tract.

Does anybody have any questions on those?

(No response.)

CHAIRMAN STRAIN: Well, I have a whole bunch of write-ups.

Ms. Caron?

COMMISSIONER CARON: Well, I just have a general overall question. Mr. Goldmeier indicated the kind of commercial he intends for this project to be almost accessory to his residential, almost as amenities for his residential. I'm not sure that this list -- I mean, I think it goes far beyond what he threw out there as his vision.

And if suddenly we're going to have something totally different from the vision that's been presented, I think maybe we better go through all of these, Mark.

CHAIRMAN STRAIN: Well, no, that's what I'm asking. And I guess if there's objections, these uses aren't a given, they're items that could be allowed. And we need to -- if there's some objectionable items in there, the list can certainly be amended. And that's what we're here to do, so -- do you have any specifics you --

COMMISSIONER CARON: No, go ahead, go through your list. I'm --

CHAIRMAN STRAIN: First of all, the list is not supposed to be -- the list is not supposed to be in excess of that what was in effect in our LDC as of -- and I think June 27th, 2005 is the date -- or there was a correction to that date, I believe, but it's close enough.

MR. ANDREA: I believe it was Ordinance 04-41.

CHAIRMAN STRAIN: Well, 04-41 is the base ordinance, just like 91-102 is.

MR. ANDREA: Correct.

CHAIRMAN STRAIN: The problem is 04-41's been amended six to eight times, and even more after that. That's just in the initial first couple of years. So you can't look just at the base document, you have to look at the amendments up to that date.

And I did that -- or actually staff did that, and they sent the document that they used, which is a chart we put

into effect a couple years after 04-41 was adopted.

Yes, sir?

MR. GOLDMEIER: Our intent was to basically take the list of permitted uses of the county that the county gave us and eliminate the ones that were objectionable and make it possible for whatever other uses that were not objectionable to be permitted. Not as a goal as to that's what we were seeking, but what -- you know, what's permitted. We just left it as broad as we could.

My vision that I described earlier is based on the fact that this is not an ideal retail site, this does not have any direct access to the retail component. We have a shared access with the church on one hand and then an entrance from Davis Boulevard in through a residential community on the other. So I don't believe we're going to be able, even if we wanted to, to attract high volume retail uses which rely on drive-by traffic.

That being said, we just took the uses the county gave us and we eliminated the ones we felt were objectionable. And if you'd like to pare it down even further, that's -- you know, within reason, that's fine with us.

CHAIRMAN STRAIN: Thank you.

Who actually put the list together, was it you, Mr. Andrea?

MR. ANDREA: Yes.

CHAIRMAN STRAIN: Okay. In your assemblage of the list you have several items towards the bottom of the second page. And you put everything in Roman numerals. I used to be good at those, but it looks like --

MR. ANDREA: The last four?

CHAIRMAN STRAIN: Yeah, the last five.

MR. ANDREA: 41, 42, 43, 44.

CHAIRMAN STRAIN: XLI. Refresh my memory. What does XLI mean?

MR. ANDREA: Forty-one.

CHAIRMAN STRAIN: Okay, thank you.

MR. ANDREA: Just because I gave myself a cheat note here.

COMMISSIONER SCHIFFER: Mark, one quick thing. Could we at this time prohibit the use of Roman numerals?

CHAIRMAN STRAIN: That was a little odd. I've never seen this one done this way before.

MR. ANDREA: I got it from another PUD example.

CHAIRMAN STRAIN: Did you?

MR. ANDREA: Yes.

COMMISSIONER SCHIFFER: But it's terrible. Unless you're going to chisel it in a building, it doesn't make any sense.

CHAIRMAN STRAIN: We need an abacus to understand it too.

The last five, I could not find those in the referenced time frame for the document that you should have been using, and so I don't know where you got those from.

I have the document with me, and it's probably the same chart that you worked off of, which is just a -- it's all we did back then is use a chart format.

MR. ANDREA: Yeah, mine's a little bigger.

CHAIRMAN STRAIN: Well, yeah -- my eyes are better than yours, see, it must be because I'm younger.

But those last five I find as maybe conditional uses but not permitted uses. So do you have any objections with dropping those?

MR. ANDREA: You're exactly right, those were put in there, they were off the conditional use list. In my discussions with staff and e-mails back and forth, I got the impression that was okay to put in there as permitted uses.

If you'd like to eliminate some of those, I could check with Mr. Goldmeier and --

MR. GOLDMEIER: Can I speak to that?

CHAIRMAN STRAIN: Sure.

MR. GOLDMEIER: Please, we're next to Seacrest School, and we believe that there'll be people whose families, whose children attend the school that would want tutoring services nearby or other educational services, college prep. And that is your educational service group.

We believe that school or vocational -- we're not intending to set up a school there, but if there is a nursery school or if there is a day care or something like that, that would be -- I don't want that to be eliminated by the school

or vocational or even any kind of educational thing that --

CHAIRMAN STRAIN: Before you --

MR. GOLDMEIER: -- dovetails with Seacrest.

CHAIRMAN STRAIN: I think you're misunderstanding where I'm going. I'm not objecting to the uses. I haven't even gone that far. I'm simply trying to understand how they got in here when they don't meet the GMP requirements that require you to be tied to a document of a specific date and time. So I've got to get past that first before I can even discuss if there's an objection to the uses themselves.

So you say you got there because staff told you you could include conditional uses when your ordinance says permitted uses?

MR. ANDREA: We do have correspondence, yes, that we discussed that whole conditional use and permitted uses. And there's been other cases, I guess, that they used as precedent --

CHAIRMAN STRAIN: Well, there's one coming up right after this and it says in theirs they wanted the permitted and conditional uses. And that's in the GMP. In the GMP for you it doesn't say permitted and conditional uses, it just says permitted.

Now I'm wondering why we would have one have to say conditional uses in order apparently to be found that way, and this one doesn't say it but it is -- staff apparently has told you that's allowed.

And maybe David or Corby could address this again, because I'm puzzled as to how we got here.

And David's walking up behind you, so --

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

Commissioners, both the Growth Management Plan and the Land Development Code terminology has evolved over the years and not always in sync with one another. And this to me is an example of where that has happened and where it causes either confusion or outright disagreement.

The original 1989 Growth Management Plan typically used the word permitted. So when it would refer to uses being allowed in a subdistrict it would say the permitted use. And if it gave an LDC zoning district reference it would say permitted uses as you see here, the permitted uses of the so-and-so zoning district.

When that occurred, the zoning code at that time had different terminology. It referred to permitted principal uses and conditional uses without the word permitted in front of conditional uses.

Over time the Land Development Code changed to the format we have today where it refers to permitted uses which would correlate to permitted principal uses of the prior zoning code and the way it was placed into the Growth Management Plan. And then the Land Development Code today has permitted conditional uses and permitted accessory use.

My point here is the word permitted uses when originally placed in the Comprehensive Plan or Growth Management Plan and as added in these various private-initiated subdistricts over time was equal to, I would say, allowable. Permitted meant allowable, it did not connote permitted principal uses.

And over time we have started changing the Comprehensive Plan. Staff would recommend and ultimately the Board of County Commissioners has adopted subdistricts that use a term allowable uses. And we've also even more recently gone on to now state permitted and conditional uses of the so-and-so zoning district to catch up with the way the LDC currently reads.

The staff's position in this case, and it would apply to other similar subdistricts, is the term permitted uses does not mean and it was not intended to mean permitted principal uses. It was intended to mean all of those uses allowed by the referenced zoning district.

Through the rezoning process then this Board and ultimately County Commissioners would determine which of those allowable uses in a zoning district, by whatever means, permitted principal, accessory or conditional, would be allowed in the given PUD, the given zoning document.

So I would suggest to you in summary that it's this body's discretion to determine what uses of the referenced zoning districts, however they are listed in that zoning district, are appropriate to approve in this PUD, should that be your recommendation, and how they are allowed. Are they allowed by right or would you allow them in this PUD but only subject to a subsequent conditional use.

MR. KLATZKOW: Mr. Chair?

CHAIRMAN STRAIN: Yes, sir.

MR. KLATZKOW: If I may, Mr. Weeks, the Davis Boulevard/County Barn Road mixed use district, was

this not a private petition at one point in time?

MR. WEEKS: Yes, it was.

MR. KLATZKOW: And we had public hearings about this petition, and there were staff reports; is that not true?

MR. WEEKS: That's all true.

MR. KLATZKOW: So have you reviewed the initial petition and the public meetings and the staff reports on this?

MR. WEEKS: No.

MR. KLATZKOW: So you really don't know what the intent was, just standing up there?

MR. WEEKS: I would say I do because I was -- from my memory, I was the staff member that was involved in that process.

MR. KLATZKOW: But if you actually looked at -- if you actually went back to the public hearings and you looked at the staff reports and you looked at the testimony, isn't it possible that that intent is just right there and we'll know one way or the other?

MR. WEEKS: It's possible. I mean, Jeff, we -- I cannot stand here and tell you that in the staff report the word permitted was used in a certain way would be explained. I just don't know.

MR. KLATZKOW: Well, I think it's fair to the applicant here, you know, if we're discussing whether or not he gets conditional uses, since this was a private petition at one point in time, the intent is likely there what was meant rather than at this point in time. I mean, you have it, you just need to look at it.

CHAIRMAN STRAIN: The -- your premise for saying that the permitted uses are both now permitted uses by right and permitted uses by conditional use seems to be based on the involvement of the Land Development Code and the language in that code over the time to what we have today. I see you nodding your head yes.

MR. WEEKS: Yes, yes.

CHAIRMAN STRAIN: Okay, this -- the problem I have is this document is based on the Land Development Code in effect on June 27th of 2005. And let me read to what staff told me was in effect at that time.

Under the zoning district uses, Table 1, permissible land uses in each zoning district. And that goes on, and that apparently is what Mr. Andrea used when he pulled his uses out.

Table 2, land uses that may be allowed in each zoning district as accessory uses or conditional uses. I do not see the word permissible in there or permittable.

My question was more specific. Based on the Land Development Code of June 27th of 2005, would these items be permitted -- would they be permitted uses in the commercial mixed use district?

I just read to you how they're considered an allowable accessory use or conditional use, which is different than Table 1, which is a list of the permitted uses. And this is important, because there's five elements on here I can't find how they fit based on the GMP specific language or the reference that was in there.

And, you know, David, you're the expert on the GMP, I'll grant that. You probably know this county better than anybody regards to the rules. If you say that's fine, I'll live with that. I want to make sure though we're on firm ground. That's all I'm asking.

MR. WEEKS: I stand by what I stated earlier, Mr. Chairman.

CHAIRMAN STRAIN: Okay. Anybody else have anything through Pages 1, 2 and 3?

MR. PRITT: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. PRITT: Just briefly. Actually, I might be of some assistance, rather than getting in the way.

And I've asked Mr. Goldmeier to look at these very carefully. I think you started with XLI and through XLV; is that correct?

And I can't count those either, but one is amusement and recreational services. If that is a suggestion that that go to a conditional use, Mr. Goldmeier has no problem with that; is that correct?

He's shaking his head yes, he has no problem with it.

And same thing with fraternal lodges, private club or social clubs.

Schools, vocational, I need to say something about that in a minute.

But then I'm not sure how we handle the last one.

But I think that those two, the last two that I mentioned, that would be okay to have a conditional use; is that

right, Mr. Goldmeier? That is the fraternal lodges -- let's see, amusement and recreational, fraternal lodges and schools, vocational, is that a problem?

CHAIRMAN STRAIN: I'm looking at the SIC Code as you speak, and the only one that may create a compatibility issue is the educational services group, 8211 to 8222.

MR. PRITT: Well, that plus on schools I do want to say something about that. Because --

COMMISSIONER STRAIN: Well, 8243 --

MR. PRITT: -- what happened to the school board member.

CHAIRMAN STRAIN: Well, but 8243 through 8229, I can tell you what they are: data processing; business or secretarial schools; vocational schools not classified elsewhere, like nursing schools and real estate schools; and schools and educational services not classified elsewhere, like art schools, charm schools, cooking schools, things like that.

The educational services, 8211 to 8222, are elementary and secondary schools, colleges and universities and junior colleges.

Now, you don't have the capacity to do those, so I really think the educational services shouldn't hurt you if that was a conditional use. But if we leave in schools vocational, unless we hear some objections from the public, that one may be the only one that you might benefit from being next to Seacrest if you succeed.

MR. PRITT: Yes, part of what my thought was, not my client's necessarily, is that it is possible that there is an existing school -- I presume that Seacrest is a charter school -- and unfortunately Mr. Eastman left. There are some rules concerning -- there's a preemption, there's rules concerning registered charter schools. And if Seacrest wanted to have a resource center, that would make a lot of sense to have something off its own campus but very, very close by. And we would like to at least be able to do that. So we would like to -- we'd kind of like to keep that aspect of it in anyhow.

And on the other ones, I'll just let Mr. Goldmeier --

MR. GOLDMEIER: Well, the amusement and recreation, we're not intending to have some sort of arcade, but we would like to be able to have community room or some activity for the residents of the community and not have that -- and locate it in the mixed use element and not have that precluded by this -- by the interpretation that recreational services does not -- we want to be able to have a community room or some recreational facility for the community located there, and we don't want to have that precluded.

CHAIRMAN STRAIN: Okay, but do you -- I think whoever put these numbers together used the wrong number. 7911 is only dance studios, schools and halls. You can do ballroom dancing, you can be a dance instructor or you can have professional dancing schools, but that's all that number provides.

I think what you meant to provide is 7999. Therein, though, lies a problem, because that's a use of about what looks like could be a list of almost 60 or 70 different uses, some of them very intense, likes game parlors and gambling machines and animal shows and circuses.

I know, but you know where I'm going. We just can't lump all this into a number and then find out the project evolves into something terrible.

MR. GOLDMEIER: Can there be a provision that it would be recreation for residents of the project?

CHAIRMAN STRAIN: Yes, but you don't want that number is what I'm saying.

But I think if throughout the course of this process you guys come back in the end and recommend some language that fits what you want to do, we would certainly consider it.

Ms. Caron?

COMMISSIONER CARON: And then on 12, there's just the broad category of educational plants. So --

CHAIRMAN STRAIN: Well, that's a school board. We hadn't had the school board to the GMP. And if you recall, they have a deal with the county on how we're supposed to look at their things. I'm not sure that -- there's no SIC Code so I can't come back with something, and Mr. Eastman's not here right now.

MR. PRITT: Yeah, that's unfortunate because there are some preemptions that apply for schools and for charter schools, and they're two different places. Well, they're all under 1001 or whatever that is of the code.

So -- and I don't think any of us have the time or interest in getting into the effect of that. But we would like to at least have that to the extent that that would be covered by the school laws.

CHAIRMAN STRAIN: Well, I think that's probably a given. But with the intention, I think we're okay. Anything else? Ms. Caron?

COMMISSIONER CARON: Well, just again, based on space and the supposed vision. I mean, the two categories of hardware stores and home supply stores, and I forget which is which, which is the big box and which is just a little local hardware store, which you might be able to get in there. And auto and home supply stores. You know, I think those are just not even close to what would end up there.

MR. PRITT: We think that the limitation, that the square footage limitation that will be in that district will be a self-limiting factor. You're not going to get a big box in this location, you're not going to get a supermarket in this location because of other provisions in square footage in the code. These are really small, relatively small stores or properties in question.

COMMISSIONER CARON: It then makes it superfluous for it to be in here to begin with, and it should come out. Who knows what will happen in the future.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Is there any proscription on the idea of expanding commercial units and not having them as segregated so that a larger activity could be placed there?

MR. PRITT: Yes, there is. And maybe Robert can find that in his copy. There's some limitations on the commercial aspects.

COMMISSIONER MURRAY: While he's looking at that, that being the case then, that we could be assured that if it were to go forward that in every case, assuming, say, for the sake of argument there were 18 units, therefore there would be 18 offices, businesses, stores, whatever, and that would never change.

MR. PRITT: No, I don't think it's written that way. Let's look at the language.

MR. ANDREA: Robert Andrea for the record.

Single use is a maximum of 15,000 square feet.

COMMISSIONER MURRAY: Wheeee.

CHAIRMAN STRAIN: Okay, I'm not sure how you recorded that wheeee.

COMMISSIONER MURRAY: W-H-E-E-E-E.

CHAIRMAN STRAIN: Okay. Any other questions through Page 3?

COMMISSIONER AHERN: I would also consider removing ALF's.

CHAIRMAN STRAIN: Okay. Any comment on that? Ms. Ahern has suggested removing the ALF issue from the list of uses.

MR. PRITT: I don't know that we would have objection to it. I'll check. I'm not sure you can do that, though. Again, that might be something that you need to check with your attorney on.

CHAIRMAN STRAIN: Honestly, of all the uses you have, that's a pretty passive use. Is there a reason that you have to object to it?

COMMISSIONER AHERN: I would think with the surrounding neighbors and also having people upstairs, that would not be --

CHAIRMAN STRAIN: Well, they don't necessarily have to have people upstairs, they could design the ALF, as long as they've got some --

COMMISSIONER AHERN: Right. But all of the commercial space has residential on top; correct?

CHAIRMAN STRAIN: No, it's an option. It says may be allowed, it doesn't say it's required. So we don't know yet what they're going to do or how they're going to lay their buildings out.

MR. PRITT: Since there's one across the street, I guess that there might be a limit to the number that could be in the area.

But I really -- I really think that we need to be sure that that is something that you're allowed to do, because it sticks in the back of my mind that that might be in the same category as other state favored uses that preempt the local government.

We don't have an ALF in mind or chomping its bit to come in. And with 15,000 square feet limitation, I don't know, that would be pretty small.

COMMISSIONER AHERN: It would be difficult.

CHAIRMAN STRAIN: Okay, let's move on to Pages 4 and 5. Anybody have any questions?

Mr. Murray?

COMMISSIONER MURRAY: Yeah. And maybe you all are comfortable. And I don't have any particular, but I guess we're saying then that as these are offered, we're going to accept these suggestions as to what they want to

incorporate.

CHAIRMAN STRAIN: Well, it's a starting point. But honestly, I'm waiting to hear the neighborhood to see what they got to say about the uses before we --

COMMISSIONER MURRAY: Oh, it's not a closed matter.

CHAIRMAN STRAIN: No, sir.

COMMISSIONER MURRAY: Well, I just want to let you know it's not closed --

CHAIRMAN STRAIN: Nothing's closed until we finish all the public input --

COMMISSIONER MURRAY: -- it's not closed for me either.

CHAIRMAN STRAIN: Okay. Pages 4 and 5?

COMMISSIONER MURRAY: Yeah.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I wrote my notes on these pages, so they may not be absolutely relevant. But I have a couple of things that I'd like to bring up.

Now I understand the 40 or 50 commercial units a little bit better. 15,000 squares is quite a bit. I tried to figure out how you're going to have walkups from 15,000 squares on a line. That's not going to have a walkup, certainly.

Your architect indicated 28 to 30-foot heights, but I see that we have 55-foot heights. We've already had a discussion about ratios.

What is it, is the architect planning 28 to 30-foot heights or are we realistically talking about 55?

MR. ANDREA: Again, that was left in there. We did bring it down from what we had before. It's for architectural features, depending on what their final design is. The limit is three stories. But the architectural features, or clock tower, something like that, I'm not sure what they have in mind there.

COMMISSIONER MURRAY: So if we stipulate that, that would not be a problem, that it would be for architectural features only.

MR. ANDREA: Correct. Yeah, we could do that.

COMMISSIONER MURRAY: Okay. And the size of the units is 700 square feet?

MR. ANDREA: Uh-huh.

COMMISSIONER MURRAY: And you're talking -- I know Mr. Goldmeier spoke about the price points that he's thinking he's going to reach the people. And he spoke of a family of four. Seven hundred square feet is a very small unit. Has that changed? Because I see that that still says 700 square feet.

MR. ANDREA: We were at 600 prior to this.

COMMISSIONER MURRAY: Oh, you moved up 100 squares.

MR. ANDREA: We've moved up 100 square feet.

COMMISSIONER MURRAY: Well, I would say we again, but that would be impertinent.

MR. GOLDMEIER: Mr. Murray, can I explain that, please?

COMMISSIONER MURRAY: Please.

MR. GOLDMEIER: That's an artifact of dealing with the affordable workforce element. The conventional units are going to have to be nicer and generate more profit, so they're going to have to be larger.

And to me a 700 square foot is nothing more than a one-bedroom, and would not be larger, you know, higher bedroom count than one bedroom. No intention of doing a 700 square foot three-bedroom or two-bedroom.

COMMISSIONER MURRAY: I'm confused then. Why do we still retain that as being a condition? You have 700 square feet. You haven't changed your table.

MR. GOLDMEIER: No, we have, we went from six to seven. But that's the minimum size unit. And the minimum size unit would be a one-bedroom. Not every unit, certainly not three bedrooms, are going to be 700 square feet --

COMMISSIONER MURRAY: So are you suggesting --

MR. GOLDMEIER: -- just the minimum.

COMMISSIONER MURRAY: -- that of the 234 with the 10 and the 10 percents, that those would be the 700 square foot units?

MR. GOLDMEIER: The 10 and 10, correct, yes.

COMMISSIONER MURRAY: And all the rest would be larger?

MR. GOLDMEIER: Yes.

COMMISSIONER MURRAY: But the building's configurations will all essentially be the same, so it's a matter of --

MR. GOLDMEIER: No, the exterior facade will be the same. The building configuration will be different from the conventional -- the affordable workforce units to the conventional units.

Because don't forget, we have to generate some income from the conventional units to offset the loss from the affordable work force units.

COMMISSIONER MURRAY: Well, I know I certainly wouldn't ask to compel you, but I know that in previous submissions here we have seen a range when a plan is made where they're really intending to do a range, where they intend to attract families. And I don't know that you can attract a family with 700 square feet.

MR. GOLDMEIER: I agree.

COMMISSIONER MURRAY: And so do you have an idea of how large the largest unit might be?

MR. GOLDMEIER: I don't think we've gotten to that point yet. But I can say that we've done other projects and other similar projects, and we have a range of units, and they're all substantially larger than that when it's meant to be a conventional unit.

COMMISSIONER MURRAY: So if I were to try to figure this based on the suppositions that I'm really hearing here, in the affordable building -- we'll call it that for lack of -- I'm going to make my supposition for the moment, you'll correct me.

We're going to have one building that's going to have 700 square foot and the offices and the walk-up and whatever. And then we're going to have other buildings that are going to -- in order to accommodate more than 700 square feet, you're going to have to expand the internal structure.

MR. GOLDMEIER: Yes.

COMMISSIONER MURRAY: And therefore, while you might have had 20 in one building, you'll now have 16 in another, or 14 or 12. Is that a reasonable supposition?

MR. GOLDMEIER: You mean the number you're quoting as the number of units?

COMMISSIONER MURRAY: Just as a supposition --

MR. GOLDMEIER: Within the same space, yes, we can -- we would put more units within the same length of building in the affordable work force mixed use area than we will in the conventional area.

COMMISSIONER MURRAY: Okay. But you didn't bother to say that, and that's what's concerning to me, that we have nothing to guide us by.

So in other words, if this were approved as it stands, it's also theoretically possible, even though you say not, that you might by default end up with every one of them being 700 square feet.

MR. GOLDMEIER: If that's what you assume, then we would be glad to state otherwise.

COMMISSIONER MURRAY: I'm happy to hear you say that. Because you mentioned an expensive type of design where you're going into this thing.

I just am -- I'm very much concerned with the contradictions as I see them, because I -- an expensive type of design is a matter of how one thinks.

There's also a sea of parking. There's no parking under any buildings, there are no garages. I don't even see a covered porch to protect the vehicles.

It strikes me as when we use the term, as you've employed it, pedestrian friendly, with all of those vehicles. And I will tell you, I'm a little bit familiar with the Community Character Plan, having been its vice chair and served for four and three-quarter years on that particular advisory board. I can tell you this: Parking is away from the commercial. Parking is hidden away as much as possible. And the front and the back, as you've indicated, are going to be the same amenity.

So where do we put the parking? And it just looks -- I don't know how attractive that is, in truth. Maybe you can embellish for me.

MR. GOLDMEIER: Well, the intent is to make it attractive. And what makes -- what in theory would make a building attractive costs money. You have different -- facades vary, and, you know, one's coming in and one's pointing out. And you put gingerbread or some other work on the outside of the facade, you put in balconies, you have extra little roof structures -- I'm sure that Matt can explain in detail, and Mr. Schiffer could expand on that.

But all of those things to make the building more attractive and less barracks-like costs money.

Now, the issue about parking is an issue that we've borne in mind from the very beginning. The reason we proposed a traditional neighborhood design was because that's what we were doing elsewhere in the state. And in fact we have experienced that with developing projects that Matt has been the architect on elsewhere in the state that are traditional neighborhood design.

So the basis -- and I'm not the expert in that, but as I understand, one of the prime concerns is to hide parking.

Now, I look at other projects in Collier County and I see an apartment building in a sea of parking. In a traditional neighborhood design the parking is in the rear of the building and hidden from the accessway.

And if I may just touch upon something that Mr. Schiffer brought up versus the orientation of the buildings in the parking, is we intend to do a traditional neighborhood design community. But -- and that's what we designed and that's the site plan you see there. But the orientation of the buildings is toward the internal roadway, which gives it the attractiveness. The parking is in the rear of the buildings and it just so happens behind the rear -- the parking in the rear of the buildings there are public right-of-ways.

If we were to be asked to flip the buildings and having them facing toward the public right-of-ways, I don't think that would work very well, because part of the attraction of having a traditional neighborhood design community is that you have parallel parking and then you have other pedestrian access, and a certain sort of streetscape from the street that they face on, in which County Barn Road and Davis Boulevard would be those streets.

But we can't have parallel parking there and we can't do a lot of the other things that we need to do to make the buildings attractive in traditional neighborhood design, quote, unquote buildings if we oriented toward them toward Davis Boulevard and County Barn Road. Thus we created our own private road in which we incorporated all of those traditional neighborhood design elements and tried to make it as attractive as possible.

However, behind the parking lots there are those rights-of-way which we can't use, we can't access directly from, we can't park on and we can't do other things. And also, this Board, the last time we were before this Board, the Board made it very clear they wanted the buildings hidden from those rights-of-ways. So what we tried to do is buffer them with not only one, but two levels of landscaping. I think we have two levels of trees, isn't that correct, Matt, yes, in order to adequately buffer them.

And I think we're -- there's a conflict between what Mr. Schiffer stated at the beginning, are we going to build a traditional neighborhood design community. This is a -- we can't do anything but with this site plan. This is a traditional neighborhood design site plan. The conflict of that and having, where do we put the parking? Because as you -- if you just try to think the problem out, this is the best solution to the problem.

COMMISSIONER MURRAY: Well, sir, I won't take issue with you per se, but I will tell you that to me that master plan would show any number of alternatives for building format. It could be condominiums, it could be anything. To conform to a traditional interpretable to being pedestrian friendly and more like smart growth principals, we would have to have a much finer detail plan. And I think the absence of that makes it very difficult for us to really embrace, or at least this person here.

I'm not against a project, I am against a project that ultimately will fail if it does not provide what it's intended. And the -- you know, 5th Avenue, of which Mr. Pritt is considerably aware of, is a fine looking neighborhood, but it needs care and attention. And times change, places -- you know, facilities have to change, the facades change to accommodate updating.

You're coming in with we don't even know what kind of design. We don't know what it is you have -- you've shown us some renderings which do not provide for me adequate understanding, not on the basis of the building, sir, but on the basis of the totality. And I'm speaking now of the parking again.

Have you considered, and I recognize the expense associated with it, have you considered, since you want 55 feet, to have the buildings higher and have parking underneath?

MR. GOLDMEIER: That is economically not feasible, because we're spending, you know, enough making, you know, two facades, et cetera. That's an entirely different type of building as well. And I've seen, for instance, in -- what's the one beginning with an M? Mercato? I saw that's a traditional neighborhood design building with structured parking in the rear. And the Bayfront project is also traditional neighborhood design with structured parking in the rear also, but those are much higher buildings, taller buildings and much greater density.

So we're essentially proposing a better version of a garden apartment complex --

COMMISSIONER MURRAY: That's what it is, yes. It's a compromise.

And please, in terms of using the concept of smart growth and traditional neighborhood, you're right, it's a

garden apartment arrangement with some commercial that may or may not succeed, depending upon what you're allowed ultimately. Thank you, sir.

CHAIRMAN STRAIN: Okay, we're still on Pages 4 and 5. Anybody have any questions on Pages 4 and 5? (No response.)

CHAIRMAN STRAIN: Mr. Goldmeier, while you're available, on Page 4 under Item B.4, it delineates the recreational uses allowed as accessory to the project. It seems to give you everything that I think you're seeking in the amusement and recreation category on the prior page. I don't know then why we would need that amusement and recreational category. I can't see what you would want beyond what's on B.4.

MR. GOLDMEIER: If that's the case, then I'd agree.

MR. PRITT: Make sure he reads that first.

Can we have a minute?

CHAIRMAN STRAIN: Well, you're going to have lunch, so you'll be available to take plenty of time.

The next item I want to bring up, and I think this is probably as good as any, is there a percentage of square footage that you're willing to commit to for the mixed use component, mainly the residential, of the commercial section?

The whole intention of this project was to be mixed use.

MR. ANDREA: Correct.

CHAIRMAN STRAIN: Yet we've asked you how many residential units you're going to put in the commercial buildings. You've not supplied us with any kind of number. You've provided where you might go or you may go or you could go.

MR. GOLDMEIER: Slightly less than 50. It would be the 47 affordable and workforce units plus one of every unit type that would be conventional. So if we have three unit types, it would be 47 plus three. If we have four unit types, it would be 47 plus four.

CHAIRMAN STRAIN: Okay. Could we as a standard put a minimum amount of residential units that you'll combine with the commercial so that this becomes a true mixed use commercial project if it goes forward?

MR. GOLDMEIER: Yes, as long as it would enable us to put all of our affordable workforce units, which are going to be a different type of unit, in those buildings and not put units that would be the -- I refer to as the conventional units into those buildings.

We would like to separate the -- and have a different unit type in the mixed use element from the residential element. As long as we can do that, that's fine.

CHAIRMAN STRAIN: Well, I'm not asking you to put a maximum. So I'm saying a minimum. A minimum would at least guarantee the process as being -- the intention of the process being met.

MR. GOLDMEIER: Yes.

CHAIRMAN STRAIN: Okay, at some point over lunch I'd like you --

MR. GOLDMEIER: Forty-seven.

CHAIRMAN STRAIN: Okay.

MR. GOLDMEIER: Minimum. It's not a maximum. It would be the workforce and affordable units, whatever the count is, plus one of every unit type, whatever we wind up with. And that's what I'd like to state the minimum would be.

COMMISSIONER SCHIFFER: Makes sense.

CHAIRMAN STRAIN: Okay, let's go to Pages 6 and 7. And Cherie', we're probably 15 minutes or so away. Is that going to work for you?

Okay.

COMMISSIONER SCHIFFER: I have on 6.

COMMISSIONER STRAIN: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: And Bob, you can answer this thing. The Davis Road right-of-way. The buildings are kind of tall. I'd like to kind of back them away a little bit. Your site plan has them backed away. So could you make that, the setback, 25 feet or the building height, whichever is greater?

MR. ANDREA: On the Davis Boulevard right-of-way?

COMMISSIONER SCHIFFER: Yeah. Essentially what that could do is, you know, you've got a 55-foot, that could maybe make it 55. It looks like -- remember, this is in the residential we're at right now.

MR. ANDREA: Right.

MR. GOLDMEIER: If it's a two and three-story building and we put the two-story against the roadway, then I'd imagine that you're referring to whatever portion of the building we put against the roadway. And we could step it up behind it.

COMMISSIONER SCHIFFER: Correct, yeah, sure.

MR. GOLDMEIER: That's fine.

MR. ANDREA: Or building height is what -- how you --

COMMISSIONER SCHIFFER: Or the building height. Essentially if you want to you could, you know, draw that little line and they could just stay under it.

MR. PRITT: May we get back to you after lunch?

CHAIRMAN STRAIN: Mr. Pritt, you have to use the microphone, sir.

COMMISSIONER SCHIFFER: What he said is they want to get back to us. And that's fine.

CHAIRMAN STRAIN: Yeah, I think you should.

MR. PRITT: Sorry about that, I've said that 1,000 times to others. I apologize.

I'd like to get back to you after lunch on that after I've conferred with the architect to see whether there are any problems.

COMMISSIONER SCHIFFER: And the intent of the question is not to put a 55-foot building 25 feet off the right-of-way.

The distance between structures, it's one-half the building height. So normally we see that as the combined building height. So what is your intent on the distance between structures?

MR. ANDREA: What do you mean the combined -- the examples I've looked at have always said it this way. I don't --

COMMISSIONER SCHIFFER: Well, usually it's like one-half the combined building heights, or essentially the height of one of the buildings. Isn't that right?

CHAIRMAN STRAIN: It's SBH, sum of building heights is a reference you'll see in quite a few of our PUD's.

COMMISSIONER SCHIFFER: Which does give you that one-to-one ratio.

MR. ANDREA: I apologize, I have not -- the ones I looked like is my samples. I did not see it worded that way. I suppose architecturally if that works then --

COMMISSIONER SCHIFFER: That could get big, though. I mean, the other question, maybe come back after lunch, look at it.

I mean, the walkways you're going to have between buildings are going to be narrow, 50, 60 feet. So I think that one-to-one is important, probably is the fire code issues on the distance, so -- but you can just explain what that is, that's really -- because one-half the building height, there's two buildings, so you pick the tallest one, the shortest one, both of them combined?

And I'm done on that, thank you.

CHAIRMAN STRAIN: Okay, we're on Pages 6 and 7. Anybody have any questions?

Mr. Murray?

COMMISSIONER MURRAY: Yes. With regard to Commissioner Schiffer's thoughts, so if -- I want to understand it, that's the only reason I'm asking, Brad. If we take that commercial building where they have the 55-foot part of it, that's to show, and then the rest of the building were, say, 37 feet, you take the height of the one and the height of the other and divide it and that's the height that you're talking about?

COMMISSIONER SCHIFFER: Right. But remember the residential can be 55 feet tall, too.

COMMISSIONER MURRAY: Yeah.

COMMISSIONER SCHIFFER: And actually building height in this case would be the zoned, not the actual anyway, because --

MR. ANDREA: Correct.

COMMISSIONER SCHIFFER: -- in our code building height means zoned.

MR. ANDREA: Correct. So that would be 45 feet?

COMMISSIONER SCHIFFER: Yeah. It's typical that we add them. I mean, the problem the way you read it, which is the real reason I noticed it, it's half the building height but there's two buildings side by side. Which

building? You could say the shortest, the tallest, or do half the sum, which is pretty common. Or come up with a number -- my favorite's greater than 20 feet, just to keep the fire code away from you.

CHAIRMAN STRAIN: Okay, anybody -- Ms. Caron?

COMMISSIONER CARON: Yeah, you're going to add a line that says on this chart somewhere that delineates the maximum is three stories, correct?

MR. ANDREA: Okay. Footnote -- I can add a footnote where it says maximum height. I'll put a footnote three, limited to three stories. Will that work?

CHAIRMAN STRAIN: In the NIM, they stated they would not exceed three stories. So I would suggest you put an asterisk next to your maximum height reference, and then down below it, or a subnote three, and put a subnote three that says not to exceed three stories. That would get you there and still keep your height.

Anybody else on Pages 6 and 7?

(No response.)

CHAIRMAN STRAIN: Okay, Mr. Goldmeier?

MR. GOLDMEIER: Yes, Mr. Strain.

CHAIRMAN STRAIN: Do you intend to keep this project a condominium project?

MR. GOLDMEIER: I have no idea, and I can't make any commitment. The market being what it is, I don't know.

CHAIRMAN STRAIN: Well, the reason I asked is condominiums are difficult in the market with the new rules. Under Exhibit B, you've basically limited yourself to condominiums by the fact you've not stated a minimum lot area or width under the townhouse scenario.

So without that, my assumption was you're going to be all condominiums. So I'd like to get that clarified.

MR. GOLDMEIER: If it is sold to individual unit owners, it may be possible to -- if you're worrying about a two-story unit that I refer to as a townhouse unit, that unit can either be sold as a condominium having part of a common elements or it can be sold as a fee simple, if it rests on the ground. If it rests above another unit, it would have to be a condominium. And it would depend on basically what the market is at the time.

CHAIRMAN STRAIN: Well, what I'm trying to say is, if you intend to do fee simple in any manner whatsoever, we're going to need some kind of minimum lot area, minimum lot width for those products that you would want to use fee simple. Otherwise you could build a five-foot-wide townhouse and declare it to be -- I know that's impractical but --

MR. GOLDMEIER: If you'd like, we'll come up with a minimum for you. I'll talk to Matt and we'll come up with that.

CHAIRMAN STRAIN: Okay, thank you.

One other item is the fact that these units are going to be as close as they are to both Davis Boulevard and County Barn Road. We know County Barn Road is going to be widened and Davis Boulevard is under the FDOT capabilities. Who knows what they're going to do with it.

Do you have any objection to putting a provision in here that you will not be requesting a sound wall be installed by the municipalities in regards to your frontage on those roads?

MR. GOLDMEIER: Absolutely no problem.

CHAIRMAN STRAIN: Okay. Before we move forward, the Planning Commission, do you want to break now to get down there before the food gets all eaten or do you want to wait till noon? Preferences?

COMMISSIONER EBERT: It's fine now.

CHAIRMAN STRAIN: Okay. Then at this point we will take a one-hour break. We'll resume at 12:45 back in these chambers. So we'll see everybody then.

(Luncheon recess.)

CHAIRMAN STRAIN: Good afternoon, everyone. Welcome back from the lunch hour. It's 12:45, we'll resume the meeting where we left off before we started for lunch. At that time we were still asking questions of the applicant and his representatives.

We left off on Pages 8 and 9 of the PUD exhibit, Exhibit A. As we customarily do, I'll turn to the Planning Commission members. Do we have any questions on Pages 8 and 9?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Let me find it.

Okay. And I guess Robert, this might be for you. But since you haven't defined where the commercial component is -- and I'm not sure I'm happy with that, because you could, for example, just go triangular across the site there or something. But when you look at Table 2, it's for mixed use MU tract development standards, right?

MR. ANDREA: Yes.

COMMISSIONER SCHIFFER: But isn't it essentially for the commercial component?

There's no real MU tract. There's some buildings that have MU written on them. But what is the MU tract, and is that the same thing as the commercial component?

MR. ANDREA: That's one in the same, correct. And you're right, we do not have it distinguished on this master plan. Early on I believe there was a line there. But generation after generation, that line has not been put in that.

COMMISSIONER SCHIFFER: And the confusion is that the exhibit, the one you just pointed at, MU is -- I mean, are those two little MU tracts or is -- so I think we should clean that up to say this is the commercial component development standards.

MR. ANDREA: Okay. So a line depicting exactly the five-acre --

COMMISSIONER SCHIFFER: And then I think that should be picked out. I mean, the awkwardness is we had development standards that we're very used to handling on tracts. But this isn't really tracts, you have two buildings noted as MU.

So, for example, part of that residential might be in that commercial component, too. You obviously intend to have residential, because you're discussing it, yet that building's an R, so that wouldn't apply to this, I guess, maybe? Maybe it would.

MR. ANDREA: I believe that commercial tract, I mean, if I were to draw a line, it would look something like that.

COMMISSIONER SCHIFFER: Okay. So I guess my question is, you know, there's a maximum, not a minimum. So, you know -- and again, your answer prior was we'll do it at SDP. But since this is a development standard or something -- so are you going change the mixed use MU tract to commercial component development standards?

MR. ANDREA: I'm not sure. I mean, how is it written that in the subdistrict -- is it commercial component?

COMMISSIONER SCHIFFER: It's commercial component. I don't think -- MU tract is not a word out of the --

MR. ANDREA: That was the result of going through the rezoning process that it became the MU tract.

COMMISSIONER SCHIFFER: We're at the rezoning process, aren't we?

CHAIRMAN STRAIN: Yes, we are, this is the rezoning process.

COMMISSIONER SCHIFFER: Looked like it to me.

MR. ANDREA: Okay, here, Barry's showing the --

MR. GOLDMEIER: This is an older --

CHAIRMAN STRAIN: Sir, you have to use the microphone.

MR. GOLDMEIER: This is an older version. I'll have to find a date. But the commercial -- and by the way, county staff had drawn the line and given us the line and we sort of followed it.

But this is the official separation of the mixed use subdistrict from the residential subdistrict. It goes down the middle of the lake and then it follows along the road. I don't know if it's on the edge of the road or what part of the road it is. And then it goes down, I'd say cutting across the front of one of the buildings. It cuts across the front of -- let's see, can I borrow your pen, please?

So it's going down the middle of the lake, going down this road, and then cutting across either in the front of the building or inside the building or just at the edge of the building. And that would be the commercial tract, the commercial mixed use tract.

COMMISSIONER SCHIFFER: Okay.

And, you know, I guess it's up to staff. My suggestion would be to actually have a document showing that. And that you don't -- because right now with what we're given in this application, you have two little MU tracts, and they're L-shaped things, which I think they're representing buildings, not tracts.

MR. ANDREA: Correct.

MR. GOLDMEIER: Here, I got a better one. Right here.

COMMISSIONER SCHIFFER: And I guess you were allowed to have --

MR. GOLDMEIER: Here's one.

CHAIRMAN STRAIN: Sir, unfortunately you've got to use the microphone each time; the court reporter --

COMMISSIONER SCHIFFER: And is that an exhibit, Ray?

MR. ANDREA: That's not an exhibit.

MR. GOLDMEIER: It was an exhibit one time in the past. But this is the line. As -- at one point.

COMMISSIONER SCHIFFER: Yeah, I mean, that drawing's totally confusing with the building, so -- anyway, maybe we could bring an exhibit back -- I mean, an orphaned exhibit's not going to help us.

Okay, so again, I think we should clean up what this -- the standards for that. And then what you're showing is actually -- and I wasn't sure that was true, so you have no buildings in the commercial component that are purely residential, they're all mixed use buildings?

MR. ANDREA: What we're showing is mixed use, correct.

COMMISSIONER SCHIFFER: Okay. So you really don't need multi-family and townhouse development standards.

MR. ANDREA: I believe there's that option that we can put strictly residential in that area, if we choose to do so.

COMMISSIONER SCHIFFER: Let's move down. Again, the building height thing, we should discuss that, because it's one-half building height and --

MR. PRITT: Could I just ask a question on that?

COMMISSIONER SCHIFFER: Sure.

MR. PRITT: Not being that good at math.

Did I hear you say that maybe it would be simpler just to put a number in, say such as 20 feet?

I talked to Barry during the break and also to Matt about that, whether or not that was -- remember I said I'd come back to you, whether or not that was doable. And if we had that number, that makes sense, I guess, but Matt can tell you whether or not that's doable. If it is then we --

COMMISSIONER SCHIFFER: Well, I think, you know, when Matt showed the drawings and showed the pass-throughs of the buildings, they were about 20 feet.

And I would use -- like to use the phrase greater than 20 feet. Because 20 feet is a break in the building codes for fire separation and stuff. And just so that, you know, kids can have windows that operate, I'd make it greater than 20 feet and you'd be okay.

MR. PRITT: Anyhow, I think it's okay, if it's still doable from the architect's standpoint.

MR. POLAK: Yeah, I think that's absolutely doable. And I just -- the only thing I'd preface it with is that -- and I hate to say this because we always keep pushing things off to the SDP process. But I think one of the other aspects that comes into that is also the total length of the building, which is going to determine -- at least at some point that's going to determine the break, where the breaks occur. So some buildings may end up with a recess in the building may not necessarily be a break in the building itself.

And the reason I bring that up is when you get to the corners, some of those funny corners to get that 20-foot break, you might end up 20 feet at the interior could end up being much larger at the outside of the turn. So those are design aspects that have to be, you know, further developed.

COMMISSIONER SCHIFFER: Matt, one thing you notice in Collier, we never have maximum building lengths. So just connect those buildings.

MR. POLAK: Okay.

COMMISSIONER SCHIFFER: Just put a walkway between them, even if nobody can walk on it. It's one building, and nobody will notice your problem there.

Let's go down to the -- you have the minimum floor area ratio. I think it's maximum floor area ratio. We don't want to make you build one-and-a-quarter acres worth of building. You see that down on the principal uses? You have minimum floor area ratio. I think that would be maximum.

MR. ANDREA: Under Table 1?

COMMISSIONER SCHIFFER: Under Table 2. Hopefully you weren't on Table 1 with the earlier part of this conversation.

MR. ANDREA: I don't think I was.

Minimum floor area ratio.

COMMISSIONER SCHIFFER: It's .25. I mean, the number's right. You cull it out as a minimum, but that's a maximum.

MR. ANDREA: Okay.

COMMISSIONER SCHIFFER: And, you know, the numbers you've given aren't near that anyway.

And then the Davis Boulevard and County Barn right-of-way, I know that you have it at 25 feet, but, you know, again, we're back to a, you know, tall building right up on the edge of the road. We don't want that. So did you over lunch -- that was on both the tables. Do you want to -- we can discuss that now, I guess.

MR. ANDREA: Twenty-five feet distance from County Barn -- Davis? Actually, it's Davis.

MR. GOLDMEIER: Yeah, that's been increased.

CHAIRMAN STRAIN: Gentlemen -- and Bob, you should know this better than anybody, you've got to the use the mic. when you guys address -- well, she's trying to write things down, and it's really not on the record that way.

MR. GOLDMEIER: Are you talking about the buffer, the landscape buffer?

COMMISSIONER SCHIFFER: No, I'm talking about how close the building can be to the right-of-way. There's the --

MR. GOLDMEIER: We pushed it back. Robert, we pushed it back from what to what?

MR. ANDREA: We were at 20 feet, we pushed it back to 25.

MR. GOLDMEIER: Fine, that's fine.

COMMISSIONER SCHIFFER: I'd like to push it further. I'd like it to be a minimum of 25 or equal to the building height. So if you build -- and again, it's the actual height -- a 45-foot tall building, you should be 45 feet back.

MR. GOLDMEIER: So in other words, if we have a two-story portion of an otherwise three-story building, it would have to be the height that faces the -- the portion of the building that faces the road, whatever height that is.

COMMISSIONER SCHIFFER: Correct.

MR. GOLDMEIER: And if we have a sloping roof, is it taken at the downward slope of the roof or is it taken at the crown of the roof?

COMMISSIONER SCHIFFER: We're having a lot of fun. The easiest way is go up 25 feet and then go one-to-one back and stay below that. And you can describe that, right?

And here's the thing, I have no problem if you build a low portion of it. Obviously you go back in, the mass of building rises. That will look good. It's just that what if you didn't build a low portion.

MR. GOLDMEIER: Okay. So if we can have it during the -- if it's a sloping roof at the low part of the roof, and that's what you're concerned about, that's the exterior wall you're looking at, then that's acceptable to me that it's the minimum of 25 feet or the height of the exterior wall closest to the roadway.

COMMISSIONER SCHIFFER: Right. Or the building height. Remember that that will be to the midpoint of a roof, too, so --

MR. GOLDMEIER: Midpoint of the roof.

COMMISSIONER SCHIFFER: So you'd have roofs sticking out below it if you wanted to. It's not roofs we're worried about, it's a flat 45-foot high wall.

MR. GOLDMEIER: You're the architect, I'm not going to quibble with your sensibilities.

COMMISSIONER SCHIFFER: I'm done.

On Page --

CHAIRMAN STRAIN: We're 8 and 9.

COMMISSIONER SCHIFFER: Yes, I'm done.

CHAIRMAN STRAIN: Anybody else on Pages 8 and 9?

(No response.)

CHAIRMAN STRAIN: Mr. Andrea, the question I brought up earlier about townhouses.

MR. ANDREA: Yes.

CHAIRMAN STRAIN: If you intend to make those fee simple, they have to have standards. And we don't have standards.

MR. GOLDMEIER: Mr. Strain, we'll agree to a minimum width of 20 feet.

CHAIRMAN STRAIN: What about area?

MR. GOLDMEIER: Well, it's certainly not going to be 700 square feet.

CHAIRMAN STRAIN: If you have a 20-foot wide lot and you have a net buildable area after your front or rear or side setbacks, so your lot's going to have to have a certain mass to it in order to fit the building you intend to put there --

MR. GOLDMEIER: Yes, the footprint, the footprint --

CHAIRMAN STRAIN: Well, no, the footprint is different than the lot area. The footprint is inside the buildable area of the lot.

MR. GOLDMEIER: Well, I'm then looking at this as being more or less the footprint, because the design -- in order to conform with the design with the open parking area that we're not going to go into the parking with a private open space, we're going to end that somewhere short of the parking lot and short of the street.

CHAIRMAN STRAIN: You'll have to have a lot of easements, cross easements and stuff for your owners to get to.

MR. GOLDMEIER: Yes, that's why I'd prefer at this point, until it's thought out more carefully, to restrict that to the footprint. The fee simple area we'd be conveying to purchasers would be the footprint itself. And we can always make it larger.

CHAIRMAN STRAIN: What is that footprint area, minimum?

MR. GOLDMEIER: Matt, how deep are the buildings? Sixteen?

MR. POLAK: Total depth is about --

CHAIRMAN STRAIN: You can come back to us later on.

MR. GOLDMEIER: Yes, can we please?

CHAIRMAN STRAIN: That would give some time to think about it.

You agree the minimum floor area ratio is maximum, right?

MR. ANDREA: Correct, yes.

CHAIRMAN STRAIN: On this site plan you have in front of us, the two MU buildings, if I'm reading that right, the only frontage on Davis Boulevard is the end of that northern MU building.

MR. ANDREA: Yes.

CHAIRMAN STRAIN: And the other -- there is no frontage on County Barn because of the parking?

MR. ANDREA: Well, the -- both sides will be front elevations, but --

CHAIRMAN STRAIN: What do you consider frontage?

MR. ANDREA: Well, I guess that's the definition. We're going to orient the buildings towards the inside here and have a frontage facade on the back side to the parking so they'll look the same from the front and the back.

CHAIRMAN STRAIN: Right.

MR. ANDREA: But I guess the street, the internal street, it would be the frontage.

CHAIRMAN STRAIN: Okay. And that leads me to the concern that started the fun period of time when we had all this cross-examination by Mr. Pritt. The issue of internal parking.

If you look at Page 9 under general, A, it said buildings shall primarily front public rights-of-ways in order to create a sense of place and relationship to the street.

Are you dedicating -- I can't -- county won't take all those roads, they're not even to county standards. So the public rights-of-way would probably be Davis and Collier -- or County Barn Road, right?

MR. ANDREA: No, I believe the intent there, I did not write that, but I believe the intent there was any road it'd be fronting on would be the internal roads.

CHAIRMAN STRAIN: Well, but it says public rights-of-way.

MR. ANDREA: I read that, yes.

CHAIRMAN STRAIN: Your internal roads I don't believe would be allowed to be -- well, maybe -- John, can those internal roads based on the cross-section you've seen, the width of the pavement and all the other things, are they intended to be dedicated and maintained by the county?

MR. KLATZKOW: No.

CHAIRMAN STRAIN: Well, County Attorney's saying no. So I guess they can't be public rights-of-way. So John, it just got confirmed. My assumption was right.

MR. PODCZERWINSKY: That's right.

CHAIRMAN STRAIN: Now, how do you then meet, under A, buildings shall primarily front public rights-of-way in order to create a sense of place and relationship to the street?

And my consensus to that was that you were meeting it by the intention of the GMP, which said parking areas shall be internal to the site and be screened from County Barn Road and Davis Boulevard. Because it would force your buildings to have frontage on the streets. So A seemed to coincide with the GMP, but now you're telling me A isn't what you're doing.

MR. ANDREA: That was my interpretation of it. I apologize. I did not write that. The -- it's clear now, it's public rights-of-way. I don't know how to answer that.

CHAIRMAN STRAIN: Okay, Corby's here. Corby, you want to help us?

MR. SCHMIDT: Certainly. Real quickly, in this instance, public rights-of-way is a small P, public. The public are using those roads and streets, not to intend that it was publicly owned rights-of-way by the county. These were intended to mean not the parking lots, the local streets inside the development.

CHAIRMAN STRAIN: Okay, so you're saying that the streets within the development, all the streets, not just the ones in the commercial component, but all the streets are public streets?

MR. ANDREA: Yes.

CHAIRMAN STRAIN: And is that how the condominium documents and the HOA documents will be written?

MR. ANDREA: I assume so, yes.

MR. KLATZKOW: But they're not public rights-of-way.

CHAIRMAN STRAIN: There's not public rights --

MR. PRITT: Let me suggest --

MR. KLATZKOW: Call it what they are.

MR. PRITT: Just say streets.

MR. KLATZKOW: Is the idea that the buildings are primarily to front the internal streets?

MR. PRITT: Streets within the development. I don't want to start fighting over internal again. But just the streets within the site. I think that's what the solution would be.

CHAIRMAN STRAIN: Okay. Then I understand where you're going with it. I'm not necessarily saying it's the right way to go, but okay.

Any more questions on Pages 8 and 9?

(No response.)

CHAIRMAN STRAIN: We'll move to Pages 10 and 11. Anybody have any questions on -- well, it's the same site plan we've been looking at.

COMMISSIONER SCHIFFER: I do, Mark.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER SCHIFFER: And Robert, I guess you can answer this. You know, one thing that is missing from this site plan is the typical Florida amenities, a swimming pool, recreation. Barry did mention maybe there'll be some recreation in the mixed use. But I'm sure the neighbors don't want people running across the street using their pool.

So what kind of stuff is going to be happening on-site and why haven't we --

MR. GOLDMEIER: May I please answer that?

The reason we didn't show it was because we didn't want to give you a site plan showing a precise location of a pool or a tot lot and not be able to move it. But we fully intend and will commit to have a swimming pool, a tot lot.

If you'd like, I can point out where we intend to put it, but we don't want to be saddled with this being the precise location and not be able to have any flexibility moving it later.

COMMISSIONER SCHIFFER: But Barry, there's a caveat. Everything here is flexible to move. So that thing could have joined on. Where do you intend to put it?

MR. GOLDMEIER: Well, just where the -- in front of the mixed use building that faces the lake where the word is park, that's where we intend to put the swimming pool. Because behind that within the mixed use building we intend to put community facilities for the use of the community. That's where we -- instead of having a freestanding clubhouse, we intended to use part of the -- a commercial bay as the clubhouse and community room and have the

swimming pool in front of that.

The reason for that location is because it's a nice view of the lake and because that green space can then be isolated and fenced off from the -- you know, from other people entering it.

COMMISSIONER SCHIFFER: I mean, that does tip a card a little bit that the mixed use is going to be essentially what amenities would be in any other residential development. I'm not sure that's bad, but I can see that card now.

MR. GOLDMEIER: No, I think it's good. Because there is another card that would deal with the affordable workforce element. Are they having access to the same facilities, which is equal to or better than. And in fact they're going to have equal to or better than.

But also we felt that the amenities for the project would play well with some retail facilities. For instance, you put an ice cream shop or a pretzel shop, et cetera, right next to the clubhouse and by the pool, and they can sell drinks and things like that and it would enhance the amenity. And the amenity would enhance the potential for that business to thrive.

COMMISSIONER SCHIFFER: I'm with you. I think bringing everybody to that part of the site will help.

MR. GOLDMEIER: And we had a tot lot back in one of the -- you know, in part of the residential element that we didn't show, because we -- we'll put it where we can put it when it --

COMMISSIONER SCHIFFER: I'm worried about the pool. But, okay, thank you.

I'm done, Mark.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yeah, this may be more relevant to final stages, but I'm just curious, in terms of like an ice cream shop, probably close around 9:00 at night, something like that. But the use of a room for a community, do you anticipate having restrictions for time and also loudspeakers for music and such?

MR. GOLDMEIER: I believe in order to make it a -- if it's a condominium association, the condominium association would want those things to happen. And if it's a rental apartment community, then that's good management practices.

So yes, we intend to have some sort of restrictions. What they are, I can't tell you. But I can tell you that in communities that we own and operate today that we don't -- we allow parties, private parties to take place with a deposit. But I think we have a 10:00 limit on the hours. And they usually take place in a community room near a pool and things like that. And yes, we intend to have --

COMMISSIONER MURRAY: And the reason for my question was because anybody who lives above it would be impacted by it --

MR. GOLDMEIER: Of course.

COMMISSIONER MURRAY: -- that would be the basis for it.

MR. GOLDMEIER: And Mr. Strain, would you like me to comment on the size of the townhouses?

CHAIRMAN STRAIN: Sure. If you have it now, that's great.

MR. GOLDMEIER: Yes. If we have a -- and I'm only talking about minimums, I'm not talking about projected sizes, just minimums. And these are basically within the confines of the apartment unit, not utilizing the access or hallways outside of it.

But if we have a minimum 10-foot wide unit and it's a townhouse, we would then envision to have two townhouses back-to-back, one facing the front of the building, one facing the rear of the building, and to have a depth that would be no less than 30 feet, because then we'd have a minimum 1,200 square foot size townhouse.

CHAIRMAN STRAIN: Your minimum width is 20 feet, as you said earlier.

MR. GOLDMEIER: Twenty feet. And then we'd have a minimum depth of 30 feet. And that would give us 600 feet on two floors or minimum size of that unit would be 1,200 square feet.

CHAIRMAN STRAIN: We had an issue on this come up, and I think it was Heritage Bay, and I think it was Bruce Anderson who brought it forward. And they had to change their platting to accommodate the new condo laws. Actually, to get away from them. They still wanted to retain the ability to build a building like they had built. But it was a townhouse building. Instead of being a condominium townhouse they wanted to do a fee simple townhouse.

And they had to go through extensive gyrations with the lot lines to make them work in a manner that would work within the community to accommodate the parking, the roads, the common areas. I guess when you don't have a condo association, you approach those common elements differently through an HOA.

I don't know how you would make the fee simple happen on this plan, and I'm curious as to how you would do it.

MR. GOLDMEIER: By the way, I agree with you. We're not foreseeing doing fee simple on the plan. You brought up the question, if we were to do fee simple, how would we do it. What we were looking at was a two-story condominium unit which we would call a townhouse unit, but it would not necessarily be a fee simple townhouse. And you had asked what minimum lot size we'd look at.

But I think given the design, this works better as a condominium townhouse than it does as a fee simple townhouse, which was the intent from the beginning.

CHAIRMAN STRAIN: Right. But have you attempted to do any condominiums under the new rules that have gone into place that at the time we heard were so horrible for the process of a condominium?

MR. GOLDMEIER: No, but we've just gotten approvals of two large traditional neighborhood design developments which maybe Matt can comment on. One is about, well, it's 1,000 units but broken down into several phases, and the other is about 2,000 units and broken down into several phases. And we've just about made it through most of our approvals on those processes. And they do foresee having condominium townhouse units rather than fee simple townhouse units.

And on another project that Matt's also the architect on, a 600-unit project, we designed the project differently to be fee simple. And we had to deal with public open space and private open space requirements, which were very difficult. And I don't foresee this type of plan being able to meet. I agree with you.

CHAIRMAN STRAIN: Okay. Understand.

Mr. Murray, did you have a -- did you already ask that?

COMMISSIONER MURRAY: Yes.

CHAIRMAN STRAIN: As a follow-up to Table 2, I should have asked -- I've got to step back here. The issue that Brad brought up is relevant because the table references a tract, and the standards are in relationship to a tract. But if you put a tract line in, have you considered how that works with the setback requirements that you have that are supposed to be internal to the site? The minimum setbacks.

Do they line up with your tract lines? Have you studied that or not, based on the fact we just asked you about the tract.

MR. ANDREA: I have not studied that, no.

CHAIRMAN STRAIN: So you don't know how those standards may be affected by that.

MR. ANDREA: No, sir.

CHAIRMAN STRAIN: Also, on Table 2 you have a column for townhouse. But if you go to your list of uses in the commercial component, the MU component, you did list multi-family under A-1, but you did not list townhouses in a manner that like you did under the permitted uses under residential. So even though you have standards for it, it doesn't seem to be a permitted use.

Was that an omission, or did you have some way of --

MR. ANDREA: That must be -- that's an omission. What page are you on?

CHAIRMAN STRAIN: If you look at your standards, Table 2, you see a column for townhouses. That's under your MU tract.

MR. ANDREA: Yes.

CHAIRMAN STRAIN: If you go to Page 2 of 18 under your permitted uses for the MU tract, you don't have townhouses that I can see listed there. So you really couldn't do townhouses, even though you have development standards for them.

MR. ANDREA: You are correct. That was an omission.

CHAIRMAN STRAIN: Okay. So you would add that to the permitted uses, right?

MR. ANDREA: Yes.

CHAIRMAN STRAIN: Okay. We're done with Page 11.

And by the way, Brad's question about the amenities, we do normally see the amenities because they are a compatibility issue in relationship to noise, glare and other things that happen around those.

They are generally on the site plans that we review. I understand your reasoning, but that's the same reasoning everybody else has for not wanting them there, but they are always there.

You may want to consider that that needs to be changed. And we'll certainly bring it up during the stipulation

phase.

MR. GOLDMEIER: We had them on a site plan, we took them off. We can show you that now or put them back later.

CHAIRMAN STRAIN: Because the external relationships are dictated by the compatibility. And those facilities generate more noise than a standard standalone residential. So if you're going to have them it's good to know where so you can tell the public where to expect that to be.

MR. GOLDMEIER: Would you like to see them now? Because you have --

CHAIRMAN STRAIN: Well, we need to see them for our record document, so we just have to bring it up when we're more on a record document.

Mr. Murray?

COMMISSIONER MURRAY: Yeah, this is digressing a little bit, but I missed this as a question earlier. I think, Robert, you can answer this.

Has to do with Page 5 and it has to do with water management structures. And in part it says, the stormwater will be drained back into the stormwater management lake as drawdown occurs through the control structure. But it talks about a one and one-half inches of exceed, the excess of rain.

What means do we have? Are we going to have a weir, are we going to have some kind of a triggering?

MR. ANDREA: My understanding of the system, and I'm not an engineer, but my understanding of the system is that there would be a weir.

COMMISSIONER MURRAY: There would be a weir.

MR. ANDREA: Yeah.

COMMISSIONER MURRAY: Okay. That's it, thank you. That satisfies that.

Pages 12 and 13, anybody have any questions on those two pages?

(No response.)

CHAIRMAN STRAIN: I need some clarification from transportation.

Good afternoon, John.

MR. PODCZERWINSKY: Good afternoon, Commissioner Strain.

CHAIRMAN STRAIN: Exhibit E, 1.F, it talks about CO's and the timing. It has to be after substantial completion of Santa Barbara Boulevard extension to Rattlesnake Hammock Road and sufficient capacity becomes available on County Barn Road.

We know that Santa Barbara's now open.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: How would you know whether or not there was sufficient capacity available? You have to do a test, I would assume?

MR. PODCZERWINSKY: Yes, we would have to measure that with our usual quarterly counts, which have not been performed on Santa Barbara. It just opened.

CHAIRMAN STRAIN: Okay. So at whatever point if they were to go in for CO's, they would have to have a verification that that capacity was available.

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: So your counts would have to be done by that point.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Or if not, they would have to do them.

MR. PODCZERWINSKY: This is correct.

CHAIRMAN STRAIN: On G-2.B, it talks about a contribution of \$110,000. And that number is mysteriously similar to the number on 1-B of \$110,000. But in my prior conversation with you, I'm finding out those are not the same contribution. It's two contributions of 110,000.

MR. PODCZERWINSKY: This is correct. The 110,000 that is listed in number transportation 1-B on Exhibit E is the first donation of 110,000, regardless of the time of CO.

The one that you notice in, further down in G-2.B, that 110,000 is for two additional intersections, if they choose to move forward prior to the County Barn improvements.

CHAIRMAN STRAIN: Okay. I just wanted to make sure the record was clear and everybody understood it was two. Because when I first read it, I was confused, I thought it was talking about the same one on 1-B.

MR. PODCZERWINSKY: Yes, sir, two separate issues.

CHAIRMAN STRAIN: Okay. Anybody else have any questions on 12 and 13?

Go ahead.

COMMISSIONER SCHIFFER: Transportation's going to come back up during staff?

CHAIRMAN STRAIN: He's been sitting back there all morning waiting for us to ask questions, so he can come up as often as you'd like.

COMMISSIONER SCHIFFER: I could ask him a question now.

CHAIRMAN STRAIN: Sure, you got a question?

COMMISSIONER SCHIFFER: And the question is on bus access to this site. Are there routes that go by this? Is there any provision being made for a bus stop or anything like that?

MR. PODCZERWINSKY: There is no provision for the bus stop in the PUD. I don't recall right off the top of my head whether or not this is on one of our existing routes. I could consult my handy foldout map and see if it is. So if you wouldn't mind, I'll go take a look at that and I'll come back.

COMMISSIONER SCHIFFER: Sure, that'll work. They have them out in the hall, I think.

MR. PODCZERWINSKY: I'm sure they do. Thank you.

CHAIRMAN STRAIN: Okay, we'll move on to Pages 14 and 15. Does anybody have any questions on Pages 14 and 15?

(No response.)

CHAIRMAN STRAIN: On Page 14. Mr. Wiley, I know you're here to address this issue. Item 2-B says the project site is an exporter of stormwater during a 100-year three-day event, and compensating storage is not required.

And of course I found in here where I thought we were -- they were allowing us to bring water in off of the road improvements. And I'm just wondering if they're an exporter how they can be an importer.

MR. WILEY: Okay, you're really talking two separate issues. And I am Robert Wiley with the Land Development Services Department.

The importer/exporter issue deals with your total water volume that is available to be stored upon the property from the rainfall event. Doesn't reflect the bringing in of off-site water from Davis Boulevard into it.

So you go through the mathematical calculations to determine the amount of water that is produced by the rainfall event over the property, and then you go from the water table that will be resulting able to stand on it, which in that particular location was pretty well confirmed when we had Tropical Storm Jerry, which was almost a perfect curve for the 100-year event.

Because there's less water able to stand on the property and it actually runs off to the south, that means the property is an exporter. So all he is then at that point doing is putting his 100-year berm up so all of his discharge is contained and goes out at a controlled rate through the discharge structure.

That is different, though, than the water that you would want to come onto the site from Davis Boulevard. That is included within the volume stored on the property. So while he is bringing water through the site from off-site, the importer/exporter is a calculation you go through for the storage available on the site pre-development versus post-development. It's two different separate issues.

CHAIRMAN STRAIN: Right. I understand that. Although it certainly doesn't make it less confusing.

MR. WILEY: Can I try to make it more confusing?

CHAIRMAN STRAIN: So he can't hold all the water on the site, so he's an exporter.

MR. WILEY: Yes, sir.

CHAIRMAN STRAIN: But because he can't hold it all on the site we're going to give him more from an off-site road.

MR. WILEY: That is just simply the pass-through that's coming onto him right now. That does not affect the total volume storage on his site. And by the conditions within his approvals, he is addressing how he will handle that water from Davis Boulevard coming through, handling the volume but not providing water quality treatment for it.

CHAIRMAN STRAIN: Would he be allowed to discharge below the existing high water level?

MR. WILEY: Below the existing wet season water table, no. Below the peak 100-year storm elevation, yes. That is not -- his control elevation is the wet season water table basis.

CHAIRMAN STRAIN: Okay. On item 6-2 it says stormwater shall not be discharged below the existing seasonal high water level. What is the value of that statement?

MR. WILEY: That is your wet season water table, sir.

CHAIRMAN STRAIN: But is that a given or is that something that they could do if it wasn't written in here not to do?

MR. WILEY: Well, it's written in there to make sure everyone is aware of it so that we don't get overdrainage. But as they go through the permitting process with the county and with the Water Management District, it would be a design criteria that is being met.

CHAIRMAN STRAIN: Right, it is a design criteria; is that correct?

MR. WILEY: That is correct, sir.

CHAIRMAN STRAIN: Okay. Are there other design criterias in the South Florida Management District rules?

MR. WILEY: There's a whole book full of them, sir.

CHAIRMAN STRAIN: Right. If we're going to put one here, why don't we put the entire book here?

MR. WILEY: Well, the issue here was to bring up the point of what indeed is the wet season water table issue and the storage of water on-site so that it does not come into a drainage situation as it connects up to the County Barn Road ditch, which is proposed to be a part of the improvement of County Barn Road, which is all a part of the Lely Area Stormwater Improvement Project.

CHAIRMAN STRAIN: And all that's a requirement of the design criteria as permitted through South Florida Water Management District that they have to adhere to; is that right?

MR. WILEY: It would be included as part of review, yes, sir.

CHAIRMAN STRAIN: Okay.

Mr. Murray?

COMMISSIONER MURRAY: Yeah, that brings me back to that one-and-a-half inches. That -- presumably then that was the height of the 100-year storm for the water then to go through a weir and down, or over the weir?

MR. WILEY: The one-and-a-half inches is your water qualify treatment volume. That really is not indicative of the stage of the water. That is a total volume that must be pre-treated before it's allowed to go out of the lake system and into the preserve.

The reverse, as you get the drawdown as the end of the storm passes, it will then flow out of the preserve back into the lake system, out the control structure and discharge from the property.

COMMISSIONER MURRAY: Okay. I've been concerned, having read that water would be discharged into the preserve, and I'm -- I don't know what the current -- I didn't read that far into the document to see whether or not certain exotics were there and/or appropriate plantings.

But if it's going to be wet during the hydroperiod that we typically have, do we know whether or not that property is really wet property, or is -- I mean, it's a preserve but it's not. It's a water containment vessel really, or it's a transporter of water.

What I'm trying to find out from you, maybe you're the wrong person, is this preserve going to be wet most of the time that it's the wet season?

MR. WILEY: Probably would not be inundated. Would the soil be rather saturated? Probably so, based upon the control elevations they are looking at.

But it would not be -- I would say it would not necessarily be inundated at all times, except during the periods for short durations following the storm when it will stage up and then go back to the bleed-down process.

COMMISSIONER MURRAY: So we're really not having a preserve there, we're having a what, maybe a sort of semi wet/dry water retention? It's not really a preserve then.

MR. WILEY: I would not say that. A preserve is leaving the natural vegetation there, sir.

COMMISSIONER MURRAY: Well, I appreciate that.

MR. WILEY: It doesn't say whether it's wet or dry. The vegetation that is there under its existing condition is used to being very wet.

COMMISSIONER MURRAY: That's the answer I'm looking for. So in other words, we're not modifying. Good, thank you.

CHAIRMAN STRAIN: Robert, one last question, at least from me. Would the site plans have to demonstrate that the hydrology of the preserve areas are maintained or enhanced?

MR. WILEY: They will have to do that, sir.

CHAIRMAN STRAIN: Is that a requirement of permitting?

MR. WILEY: Yes, sir, it is.

CHAIRMAN STRAIN: Thank you. Appreciate it.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Thanks, Robert.

My suggestion would be that item six on Page 15 be omitted. It's issues already -- requirements of all the design criteria that they have to go through and the review of the SDP's by the EAC serves no purpose. So I'll make that when we get to stipulations.

The next two pages are the entry feature pages. Anybody have any questions from those?

COMMISSIONER MURRAY: I may have.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I've been curious about the master plan. And if you look -- looking at the master plan and you see -- I've got to figure out how to describe this now. The buildings, some of the buildings, there are areas that seem to be extensions of the buildings or concrete or bushes or parking. What are they?

Can you figure out what I'm trying to ask, sir?

MR. ANDREA: I'm not quite sure where you're --

COMMISSIONER MURRAY: Well, if you go over to your master plan. If you go to the master plan, I'll guide you.

MR. ANDREA: Okay.

COMMISSIONER MURRAY: Yeah, go to the next building. Whoops, no, no, next building. See, now, go up a little higher, little higher. Too high. Come down a little. There you go, almost there. Almost there. Now a little below that. Right there.

What are those? Those are around the buildings at various locations. Do they extend out from whatever, either the building footprint or --

MR. ANDREA: These here?

COMMISSIONER MURRAY: Yes, sir, those items.

MR. ANDREA: I believe those are -- they may be curbs because the parallel parking along the roads and planting areas.

COMMISSIONER MURRAY: Curbs? By scale, they're big curbs.

MR. ANDREA: I'd ask Brian DeLony, but he is not here. He put those in as a design feature to -- they're like little bump-outs here. And I believe he meant for those areas to be planted. There will be parallel parking there.

COMMISSIONER MURRAY: I thought they might have been rubber for bumper cars. I wasn't sure.

MR. POLAK: What you're seeing there is that what we carved out there were the parallel parking spaces. And then what we're delineating is where it bumps back in is where you're going to get three or four cars will be able to park. And then it will be a bump-out, which could be a landscaped island. It would most likely be curbed with, you know, street on one side, a curb and green, whether it's grass or planting. Some instances it could be concrete as part of the sidewalk.

But the idea of what we're showing there is the bump-outs. And that's the same thing we're showing in the parking lots too, where those are sort of islands.

COMMISSIONER MURRAY: So the absence of that means there's parking?

MR. POLAK: Correct.

COMMISSIONER MURRAY: Thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah, back to this plan for a minute. The R tracts that show here, what is the length of these tracts?

MR. ANDREA: The buildings themselves? I don't know what the exact length of the building was. We put those in as building footprints to show the relationship to the roads and parking areas. They were not meant to be -- although they are scaled for the drawing to fit in there, they're not dimensionalized here on the master plan.

COMMISSIONER CARON: I know the other drawing that was shown earlier breaks up these buildings, these areas into smaller buildings. But there isn't any requirement, actually, in here that you break them up in that

manner.

MR. ANDREA: Correct.

COMMISSIONER CARON: So they could be as long as whatever is being shown here.

MR. ANDREA: No --

COMMISSIONER CARON: They could be one long continuous building, as long as it went in and out or up and down, you know, had some --

MR. ANDREA: I believe there are stipulations in the subdistrict about the buildings, that they can't be long buildings like that.

If you give me just a minute here, I will --

COMMISSIONER CARON: Okay, if you could read that into the record, I'd appreciate it.

MR. GOLDMEIER: While he's looking, we do not intend to build barracks. I think having these long buildings is unattractive. And we -- and that's one of the reasons we provided you with a colored mark-up of the site plan, because we were -- we were concerned that this didn't look -- it didn't look right, nor would we want to build it like that. That's why you have a colored site plan that Matt had presented.

COMMISSIONER CARON: Good. I was just looking for some language to back up your statements, because I think you're right, I don't think you would sell them here. But on the other hand, that's not stopped people in the past, so --

CHAIRMAN STRAIN: Yeah, but this should have been the opportunity in which you put your best design forward, not your worst.

MR. GOLDMEIER: Well, we have, but it's dark. You see these --

CHAIRMAN STRAIN: No, but see, the one that was put forward is the document that's in our packet, because that would be the record. And it would have been nicer to have one reflecting what you show in this plan.

MR. GOLDMEIER: There was some reluctance to substitute the broken up one -- the one that you see in your packet had gone all the way through the process, and we were reluctant to pull it and start all over again with a new one. So that's why we presented you with a colored one breaking the buildings up as we intend to do.

COMMISSIONER CARON: You can just create some language. Thank you.

CHAIRMAN STRAIN: Thank you.

MR. ANDREA: I did check. There is no language in the subdistrict.

COMMISSIONER CARON: Guess what? I've already checked that.

MR. ANDREA: I apologize, I thought there was in there.

CHAIRMAN STRAIN: Okay, that brings us to the end of the PUD document. The last item is Exhibit G, is some street cuts. Anybody have any questions from those?

(No response.)

CHAIRMAN STRAIN: One comment. You don't have where these sections fall on your site plan. You provided us with the two sections. I was just curious as to where B and C, for example, fall. You've got multiple occasions where you have buildings across from one another.

COMMISSIONER SCHIFFER: If you can see, Mark, B is where the mixed use is. So it would be looking south from that circle area.

CHAIRMAN STRAIN: Okay, so that's where that -- and then the other ones would be --

COMMISSIONER SCHIFFER: And the rest of them's (sic) are all C, except for a few A's, where --

CHAIRMAN STRAIN: Okay, we've already gone over the GMP section.

Is there any other questions from the rest of the packet that we received before we go into a staff report? Anybody?

(No response.)

CHAIRMAN STRAIN: Okay, Mr. Pritt?

MR. PRITT: Yes, Mr. Chairman, would it make sense to submit this document that we've been showing you all day? And I'd be glad to do that.

CHAIRMAN STRAIN: Which document?

MR. PRITT: This is the conceptual site plan, the one that's colored in.

CHAIRMAN STRAIN: Well, it may make sense before the day's over. I think you may want to hold off, because that may solve one question, but it still brings up many others, okay? Thank you.

Staff report now.

MS. DESELEM: Good afternoon. For the record, Kay Deselem with Zoning.

You do have several documents that were submitted by staff. There was a supplemental staff report last revised 8/9/10. And along with the other information, you received the original staff report again, as there are several new people on the Planning Commission that were not on at that time. So that way you have all the back-up documentation.

With this and the extensive analysis and discussions you've already had, on Page 2 of the supplemental staff report you can see the original staff recommendation. And we have noted at the bottom of that portion that those stipulations are no longer needed, those issues have been addressed or gone away entirely because of changes to the plan and the master plan and the PUD document.

We did provide to you and you have discussed the Growth Management Plan analysis dated June 30. And staff has summarized the four neighborhood information meetings that have occurred. So you have an idea of what's been discussed to this point. And of course I've been forwarding e-mail messages to you as I get them from the neighbors.

And staff is recommending that this petition be approved with the PUD document as it may be amended, believing that the project as reflected in the memo of June 30th is consistent with the Growth Management Plan.

The original staff report has the findings, both rezone and PUD findings, to support the recommendation of approval.

And if you have any questions, I'd be happy to address them.

We also have, as you know, Corby, David Weeks, John Podz, Robert Wiley and Summer Araque here as staff members, and of course Ray can jump in if need be.

CHAIRMAN STRAIN: And Nick, too, I would hope, right?

MS. DESELEM: If he's here. Oh, yes, he is here. Yes, Nick.

Anybody else can just --

CHAIRMAN STRAIN: He has to be noticed, so I just want to make sure he's noticed.

Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: Kay, who will be reviewing the SDP to see if this makes a traditional neighborhood or follows the Community Character Plan?

MS. DESELEM: I have no idea. It would be assigned when it comes in based on what staff we may have at that time.

COMMISSIONER STRAIN: Does that give you a warm and fuzzy?

MS. DESELEM: I'm sorry, I mean we don't know. It will be assigned when it comes in. I have no idea.

COMMISSIONER SCHIFFER: Well, I mean, who are the potential people? There's not that many, obviously. So it shouldn't be hard -- I mean, Jamie French isn't going to do it, is he?

MR. BELLOWS: For the record, Ray Bellows, I'm the Zoning Section Manager.

We are in the process of hiring a replacement for Ashley Caserta, who would have been one of those reviewing site development plans. We still have Mike Sawyer. And I still will be able to assign SDP's to the principal planners such as Kay as the case and workload warrants.

COMMISSIONER SCHIFFER: But the background in planning and all that will be there, Ray? That will be

--

MR. BELLOWS: We coordinate between the zoning staff and the staff that review the site development plans.

MS. DESELEM: Ray and I as well as the County Attorney's Office and any of the other people that I mentioned would be readily available and willing to help if there are questions come up.

COMMISSIONER SCHIFFER: All right.

CHAIRMAN STRAIN: Any other questions of staff?

(No response.)

CHAIRMAN STRAIN: Did anybody from housing happen to come today?

MS. DESELEM: No, they did not. And I didn't invite them because I didn't know that it would be an issue.

We can request Frank Ramsey come if you have questions that would best be addressed by Frank Ramsey, who is the Housing Manager.

CHAIRMAN STRAIN: Okay. What studies did we utilize to understand the need for the affordable housing on this project?

MS. DESELEM: I don't know. I don't know that there was a study done. If it was, it was probably done at the time of the Growth Management Plan amendment. David Weeks may know.

And at that time we had different housing people on staff than we do now. I think Cormac Giblin might have been the staff person at that time.

MR. GOLDMEIER: Can I answer that, please, Mr. Strain?

CHAIRMAN STRAIN: Well, you can certainly try.

MR. GOLDMEIER: None. Because it came from the dais spontaneously as a condition for our approval.

CHAIRMAN STRAIN: And what year was that approximately; do you know?

MR. GOLDMEIER: 2004?

MR. PRITT: I believe it was June of 2005.

MS. DESELEM: I believe 2005.

CHAIRMAN STRAIN: Okay, thank you.

David Weeks, if you could for a moment.

David, in 2005 when the demand was made to include affordable housing in this project, what studies had the county done to understand the locational criteria of all the affordable housing in Collier County?

Or was there a study that you know was relied upon when this demand was made?

MR. WEEKS: None to my knowledge. Would substantiate what Mr. Goldmeier stated and that was that it was never part of the applicant's petition to have an affordable housing component. The board of County Commissioners at the adoption hearing raised that issue and asked for those units to be included.

CHAIRMAN STRAIN: Okay. So without a reliable study, we just demanded affordable housing.

And the reason that's important is because we have a policy in our Housing Element that says the county shall seek to distribute affordable workforce housing equitably throughout the county.

There also is a Florida Statute, 163.3177.6.F.1.G that says that counties will avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

Now, the intention of the statute seems to imply that we're supposed to at least know where the concentration of affordable housing is and would try to avoid those concentrations. But yet I find we had no evidence to support a demand of affordable housing because, as acknowledged, there was no study to tell us if there was a concentration here or a mile away or 20 miles away or anything of that nature.

MR. WEEKS: Well, specific to this petition, to the petition to establish the subdistrict where this property lies, there was no study. I believe that the county had done some type of affordable housing study.

CHAIRMAN STRAIN: Well, I agree with you. Yeah, our EAR is based on a knowledge of a certain quantity of units. And we just got done discussing that last week.

But that doesn't seem -- by having an overall quantity knowledge does not seem to address the stipulation that we will try to distribute equitably throughout the county. And therein lies my concern with the requirement that this is a -- for the affordable housing. It seems to be there's an inconsistency internally between the requirement that this project has had put on it versus the Housing Element 1.4 to more or less show that we've distributed as equitably as we can see. So -- and that's kind of where I'm going with the affordable housing issue, so --

MR. WEEKS: I would submit to you, Commissioners, that the housing policy that you've referenced uses broad terms. Equitably distributed means what? Does it mean by Commission district, does it mean by planning community? What geography are we relying upon to say that the housing has been distributed equitably?

I can tell you one specific instance, probably 10 years or more ago in the North Naples area, on the west side of Airport Pulling Road. And a rezone petition was submitted for an affordable housing project which was adjacent to an existing affordable housing project. And that petition was either denied or there was such opposition that it was withdrawn.

The stated concern was that very policy that you made reference to, that this was not an equitable distribution. These affordable housing projects should not be clustered, they should be spread out.

But exactly what do we mean by equitable distribution? It's not a defined -- once again, it's a term that's not defined. It's up to the discretion ultimately of this body and the County Commissioners in considering petitions that propose affordable housing.

CHAIRMAN STRAIN: And I would think that our GMP relies upon its creation or part of its intention just on the basis of Florida Statute.

MR. WEEKS: Certainly.

CHAIRMAN STRAIN: And the statute is more specific than our GMP. It says avoid the concentration of affordable housing units only in specific areas of the jurisdiction.

Lacking proof that we've done that, I'm just wondering how we can make a demand that we have. And that's just a statement.

MR. WEEKS: Sure. And I'll -- rather than comment further --

CHAIRMAN STRAIN: You're not going to get the last word, so --

MR. WEEKS: I would specifically note that the requirement for affordable housing, whether it is desirable or undesirable, is there. The County Commission put that in the subdistrict. And if you want to say it this way, we're stuck with it. Unless and until it gets removed, it is a requirement for this site.

CHAIRMAN STRAIN: But the requirement also has to have valid reasons for it to be there. And I believe that the reasoning that was established was not proven. So that's where I'm coming from. But thank you.

Any other questions of county staff?

Ms. Caron?

COMMISSIONER CARON: This would be for Nick. It's my understanding that staff or someone in the county is undertaking an analysis of all of the county and where our affordable housing is, where it's been approved, where -- is that --

MR. CASALANGUIDA: Commissioner, that's correct. The Board approved staff to go forward and look at a one-year analysis of not only approved units that are by contract deemed affordable housing but those that meet the market rate as well throughout the county. It's going to be a snapshot in time. But at least we'll do that, and that's supposed to come up this year.

COMMISSIONER CARON: All right. My follow-up then is do you know when this year?

MR. CASALANGUIDA: Within the year. I should say within the 12-month period. They've commissioned to do it as part of that report to come back to the Board. And we're supposed to do the first query through the Property Appraiser and then we'll have a better feel for how long it will take us.

COMMISSIONER CARON: Okay, thank you.

MR. CASALANGUIDA: You're welcome.

CHAIRMAN STRAIN: Anybody have any questions?

Mr. Schiffer?

COMMISSIONER SCHIFFER: Just a comment on affordable housing.

I agree with the speech Barry gave. I mean, these are workforce housing, these are doctors -- I mean, not doctors, these are nurses and policemen and young professionals and people starting out. I mean, this is something I think he's right, they're going to be small one-bedroom. This isn't families with thousands of kids running around. These are, you know, units that no one's ever really built. I know back then it may have sounded trendy, but, you know, the concept of building units on top of commercial was something we wanted to try, was something we wanted to do, and we haven't. So this project, whether it was a knee-jerk reaction, has it and I think we should pursue it.

CHAIRMAN STRAIN: Any other questions of staff?

(No response.)

CHAIRMAN STRAIN: Okay, thank you, Kay.

Ray, we'll start the public speakers.

COMMISSIONER SCHIFFER: Wait a minute. I'm sorry, let me get the bus stop situation.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: Okay, Commissioner Schiffer, John Podczerwinsky, Transportation Planning, for the record.

I did go downstairs and grab a nice clean map for us. This is our most current version of the bus route map. And as you can see, County Barn is shown on here. And it shows a yellow route and a blue route.

The blue route is the Immokalee circulator that comes down to the government center. And the yellow route, I think it was referred to as the Pine Ridge Medical Center? I'll take a look. Apologies, Physicians Regional Medical Center circulator.

So both routes go past that. And no, there are not currently any stops at that location. I did check with Ms. Michele Arnold, who is our ATM Director, when she was here a little bit ago. She would not be opposed to having a stop located at this location, although they haven't requested one in the PUD.

COMMISSIONER SCHIFFER: Okay. But I've never heard you request one. So it would be your recommendation that maybe we bring the bus into this location, put something close to that ice cream parlor and let it go back out, or --

MR. PODCZERWINSKY: To bring it inside the site I think probably opens up some issues with the right-of-way easements that we haven't addressed yet. But to have a stop at this location in the public right-of-way is -- we don't have any opposition to it.

COMMISSIONER SCHIFFER: And that's something you would do on your own anyway without any support from this developer?

MR. PODCZERWINSKY: I can't speak to that. Whether or not it would be brought into a capital program in the future, I don't know. And I don't have an answer for that one yet. I would defer to Ms. Arnold for that. And here she is.

(Speaker was duly sworn.)

MS. ARNOLD: For the record, Michele Arnold, Collier Area Transit Director, or Alternative Transportation Mode Director.

We don't have a route that's currently on that roadway. The question was posed to me whether or not in the future we had a route, whether a stop within that vicinity would be warranted. And there are several attractors along that roadway. If in the future we do have a route that runs along County Barn Road, we would be preferably stopping in the right-of-way or in a turn-off area where it's safe for pedestrians to load and unload the bus, but not to go inside a particular development.

COMMISSIONER SCHIFFER: Okay, thanks. I'm done with that.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Well, I was just going to say, I may not be correct, but did we not approve some sort of bus stop with the approvals at Santa Barbara? Am I just -- sometimes I make these things up.

CHAIRMAN STRAIN: No, I just don't remember.

COMMISSIONER MURRAY: Sounds good.

COMMISSIONER CARON: Because as I recall, that's a mixed use development as well. And for some reason I thought that, and it certainly seems a more logical place as well.

CHAIRMAN STRAIN: I don't recall. I know the project but I don't remember what we did on the bus issue.

MS. ARNOLD: Is that Santa Barbara and County Barn Road?

CHAIRMAN STRAIN: Santa Barbara and Davis.

MS. ARNOLD: Santa Barbara and Davis.

We don't have anything that I'm aware of that was approved with that particular project. But we currently run along Davis Boulevard, so -- and we probably are stopping within that close vicinity to that particular shopping center.

CHAIRMAN STRAIN: Thank you.

Anybody else have any questions of county staff before we go to public hearing? Actually, we're in the public hearing, before we go to public speakers.

MR. BELLOWS: Mr. Strain, Corby Schmidt has something he would like to add to the record before we go to public.

CHAIRMAN STRAIN: He's just carrying on David's flag here or what?

MR. SCHMIDT: Just wanted to make sure that it got mentioned and was included in the record.

Part of staff's recommendation had to do with the developer commitments, item 4-B. I believe that's on Pages 14 and 15 of 18 of your documents.

And staff highlighted a concern that the language may not provide the certainty necessary with the use of phrases like enter into an agreement and this agreement shall be due prior to the issuance of the first building permit, so that it clearly indicates the approval and completion of such an agreement will be required in order to be issued the first building permit.

And we suggest in our staff report that you may wish to modify that language to provide that clarity.

CHAIRMAN STRAIN: Okay. So noted, Corby. We'll certainly discuss it during stipulations.

MR. SCHMIDT: Second item, and last one for me as well, just a reminder, we have yet to address the additional buffering where parking lots are nearly adjacent to rights-of-way.

CHAIRMAN STRAIN: We'll get to that too.

MR. SCHMIDT: Thank you.

CHAIRMAN STRAIN: Guaranteed.

Okay, Ray, now, public speakers. First of all, if you weren't sworn in earlier, please let us know before you speak so the court reporter can do that.

We ask that you try to limit your discussion to three minutes. We have speaker slips, but we're a little more informal. When everybody gets done who's on the speaker slips, I'll ask if there's anybody else that wants to speak.

And sometimes the best way to approach discussion is by simply saying you agree with the previous speaker rather than be redundant.

So with all that in mind, we'll move forward. And as the speakers are called we ask that you come to one of the microphones and state your name for the record and then we'll hear what you've got to say.

Ray?

MR. BELLOWS: Wolfgang Schultz?

(No response.)

MR. BELLOWS: Evan Steingart?

MR. STEINGART: Good afternoon. My name is Evan Steingart and I represent the home owners of Napoli, Falling Waters, Glen Eagle and Countryside. They have asked me to represent them in this matter.

As a matter of fact, we have reached out to the developer, to Barry, and have met with him. And one of the biggest issues that we have is that we just could not come to agreement on anything. We get a lot of could be's, might be's, can be's, but we don't get any sort of matching to our needs, which basically our needs are that we don't want a retail component. We think it's not needed.

And we also feel that that affordable housing component, why is it that East Naples has all the affordable housing? There are more than 4,000 unused housing credits, the majority of those being in East Naples. So we feel that we're unfairly saddled with that.

We feel that the density of this project is way, way too high. If you take Napoli, which is across the street, this project has almost two-and-a-half times more density than Napoli does. And we feel it's out of character with the rest of the community. We have a very low density amenity-rich community in those neighborhoods of Napoli and Falling Waters and Countryside and Glen Eagle.

And, you know, on the site plan, I mean, we don't see a swimming pool, although he says that there will be. We don't feel that there are a lot of amenities there. And we also feel that at 700 square feet it's -- the condo units in there are far, far smaller than the smallest unit in any of the other communities. So we feel that this development is out of context with the surrounding community. It just doesn't fit.

Another thing I wanted to add is that, you know, this seems to be a very 2005 plan that may have worked in 2005. But he's bringing us this plan for 2010 and it doesn't seem very relevant. And if I'm a banker and I'm going to loan these guys money and I see this 35,000 square feet of retail, which absolutely makes no sense, it's not visible, it's not compelling to put a retail store in there, it's very difficult to access, and 700 square foot condos, and what I personally think is a pretty run-of-the-mill development, there's just nothing compelling to make me want to build this or to make me want to lend money to it.

So that's my personal thought on that.

One other thing I did want to mention, actually two other things and then I'll step down. The timing of this was not in our best interests. Over half of our people are gone up north. It's before a holiday, a lot of people have gone away. And also, the session itself was very long; we lost a few people. So a lot of people wanted to be here couldn't be here.

And then the other thing is, as far as, you know, I just know there's a group of people that are working very hard to make East Naples a better place, a more upscale place, safer, more inviting. And I think by approving this project as it is, I don't think it works in their favor. I think it's just another affordable housing project at a very prominent location, and it does nothing to enhance the community. And that's why the community is not really rallying behind this project.

The other thing with the retail stores, if you put a grocery store in there, think of the traffic that you're going to create at that intersection. It's -- I'm not sure what the plan is for County Barn, but I understood that it was not in the five-year plan for any kind of widening.

So County Barn, the way it is, just cannot support any more traffic. It's a very dangerous road. And if you put a grocery store in there, I hate to think what might happen.

That's really all I have to say. And thank you very much for your time.

CHAIRMAN STRAIN: There is one point I'd like to make, and that is we have to live by the rules that are handed to us. In some cases there's certain levels we can be flexible with, like the Land Development Code. It's harder with the GMP.

When this went through as a GMP amendment -- GMPA amendment, there were certain demands made of the project, commercial, retail, affordable housing. Some of those may be in conflict with other elements of the GMP, some may not, some may be in question. But for those that aren't, our hands are tied.

And I just want you to know that, because some components we may not have a choice with.

MR. STEINGART: I realize that. It's a very difficult situation. And again, that's why I do give Barry credit for meeting with us and trying to find some common ground. But we're just so far apart on these type of things.

And so we really put our faith in you people to, you know, make sure that any development that goes on that corner is in the best interest of the community. And based on what we have seen so far, we don't feel that way. So, you know, we're putting the onus on you guys to help us with that.

CHAIRMAN STRAIN: Thank you. Appreciate your time.

Next speaker, Ray?

MR. BELLOWS: Bob Martel.

MR. MARTEL: My name is Bob Martel. I'm president of Glen Eagle Golf and Country Club. And I'm going to listen to what Mr. Strain said, I'm not going to be repetitive and repeat what Evan has already gone through. I'll just make a couple of comments. I agree with everything he said. Some of them are on my hit list right here.

One, Barry did meet with us; however, he did volunteer some information that probably if this development got rezoned and approved he probably would sell it to another developer. He did say that.

I'm concerned about the traffic increase.

I'm also very concerned about how helpless we feel when we watch the iterations of this development go from 50 to 60 single-family homes to 80 with retail space of upwards of 60,000 feet to over close to 300 units, now back to 234. It's a very dense community at a very busy corner. County Barn Road had a couple fatalities last year right in that vicinity, by the way, and that's a fact.

I am very concerned. We feel helpless, especially when we hear the Planning Commission tell us that they can't do anything. And that's a very helpless feeling.

Thank you for listening.

CHAIRMAN STRAIN: I'd just like to comment. We can't do everything, but we can try to make things as good as possible. And we will do that.

MR. BELLOWS: Don Festa?

(No response.)

MR. BELLOWS: Julie Olinski?

(No response.)

MR. BELLOWS: Barbara Walters?

CHAIRMAN STRAIN: Are you the real Barbara Walters?

MS. WALTERS: I wish I was. I wouldn't have to worry about where I was living, et cetera.

I totally agree with what Evan has said, and also Bob. But I just -- and I'll make it brief. I moved down here permanently three years ago, and I love Naples and I love Glen Eagle. And I am active. I am one of the directors on Glen Eagle's master board and I'm also president of the Chatham Square One Condominium Association.

Everything they said I totally agree with. I am not against affordable housing. My children at one point in their lives could have fallen into that situation, be it a teacher, be it a fireman. We know how difficult it is here to afford to live here in Naples. And I'm fortunate -- I feel fortunate that I'm able to be here.

But I have strong opposition to the downzoning of this property as it stands. I can understand that he's got a

right to build. I just feel that 234 units and 35,000 square feet of stores, commercial stores on 22.8 acres is quite a density issue.

In my opinion there is no need at this time for further development in an already disastrous housing and commercial market. We have many stores that are empty already on Davis, which stretches to all of the empty stores, including the ones at the Wal-Mart complex and a complete leveling of trees at Santa Barbara where there was supposed to be something going in but right now nothing is going in. And to think that a property could be leveled and then something happen where we don't have building there is a real, real scary thing to think about.

The density is very difficult on County Barn Road. I mean, it concerns us because it is a two-lane road. And we had heard that it's not on the five-year plan. And I know that Mr. Goldmeier stated to us at a meeting that he would -- he plans to widen that road where he is planning to build. And then what happened, it goes in a two-lane road past the planned development. And it doesn't make sense. It's nothing but more accidents, more accidents waiting to happen.

And we've heard all day today about the fact that we might do and we might put and we might have. And there -- it's too many unanswered questions about what is going to happen with this property here. And we think there should be more accountability about that for the Planning Board to really take a serious look at it.

There are many professional units already empty on Davis, if you go by the Sunrise Pharmacy. So the need for all of these stores is -- we don't feel is there. It might have been there in 2005 but -- I'm not against scaling down this project, but 234 units is an awful lot of units to put in that small area of space.

It's the density, the roads and the availability that's in the current home market for people who want to buy homes or condos, which are -- rentals are going for \$500 a month in Osprey Landing, which is right down the road from us.

So that's all. I appreciate the time you've given me. And I just hope that you will realize that we support the Collier County government, however, we hope that you will make decisions that affect us, the people who live here in Naples. Thank you.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: No other registered speakers.

CHAIRMAN STRAIN: Anybody in the audience wish to speak on this issue?

Okay, one at a time. Let the ladies go first. Ma'am, come on up.

MS. CATERA: Hi. My name is Sylvia Catera. Just moved here with my husband from up north. Very similar project to this one was built close to my neighborhood. And it took me usually about 10 minutes to get to work, which increased to about 45 minutes once the project was complete. It was an absolute nightmare.

I think that considering the congestion and also the environmental factors that pollution, extra cars may cause, I think you should really consider. And I do agree with everybody else that has spoken here. Thank you.

CHAIRMAN STRAIN: Thank you, ma'am.

Yes, sir. That's the last lady that stood up, so it's your turn.

MR. CHRISTELER: My name is Jean-Claude Christeler. I bought a condominium here in Naples, in specifically Napoli six years ago. I enjoy very much to be here and I appreciate all the effort you are putting in doing the due diligence for this project.

I would like to say that the absence of the crisp definition of the project, the high level of density and the commercial nature of this project, which doesn't seem to be very valuable is a concern to me. And I certainly concur with the other speaker, that is something this commission needs to consider very seriously as not enhancing the community.

Thank you very much for your time.

CHAIRMAN STRAIN: Thank you, sir.

Okay, I believe that's our last public speaker, Ray?

With that, Mr. Pritt, I know you may want -- did you want a rebuttal?

MR. PRITT: Yes, just a few minutes.

CHAIRMAN STRAIN: That's why I'm asking. I have to give Cherie' a break. I can do it now or I can do it -- you want a few moments and then we'll come back to you after we come back from break? Okay.

So let's take a 15-minute break and be back here at 2:25 for a rebuttal and then discussion by the board.

(A recess was taken.)

CHAIRMAN STRAIN: Okay, welcome back from the break. We're going to resume the meeting. We left off with the, I guess, closing comments or rebuttal, however Mr. Pritt would like to qualify it as.

It's yours, sir.

MR. PRITT: I'll give you bad news and good news. I do want to have just a couple of minutes at most and have Mr. Polak come back on one issue. And the good news -- well, that's actually probably the good news. The better news is that I'll probably be waiving any closing comments unless you have any questions for me. I think you've heard enough today, you've kind of boxed the issue.

So Mr. Polak, would you come back for one second, couple seconds?

CHAIRMAN STRAIN: I will have -- when we finish, I have one question of you before we get to deliberations.

MR. POLAK: I just wanted to go back and discuss. Before we broke for lunch, maybe well before we broke for lunch, we had discussed about the issue, about the buffering that we have along County Barn and Davis Boulevard.

And one of the things I wanted to try to point out there, and I think Robert is here and he can hopefully confirm it, is that along County Barn Road there's actually a series of setbacks there.

There's a drainage easement as well as a landscape buffer. And I believe the graphic that Robert's showing is ultimately showing the completed intersection for County Barn Road there.

So in effect from the sidewalk to our parking lot is close to 60 feet. So there is a bit more buffer there than maybe everyone was seeing, based on what was written, perhaps in the documents.

And subsequently, the same case can be made along Davis Boulevard where we, you know, on one hand we've agreed to pull back the building and subsequent to that, most likely the parking would get pulled back along with that.

And I believe that, you know, our intent was at least is that we wanted to be able to screen those roads. We felt that putting the buildings on the corner of County Barn and Davis did a disservice to the overall intent of the plan and I believe the intent of traditional neighborhood design elements.

Our intent was that making a pedestrian friendly community is we want people to walk on the street, on the sidewalk. We don't want them -- we only want them walking through a parking lot when they get out of their car. We don't want them walking through a parking lot so they can go to Barry's ice cream stand that he'll be opening up there.

So that was why we did it that way. And our intent was to create a buffer there with landscaping, with berming, you know, with placing -- you know, with placing it far away from the County Barn intersection.

But we really do see that that retail or that -- I don't want to say retail component, but that commercial component, whether it's retail or it's live/work or it's small businesses and offices there really are part of that neighborhood that we're trying to create, and not really trying to focus that attention along the intersection of County Barn and Davis Boulevard. Which if you look at the aerial, there's really not anything to really anchor that type of retail use or even commercial use for that matter.

So we would ask that you consider that the idea of creating more buffering techniques, whether it's through landscaping or berming or other devices that we work out with staff, really take strong consideration to that. Thank you.

CHAIRMAN STRAIN: Okay, thank you.

Mr. Murray?

COMMISSIONER MURRAY: I would like John Podczerwinsky, if he'd come forward, I'd appreciate it. I need to ask him a question.

Thank you, John.

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER MURRAY: If you know, a typical 20,000-square foot grocery or that type of store, what is the number of vehicles that generally service that?

I ask you because of your knowledge of transportation.

MR. PODCZERWINSKY: I would have to take a second look at it in our ITE books. As a standalone store, I'm not really sure.

COMMISSIONER MURRAY: Well, that's my point, I'm trying to ascertain -- even a general answer. We're

talking about 374 units, 47 of which plus, plus, plus represent commercial; therefore we reduce that number of residential. If we had all residential, it would be 538 people, based on 2.3.

Is that enough to capture 20,000 square foot? Is that going to sustain a 20,000 square foot store that has no capture rate?

MR. PODCZERWINSKY: Again, I don't have a good answer for that. What I did -- what we did look at for the 20,000 square foot comparison was the 20,000 square feet of supermarket replacing 20,000 square feet of shopping center. It's got a slightly higher trip generator for the use.

COMMISSIONER MURRAY: Did you come up with a number associated with that?

MR. PODCZERWINSKY: Yeah, it's roughly 10 additional trips external -- on the external roadway network for a grocery store versus just general shopping center square footage, when it's more specific to a shopping center --

COMMISSIONER MURRAY: Okay. But it would help me in terms of the gross number that I'm looking for.

MR. PODCZERWINSKY: Unfortunately we didn't go that deep in the analysis.

COMMISSIONER MURRAY: Well, I didn't -- you know, just in the off-hand chance you did, that's why I'm asking.

I'm just having a struggle to think that an internal residential location can draw enough to support that and sustain it is just -- okay, thank you.

MR. PODCZERWINSKY: I can clarify also that the internal capture rate wasn't adjusted when we allowed the analysis of the shopping center use versus the supermarket use. There's an internal capture rate that's inherent to any kind of mixed use development.

And in this case, and I did check on this this morning, it's a 15 percent internal capture rate, just kind of an across-the-board cut that was approved through our analysis.

COMMISSIONER MURRAY: Okay. I apologize, but maybe you could help me in my ignorance. When we talk about a capture rate for an internal -- this is essentially a compound. Fifteen percent of the totality are going to use it, or that's 15 percent --

MR. PODCZERWINSKY: The 15 percent is the outcome of a calculation that is provided by ITE that tells you when you have so many units of square footage for shopping center versus so many units for housing units. And also office units are included in that by square footage.

There's a certain calculation between the three different uses, and it's sort of a triangle sort of a diagram that we have that we use.

We always use the lowest percentage of internal capture that is allowed between those three uses, and then we deduct that from the overall trip generation. You'll notice that in some of the traffic studies that we have out there where it shows anywhere from usually like a three percent to a 15 percent internal capture reduction. And what that does is takes trips right off the bottom line.

So if a normal project with a strict trip generation without any reductions may produce let's say a hypothetical 100 trips, okay, if they have a 15 percent reduction they're going to have 85 net external trips. And that assumes that 15 of those trips travel between the uses, maybe office to shopping center for -- at the end of the day somebody leaves to go shopping, or maybe from shopping center to the residential where they go home from their shopping trip at the end of the day, but it's all within the same --

COMMISSIONER MURRAY: Curiosity here is this a walkable community, so --

MR. PODCZERWINSKY: And that's what that's meant to represent as well. So not just driven trips within the site but also internal capture --

COMMISSIONER MURRAY: Any trips is what you're telling me there.

MR. PODCZERWINSKY: Yes.

COMMISSIONER MURRAY: Oh, well, that helps to know that.

MR. PODCZERWINSKY: Trips that are reduced from the external impact of the project, if that helps to make sense.

COMMISSIONER MURRAY: Okay, if I hear you correctly then what I now think you're saying to me, and I'm truly not clear, that means that 15 percent of the households that are there will not have to go out? Okay.

MR. PODCZERWINSKY: That is correct, yes. That's the intention of the internal capture reduction.

COMMISSIONER MURRAY: So by the reverse, of course, would be those theoretically that would be

captured.

MR. PODCZERWINSKY: Correct.

COMMISSIONER MURRAY: That still leaves us with a significant question of with that fewer number of households can that sustain a 20,000-foot operation.

I don't ask you to answer that. Thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Not for you, John. I wanted to ask Kay: Many of the speakers who got up to speak brought up the issue of density. And I'd like you to tell everybody for the record what densities are like in the surrounding area for areas like Napoli and Falling Waters and Glen Eagle and Countryside and whatever else is in that

--

MS. DESELEM: Yes, ma'am. For the record, Kay Deselem, Zoning.

Ray and I did a quick calculation based on the PUD list that's currently published on the county website. And we found that for Glen Eagle, which is part of the Bretonne PUD, the density for that overall project is 4.14 units per acre. For Falling Waters it is 5.07. And for Countryside, which is part of the overall Berkshire Lakes PUD, it's listed as 3.99 units per acre.

For the Napoli project, based on the zoning map that was in the application packet, that tract is zoned RMF-6(4), the four meaning that it can't be developed at a density greater than four units per acre. I don't know exactly what density it might be built to, but it can't be more than four, according to the zoning.

COMMISSIONER CARON: Thank you.

CHAIRMAN STRAIN: Okay, I would like to ask then David Weeks as a follow-up question to what Kay just discussed. And no, it's not about something Corby analyzed, it's something that -- poor David, he gets picked on every time he's here.

David, you know that in the GMP for this project it says a minimum amount of units they must supply is 91 residential. Is there any requirement that they be given any more than that? Meaning are they -- do they have a right to more density, or is that at the discretion of the various boards?

MR. WEEKS: That's at the discretion of the various boards.

CHAIRMAN STRAIN: Okay, thank you.

Mr. Pritt? The next step for us would be to close the public hearing and have discussion and then a motion and then any discussion on the motion.

Before I do, I just want to mention to you that I think this project could have done much better in producing a marketable product for us to consider to prove the compatibility issues that are required by not only our LDC and our GMP but also by statute. Compatibility is referenced in all levels of documents.

It would have been better if we understood more, at least for me personally, how all the compatibility issues really fit. The conceptual plan you showed was a big help. The orientation of the buildings versus how we got to where they are in language in the GMP would have helped to better understand some of those issues.

Having the tract lines, having the amenities shown, all those would have really helped to understand the quality of product you wanted to put in and its compatibility with others in the neighborhood.

And I wanted to make that statement to you because I am uncomfortable with the project with the information we've been given to date.

With that, if you have anything you want to say before we close, go right ahead. But I wanted to be fair and state that to you up-front.

MR. PRITT: I appreciate that. Your constructive criticism --

CHAIRMAN STRAIN: Get closer to the mic, if you could.

MR. PRITT: Your constructive criticism is accepted, and we'd like to go ahead and move forward.

I have nothing further in closing to say, as I indicated.

CHAIRMAN STRAIN: Okay, thank you.

With that, we'll close the public hearing and we'll entertain discussion.

Ms. Caron?

COMMISSIONER CARON: No, I was just going to offer Mr. Pritt the chance to take you up on your offer of further delineating some of these things and coming back.

CHAIRMAN STRAIN: Well, and that's always open, Mr. Pritt. If that's something you feel you want to

come back and clean up the two -- maybe 19 or 20 items that we have on our list, you're more than welcome to and -- or it's up to you.

MR. PRITT: Well, it's my understanding that this may be a time for us to enter into those stipulations. They're hot on everybody's mind right now. And we do not want to have to come back and do another -- do a resubmission.

I understand you have a process that if we can work things out that we'd come back on consent, and I'd like to at least ask that you consider that and that we see if we can do that.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER MURRAY: Mark?

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I just remembered and realized that we never did go back to those SIC Code issues. And you had indicated that we would be doing that. Do you want to close the public hearing first and then have that as part of the discussion, or do you want to go through that?

CHAIRMAN STRAIN: I thought we went -- I mean, I thought --

COMMISSIONER MURRAY: You went through the five with the Roman numerals --

CHAIRMAN STRAIN: And they agreed they would all go back to conditional uses on those.

COMMISSIONER MURRAY: Yeah, but they weren't the only ones that might have been qualifiable. There was a whole series of those.

CHAIRMAN STRAIN: No, the only five that weren't part of a standard C-1, 2 or 3 zoning based on the time of the approval of that subdistrict was the added ones on that were conditional uses. And the issue of conditional uses versus permitted uses was the one we discussed with David.

And then Mr. Goldmeier said that he would accept conditional uses on all of them except for one that needed some clarification involving the right to put in charter schools or schools similar in nature that Seagate may benefit from -- or Seacrest, I'm sorry.

That to me is how it was left. I thought it was clear enough to go into a stipulation on, Bob. But if there are other issues and you want to bring them back up, that's fine. Now is the time to do it.

COMMISSIONER MURRAY: Well, the question that I had was this, simply. The general categories were expressed, followed by the parentheticals and the numbers that ran through the SIC Code, which sometimes could be 20 or 30 items. And I would have far preferred that they be handled at a much earlier stage.

But if you're comfortable that everything that's in there that they can try, that's fine too, if we're going to approve this thing. It's questionable as to whether it will survive on that basis, that's all.

CHAIRMAN STRAIN: Well, part of my thoughts was this project is so limited in the amount of commercial space it has, it's not going to be able to have a big box under any circumstances. Any particular use by the GMP is limited to 15,000 square feet, except for grocery, which is 20,000.

So with those kind of limitations, I wasn't too concerned about the uses getting out of hand that they had put in their table.

COMMISSIONER MURRAY: And interestingly, it was just the reverse that concerned me, because as they would struggle to try to survive, they may be putting in things that would be not highly beneficial to the community, further exacerbating the problem. But that's okay, we're good.

CHAIRMAN STRAIN: Okay. With that, we will -- Kay, do you have something you popped up?

Oh, Mr. Pritt's -- okay, we'll get you both before we go further.

Go ahead, sir.

MR. PRITT: Before it escapes my mind. I think there were two items that Mr. -- on the list there that we discussed this morning. There are two items that Mr. Goldmeier expressed a concern about.

One -- and forget about where it is on an SIC Code for a second. But one, he would like to be able to have a tutoring service because of being so close to the school, and probably because of the likelihood that there might be teachers living in that area. So that would be one.

And the other was to make sure that we're not eliminating the community center for the residents. I think that that was generally agreed to, but I wanted to make sure that it was covered.

CHAIRMAN STRAIN: Well, the community center issue I offered up as a -- covered under the accessory uses B-4, where it lists recreation uses and facilities including swimming pools. And it lists an entire paragraph of

uses that would benefit the community. And they would be accessory to the community. So that would take it away as a principal use and make it an accessory to the residents, which I thought was the direction you wanted to go. Which then would eliminate the need for that amusement and recreation category that can get kind of confusing with 60 or more --

MR. PRITT: Mr. Goldmeier is saying fine.

CHAIRMAN STRAIN: Okay, thank you.

Kay?

MS. DESELEM: On that same issue, three things that I forgot to mention when I spoke earlier, that right now is the PUD document table is set up, there is a PDR list of -- property development regulations list within the residential portion for the clubhouse and recreational uses, but it hasn't been carried over to the mixed use portion.

So if in fact it's the intent to have it there, that needs to be either moved there or added there in addition to where it is now, if they want the option to put it both places.

CHAIRMAN STRAIN: Good point, Kay. Thank you.

MS. DESELEM: The other thing I noted --

MR. PRITT: We have no problem with that.

CHAIRMAN STRAIN: As soon as she finishes.

MS. DESELEM: The other thing I noted is you went and put the three-story limitation within the residential portion, but I didn't hear reference to adding it into the mixed use portion. And I didn't know if that was your intention or not, but I thought I'd mention that. The other thing --

MR. PRITT: We agree to that.

MS. DESELEM: I have an echo.

The other thing I noticed was that in the table when it was taken from the C-1, C-2 and C-3 uses, there was one limitation that was somehow left out. In the table it's footnote 22, and I believe it references to no uses can occupy more than 5,000 square feet of space or something to that effect. And I would recommend that that footnote be added into the mixed use portion so that the project list of uses is then consistent with the C-1, 2, and 3 uses listed in the table of that ordinance 2005-25 or whatever's referenced.

CHAIRMAN STRAIN: Okay. Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah, let me just work back.

But isn't that a conflict with the -- it says no single commercial use in the commercial component shall exceed 15,000 feet in the GMP, so --

CHAIRMAN STRAIN: Her reference wasn't for all the uses, only for certain specific ones, if I'm not mistaken, right?

MS. DESELEM: I don't understand the question. Which --

COMMISSIONER SCHIFFER: Well, and maybe I don't understand it, but the -- I mean, they're allowed -- the single uses are allowed to be 15,000 feet in the GMP subdistrict. And you were saying the 5,000 comes from --

MS. DESELEM: That is in the list of uses referenced in the ordinance that says C-1 through C-3 uses in effect at the time that that subdistrict was adopted. There's a further limitation that some of them can't be more than 5,000 square feet. And it's only -- the only use that has that limitation is the one listed as miscellaneous retail.

CHAIRMAN STRAIN: Right. So what she's saying is if he wanted to do something that qualifies as miscellaneous retail, not one of the retail uses listed, that miscellaneous retail would be limited to 5,000 square feet, not the rest of it.

MS. DESELEM: The 15,000 would apply to everything else as listed, but there's an additional limitation to 5,000 for some of them.

COMMISSIONER SCHIFFER: Okay. And then the other question is the clubhouse thing. Since in the commercial they are allowed to have that as a use in one of the buildings, why would they need to add as if they were going to do a standalone clubhouse building, or --

MS. DESELEM: I wasn't certain exactly what he proposed. It sounded like to me, and I don't wish to put words in his mouth, but it sounded like to me that it might be a standalone building. Because he did mention he didn't put it on the site plan. So that leads me to believe it's going to be a separate building.

MR. GOLDMEIER: We would like the option to put in more amenities instead of fewer amenities, so we'd like the option to do either/or or both.

COMMISSIONER SCHIFFER: Just so long as if he does put it in the main -- in a commercial building, you're not holding him to the requirements of the other building. That's all.

MS. DESELEM: I didn't look at it in accordance with that, but if it's an allowable use listed -- I think we kind of narrowed it down to the fact that it would be an accessory use. It wouldn't be -- which leads me to believe it's going to be more standalone. But I guess as long as it's a permitted use or an accessory allowable use, he can put it wherever he wants to.

COMMISSIONER SCHIFFER: I mean, what you want to do is add clubhouse and recreation buildings into the commercial component.

MS. DESELEM: Right, to be consistent with the accessory use list that he has within that section that allows for those uses. What is it, B-4? I don't have it in front of me.

COMMISSIONER SCHIFFER: My point is I would rather not be building clubhouse buildings in the commercial component, even incorporating in one of his buildings clubhouse uses.

MR. GOLDMEIER: I don't think that's what we intended to. At one time we were toying with having a separate clubhouse in the residential facility and having a community room in the commercial facility. And out of an abundance of caution we just showed -- we didn't show any of it. And we may have a larger community facility in the mixed use portion, because that's where we're planning to move the pool.

MS. DESELEM: I just brought it to your attention so that you could --

MR. GOLDMEIER: We just want the option to do more, not less.

COMMISSIONER SCHIFFER: So you want that then?

MR. GOLDMEIER: We want the ability to do that if that --

COMMISSIONER SCHIFFER: I mean, here we're back to division of this neighborhood plan where you have the clubhouse or the recreation area on the other side. But that's okay.

MR. GOLDMEIER: No, I was looking at that as an accessory clubhouse. For instance, if there's a tot lot built there or something else and you want bathrooms or if you want other facilities to accompany, you know, or just an extra benefit for the residential portion to be able to put something there. And I don't know what else to call it aside from a clubhouse.

MS. DESELEM: Not that I'm taking one side or the other, but it seems as though if he's going to have 47 residential units in the mixed use portion, it's clearly going to be residential units in there as well.

COMMISSIONER SCHIFFER: I mean, you're arguing use, and Kay I think is bring up building regulations, setback distance from buildings and stuff. And I don't think it's a good idea to add that into the commercial, because you could build commercial uses because it's an allowable use and put it in that building.

MR. GOLDMEIER: I don't foresee having a freestanding clubhouse in the mixed use portion. That may be the case for the residential portion as an additional facility.

COMMISSIONER SCHIFFER: And if you did build a freestanding building in the commercial area, you would like to build it under the commercial area requirements, which is why the clubhouse thing might confuse that.

MR. GOLDMEIER: Yes, I agree with you.

MS. DESELEM: That's all I have, thank you.

CHAIRMAN STRAIN: Okay, are there any other questions of anybody?

Mr. Pritt?

MR. PRITT: Yes, Mr. Chairman, Kay made me get away from the microphone.

I just wanted to make sure that we talked about putting out 22 and that you heard from us that it's okay. It's my understanding that the effect of that is to have a 5,000 square foot limitation on the miscellaneous use section -- provision.

CHAIRMAN STRAIN: The effect is simply to make your uses consistent with the document that you agreed to when the GMP was done.

MR. PRITT: I understand that's the legal effect. But the question came up I think earlier today from Mr. Murray as to what's to keep us from having three 5,000's and then another 5,000 and so on. And footnote 22 is what does that. And I checked with Mr. Goldmeier and he said that's okay. Hopefully that will --

CHAIRMAN STRAIN: Thank you, sir.

Now, are there any other questions of anybody before we --

COMMISSIONER HOMIAK: I just have one question.

CHAIRMAN STRAIN: Ms. Homiak?

COMMISSIONER HOMIAK: I've heard -- throughout this day I've heard the word apartment mentioned and rental apartment community. Is that the intent, to have the residential portion of this tract rental? Because the affordable housing has to be owner.

MR. PRITT: As Mr. Goldmeier said, we do not know what the market will be at this point, and so the option may still be open one way or the other. So most likely there'll be a portion of each.

But -- I think that's the answer. Maybe Barry can answer better than it can.

MR. GOLDMEIER: Napoli went from a rental apartment to a condominium back to a rental. We can't --

COMMISSIONER HOMIAK: So is that a yes?

MR. GOLDMEIER: What, there are rental units? There are no rental units in Napoli?

CHAIRMAN STRAIN: Mr. Goldmeier, you can't do that. You work with us. The audience needs to be silent. Thank you.

MR. GOLDMEIER: Yes. We will do whatever we can do, given the climate and financial conditions at the time.

MR. PRITT: I think the question had more to do with the affordable housing units. The concern had to do with that; is that correct?

COMMISSIONER HOMIAK: Well, actually both. I heard rental apartment community. To me that means that all the units are going to be rental units. But the affordable housing units, the workforce and the gap housing in our LDC have to be ownership. That's not rentals.

MR. GOLDMEIER: I don't think so. And we're willing to commit to things that are within our control. What the financing markets are and what the rental or sales market are are not within our control. We can commit to everything else that we can control, but that I can't control.

And I don't believe that the affordable workforce requires it to be either rental or sale. Am I correct?

CHAIRMAN STRAIN: Corby?

COMMISSIONER HOMIAK: Owner occupied only.

MR. SCHMIDT: If the affordable workforce housing units were part of a typical county agreement for them, and part of the county program where bonuses were derived from providing them, they're owner occupied.

In this case it's a different scenario. Those affordable workforce housing units are a part of a requirement of the subdistrict, and there's no requirement that they be owner occupied. They may be rentals.

COMMISSIONER HOMIAK: Where is that in the Land Development Code?

MR. SCHMIDT: It's not that I have a place to point to, it's that there's not language to point to that there's the requirement.

CHAIRMAN STRAIN: Mr. Klatzkow?

MR. KLATZKOW: You know, just for clarity purpose, okay, the market is the market, okay. And they're going to want to make as much a profit as they can. There's more profit in upper end building than there is in lower end building. But there's no reason why this entire thing is not going to be rental and there's no reason why this entire thing is not going to be, let's just call it affordable, all right?

You know, it could be minimum. He's got minimums of 10 percent, 10 percent, all right? But that's not maximum. And, you know, look, my neighborhood's changed. I mean, you know, values have gone down, rentals have gone down. You know, the world sometimes goes up, the world sometimes goes down.

He may not be building this thing for years, all right? This is just to get the zoning in place. He may sit on it, he may develop it tomorrow, he may flip it, I don't know, all right? But, you know, when you approve this, it could be a lot of different things. It could be a condominium development, it could be an apartment house development. It's what the GMP's allowing him to do.

CHAIRMAN STRAIN: Okay. Is that it, Corby?

MR. SCHMIDT: That is.

CHAIRMAN STRAIN: Okay, thank you.

Any other questions of anybody before I close the public hearing?

(No response.)

CHAIRMAN STRAIN: Okay, then we will close the public hearing and we will have discussion.

Does anybody want to start off on discussion?

COMMISSIONER SCHIFFER: Well, I mean --

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Haven't we carried some stipulations, Mark, you want --

CHAIRMAN STRAIN: Twenty-one to be exact. Maybe 20, but 21 --

COMMISSIONER SCHIFFER: Let's walk through those and see where we all stand on that.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MURRAY: I would favor that.

CHAIRMAN STRAIN: Well, there's one that isn't a stipulation but it's a general concern that was brought up, and Mr. Klatzkow pointed it out and it was a really good catch.

This whole debate about the interior parking and all that. What was the intent of the original application? This was not a public application, this was a private application. So when the language was formulated, what was the intent in the public meetings, how did the language get there? Nobody has gone back and looked at the GMPA that got us here or the minutes of the meetings.

So with that being said, I'll walk through the rest of this. But that's the first note I had, and it was based on an earlier discussion this morning. We don't know what the original intent was to either say yea or nay to the idea of what internal to the site means. And that's my first issue on the list that I kept: Is the parking that's shown considered internal to the site or does it need to be augmented by changing the buildings or having buffers and berms to which we would need cross-sections on to see what it is we're buying into.

COMMISSIONER SCHIFFER: Mark, on that point, and this is to Ray.

Ray, if they are going through the architectural standards and there is a requirement on the location of parking, you know, a certain percentage in the front of it and then the back, which would trump -- or would this trump the architectural standards?

Would they be able to say, hey, look, this is the site plan that was approved, we don't have to meet those conditions?

MR. BELLOWS: The PUD master plan is a conceptual plan in nature and it wouldn't lock them in -- it wouldn't supercede the LDC requirements unless it was specifically stated to supercede the architectural standards in some way.

CHAIRMAN STRAIN: Like a deviation?

MR. BELLOWS: Yes.

COMMISSIONER SCHIFFER: And they would seek it as a deviation at this time, right?

MR. BELLOWS: That's correct.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: Okay, the second item was the charter schools, schools and vocational schools element. That needed to have some refined language to get to the intent of the use of that, which would have been a formal conditional use under the other criteria.

The third item was a locational recreational area for the residents. How -- those weren't shown on the master plan. And we typically do see those on master plans.

The fourth item was that the applicant agreed to stipulate 47 units will be utilized minimum in the mixed use category.

There was a discussion that Brad had concerning the road right-of-way setback to the building height on both tables. And the change was to be a minimum of 25 feet or building height.

There was a discussion about the distance between buildings and the reference to the height, and it was discussed to be at least greater than 20 feet. I don't know if we want to take it any further than that.

There was a discussion to add that three-story maximum on both tables, because that was what was put forth in the NIM.

A discussion on the fee simple standards that we were provided with some, a minimum width of 20 feet and the size of the area of 1,200 square feet, which apply to both tables.

We discussed the idea of the issue of not demanding a sound wall in the future when the roads are improved and widened. This project won't come into the county and say they want a sound wall with the widening process.

As Commissioner Schiffer pointed out, would need to show where the tract lines are in order to understand how the development standards fully apply.

We have to change the community -- the commercial table where it references a minimum FAR to a maximum.

We have to reference in that one paragraph where we talked about public right-of-way, it really is streets within the development.

The townhouse as a permitted use needs to be added to the MU component.

The environmental paragraph item six are items that are already sustained in design standards by the permitting agencies. I had suggested a recommendation to drop that.

The next item would be location of the street cuts. I think Brad, you clarified that, so that's not needed on the list.

Donna had made the comment that the break-up of the buildings on the conceptual plan should be shown on the regular plan as a need.

I brought up a concern over the affordable housing requirements, that they're in conflict with both the GMP and the Florida Statutes. It's an internal conflict.

Then there was also discussion about modification of Page 14 to clarify the affordable housing agreement when it goes into effect and how it's completed. And that was made by Corby, I believe.

And Kay had come up at the end and made a couple more comments, the carryover of the recreational standards from the residential, to make sure those are added to the commercial.

Then we were talking about adding a footnote to define the square foot consistent with the table in the referenced ordinance, which is 5,000 maximum for miscellaneous retail.

Those are the notes that I made. And those are what we should discuss as well as anything else.

So now that we have 20 or 21 items, Mr. Murray?

COMMISSIONER MURRAY: Just another question, unfortunately. With regard to the affordable housing units, we never -- I don't think we did discuss the fact or question of whether or not at some point they come off the table. I know that in some instances there is a requirement or there is a time frame and they would no longer be subject to be sold at an affordable -- or rented at an affordable rate. And I'm not sure these are even going to be subject to that. So maybe that needs a little clarity from --

CHAIRMAN STRAIN: Well, first of all, I think the reference you're making is to a project we had that also had affordable housing requirements, and I think was on the corner of Airport and Estey. And in that project the developer came forward and said we just can't sit here with affordable units on the market forever. The market is difficult to sell anything, and affordable's everywhere, can we have a maximum spread of a certain time limit, I think it was six months after CO, in which if they don't sell, then they can revert to market rate.

But that isn't the same discussion that I brought up on 18. My discussion was more to eliminate the requirement entirely of the affordable housing in this document and on this project, because the affordable housing is in conflict internally with both Policy 1.4 of the Housing Element and Florida Statutes that created that element, or at least I think led to the intent of that element.

So I don't know which one you want to discuss, Mr. Murray --

COMMISSIONER MURRAY: I was thinking of Ave Maria, actually. But needless to say, the point is that you made it that I intended. I guess if these are not required then, I think under the GMP, certainly it wouldn't. And I don't think this process here led us to the idea that they were to be marketed at any time particular price point. They would simply be made available for affordable workforce housing.

And especially since they don't have to be in compliance with our current law regarding the other workforce housing, I don't know where we stand with regard to that. That's the question I'm asking. You're answering another question.

CHAIRMAN STRAIN: Well, who are you asking your question of?

COMMISSIONER MURRAY: Anybody that cares to answer me, because I don't know where I should direct it.

CHAIRMAN STRAIN: I'm not sure of the question, but if anybody understood it and wants to answer it, I more than ask you to come up and volunteer.

Mr. Pritt?

MR. PRITT: If I'm allowed -- well, maybe my client could --

COMMISSIONER MURRAY: I could make it more clear if we have to. I don't know if I appreciate that.

MR. PRITT: Sorry?

COMMISSIONER MURRAY: No, that's fine, go ahead.

MR. PRITT: I'm sorry.

COMMISSIONER MURRAY: No, please.

MR. PRITT: As I understand your question, it would have to do with something where you use a best effort -- very similar to the one you did in the Meridian on -- I think on Estey. And frankly, I think that would make a lot of sense.

If -- There's a provision in the law that says you don't have to do a futile act. But that doesn't necessarily get us off the hook from giving it a try and a good faith effort. And I think that's what you did in the other matters. You're requiring them -- there was a requirement that they be -- that they try in good faith to do the marketing, after which at some period of time that may be taken away because it just doesn't work because of the marketplace or whatever our purpose is.

And I think -- I've talked with Mr. Goldmeier a little bit about that. I think that makes sense. But we -- we're not necessarily -- we're not trying to use that in order to get off the hook. It's just that something other than forever being under this requirement, if the requirement just doesn't work, would make sense. And so I think it's a very good question.

COMMISSIONER MURRAY: Thank you for your effort at answering it.

What I was leading to is that we have a law that says that certain conditions must be met with regard to workforce housing. Apparently that law in this particular subdistrict may not apply.

I don't even know, based on my reading of this, whether or not you folks have to work with the housing organization to prequalify anybody to be in those apartments or ownerships. And that was the base question that I was asking, because I think it's very important in that regard.

And I see Corby's there, and I don't -- maybe he can help.

CHAIRMAN STRAIN: There's a whole lot of people there.

COMMISSIONER MURRAY: I guess my provocative question.

MR. SCHMIDT: They've got my back.

The reason staff asked for the stipulation for the agreement, and you see it in three fairly long entries, that we understood that that definition, that specificity wasn't there now. The subdistrict language could be read to mean I must have or I must offer affordable units once or in perpetuity or anywhere in between.

And that's why the agreement is being put off, because we don't have the language here. And the planned unit developed, what you're considering now, does not include that.

COMMISSIONER MURRAY: I guess that's what was frustrating me, because I'm trying to think of how we can go ahead and approve something that we don't even know where the end result's going to be with something that was specific to this subdistrict. It's kind of open-ended in my mind.

MR. SCHMIDT: I think the applicant makes a good argument that at the point in time when all comes together and that affordable housing is part of the proposal, that's when some of those specifics to the agreement can be made.

MR. GOLDMEIER: Yes.

CHAIRMAN STRAIN: Mr. Goldmeier?

MR. GOLDMEIER: Yes, exactly. We have had many discussions about that issue, and we have resisted, strenuously resisted entering into an agreement because we did not want to be pinned down to any specific requirements which may come in conflict with either market circumstances, other -- the way people look at the project in general, or whatever financing we're obtaining.

And affordable housing requirements, this -- okay, low income housing requirements, which is not what we intend to do, but affordable housing requirements, if I can use that term, usually follow the financing. And the restrictions placed on the rental or sale of the units are restrictions that are placed as part of the recording of a mortgage document.

It has -- it's followed with a land use agreement and other agreements which follow the mortgage. It's never followed -- it never precedes the financing because there's a very good chance that it would come into conflict with the financing.

And if it comes into conflict with the financing, one, it may prevent the property from being financed or two,

the financing may create a situation that may be frowned upon by the county.

So the less we do and the less we say and the more open to what may happen in the future, the easier it will be on everybody.

I don't know if I said it correctly.

CHAIRMAN STRAIN: Thank you.

Mr. Murray?

COMMISSIONER MURRAY: I just make one last comment regarding that. I appreciate and understand your statement. But to the Chairman's -- what I interpret the Chairman's point is that we have affordable housing -- if this goes forward, we have affordable units that are in name only.

MR. GOLDMEIER: I'll take it.

COMMISSIONER SCHIFFER: Yeah, I'm sure you will.

Mark, I have a question.

CHAIRMAN STRAIN: Yes, sir, Mr. Schiffer.

COMMISSIONER SCHIFFER: Ray, Marcy Krumbine and Buddy Ramsey, have they been involved in this process at all?

MR. GOLDMEIER: Yes.

COMMISSIONER SCHIFFER: And wouldn't they be the ones representing these answers?

MR. GOLDMEIER: Yes. I have had a couple of conversations with Frank Ramsey. And at one time when -- and at the time when Bob Pritt and I went to the Board of County Commissioners to ask for relief from the affordable housing requirement that was contained in the Comp. Plan amendment, we got a -- I believe a letter of support from Frank Ramsey for that. Because he based -- his position was that since we were not -- since we reduced our density to the point where we were not seeking an affordable housing density bonus, that they would have -- his department would not be supervising the units or overseeing the units and that they thus supported us removing the requirement entirely.

COMMISSIONER SCHIFFER: I mean, the reason I'm in support of these units though, is in the gilded era -- which is a good term, Bob -- the reason we had trouble with workforce housing is because we weren't smart enough to build units like this in the non-gilded period. So as we behave in this non-gilded period, I would like to see us create this.

The reality of it is once they come out the gate, they may start off in that price range and the market may take them off. They may go sky high or they may go down.

MR. GOLDMEIER: The point I was trying to make earlier is these are truly not affordable, quote, unquote, affordable units. These are moderately priced units for people at the median income of the state at the lowest and the median income of the county, which is 22 percent higher than the median income of the state. So they are not affordable in a true sense of the word.

COMMISSIONER SCHIFFER: But by us making you come out of the starting gate with these small units that cost a lot less I'm sure to build than the other ones you're going to have, gives us a better edge that there (sic) might be within a price range in the future that these people could still use them, still afford them.

MR. GOLDMEIER: We have no problem offering them to teachers, and especially at Seacrest, and other people because they'd represent a logical -- you know, this is a sort of a central location, this development. And that represents a market. But I would like to offer the units to those people anyway and --

COMMISSIONER SCHIFFER: I'm done.

CHAIRMAN STRAIN: Okay, thank you, Mr. Goldmeier.

David, you had something?

MR. WEEKS: Yes, I do. I'd like to point out that there's a difference between the Meridian circumstance and this particular circumstance, and that is significant.

The GMP requires the provision of the affordable workforce housing. That was not the case for the Meridian project.

I will tell you that my opinion is that if you add language to the PUD that says, similar to what Meridian did, if they offer those units for a certain period of time, if they're unsuccessful they don't have to provide them, that that is inconsistent with the GMP requirement.

Something else I wanted to mention, I want to offer up something. I think we've all heard loud and clear the

community does not want the affordable workforce housing here. Ordinarily the position I would take is don't put the cart before the horse. But because this is an unusual circumstance, I would throw this out for your consideration, that you may wish to include within the PUD a statement to the effect that if the subdistrict upon which this zoning is relying should be amended to no longer require affordable workforce housing, that this PUD would no longer be subject to that requirement.

What that accomplishes is if and when that subdistrict gets approved -- modified at some point in the future to eliminate the affordable workforce requirement, the applicant would not have to come in and go through a PUD amendment process to remove that if we put that language in up front.

CHAIRMAN STRAIN: Thank you, David.

MR. WEEKS: Actually, one more thing, because it goes back to some of the discussion of the details of the affordable housing.

Again, because of the different circumstances here, you don't have the companion agreement that you ordinarily would have, the affordable workforce housing density bonus agreement, which has the details of the time limitation of the ownership, of the number of bedrooms and the number of units and so forth. All of that detail is not before you today.

And as Mr. Goldmeier had mentioned, that was a significant issue between the applicant and staff. We went round and round on that, and ultimately came up with the language that's before you today. And as has already been stated, we think that -- ultimately staff agreed that that is reasonable because of the current economic conditions and the fact that we don't know when this project will get developed.

So deferring those details for that agreement of whatever they may be to a point in time when they're closer to actually developing the project.

CHAIRMAN STRAIN: Thank you, David.

MR. GOLDMEIER: Which would be closer to building permit time.

CHAIRMAN STRAIN: Members of the Commission, we are supposed to be in discussion after the closing of the public hearing to try to get to a resolution on this project.

Are any of you any closer to a resolution on this project? This has gone on for six hours, so I'm very willing to consider stopping it at any point. I'm trying to make the record as open as possible so Mr. Pritt believes he had as fair of a hearing as he could possibly have. I've not limited people to time or discussions, and we've basically had a very open conversation here today. But at some point we have to come to a conclusion.

Mr. Schiffer?

COMMISSIONER SCHIFFER: I'll make a motion.

CHAIRMAN STRAIN: If you feel you're ready for a motion, go ahead, give it a fly.

COMMISSIONER SCHIFFER: I move that we forward PUDZ-2004-AR-6829, the Davis Preserve MPUD, with a recommendation of approval with the stipulations you made, except for the one requiring the clubhouse regulations to be on the commercial site.

COMMISSIONER MIDNEY: I'll second.

CHAIRMAN STRAIN: Is there a second for discussion -- Mr. Midney made a second.

Okay, Mr. Schiffer, we had 21 or 22 recommendations.

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: I thought there might be more discussion not along the lines that Mr. Murray was going on the affordable housing but along the lines of removing the requirement altogether.

Did you include that as a part of your motion?

COMMISSIONER SCHIFFER: Right. I believe that the affordable -- even though we're not gilded period, what we build now is what's going to be available in the gilded period. So I'm in favor of keeping it in. And I think it would be against the GMP to take it out.

COMMISSIONER MIDNEY: And I agree with that on my second.

CHAIRMAN STRAIN: Okay. Now we'll go into discussion on the motion.

So basically the issues that I read off that were maybe inconsistencies or needed clarifications in the document, how did you plan on handling the parking reference to internal to the site?

I read some of these as statements for discussion, no one discussed them. So now we have to go back and discuss them because your motion included them, yet they weren't points.

COMMISSIONER SCHIFFER: Correct.

And the reason I'm in favor of going on, I know the architectural standard's going to get them down the road because, you're not allowed to do that.

CHAIRMAN STRAIN: So what are you saying, that either the parking internal to the site is -- the master plan is acceptable the way it is, or is not?

COMMISSIONER SCHIFFER: No. And that's why I was asking Ray questions as to who's going to trump who. Ray assured me that the architectural standards will still exist and that this plan will not give them something that they can back out of those.

MR. BELLOWS: Yeah, for the record, the architectural standards have not been deviated from in this PUD, so therefore they will apply. The master plan that is attached is a conceptual plan. It is showing parking arrangement conceptually, but when it comes to Site Development Plan, we're going to apply the architectural standards. And they will have to provide the parking on the other side.

CHAIRMAN STRAIN: Okay, so --

MR. BELLOWS: But I think one of the cautions that we must realize is will the setbacks still allow for the structure to be placed the way it is if you have to move -- if they have to shift the building closer to the road to put the parking on the other side. That's the one thing I don't think has been really studied yet.

COMMISSIONER SCHIFFER: Yeah, there's a lot of it we don't know what the final plan's going to be. That was problem number one from the beginning.

CHAIRMAN STRAIN: But therein lies a problem with your motion. I mean, I guess if we don't know what this is going to be, and I read off 20 or 22 issues of concern, why are we voting to approve it without stipulations to bring those concerns in line that are very specific? Or, lacking that, simply demanding a continuance and come back when they can better answer our questions, or voting for denial because the questions can't be answered.

That's kind of what I'm trying to figure out where we're going here, Brad. I mean, I understand you want to see something happen today, but I'm not sure we're ripe for that.

COMMISSIONER SCHIFFER: Okay. I mean, maybe I'm not aware of what we can do. I mean, I'm under the impression, first of all, the neighborhood, the traditional neighborhood, I don't see it yet. But I have to take that leap of faith with the -- it's going to be resolved in the SDP.

If you think we can resolve that prior to releasing it from us, then I'd love to keep it here.

CHAIRMAN STRAIN: Well, I think we can give the developer the option of trying to meet our concerns and coming back to us with a better plan with more detail and the proper, I guess, compatibility addressed issues that we're asking about, or taking a vote on whatever way it may go for not having a plan as, let's say, presentable to the manners of addressing the issues that we're concerned about as it is, as you've heard it. So it's a plan that's lacking the depth that we need.

COMMISSIONER SCHIFFER: Didn't Mr. Pritt back off of that? Didn't he --

CHAIRMAN STRAIN: Well, he said no, earlier. I'm telling him one more time. And if you want to, we'll let it fly.

Go ahead, Melissa.

COMMISSIONER AHERN: I think part of the concern is there's so many options that can be done with this plan. And it seems like we've been able to narrow down like committing the 47 units to the commercial. So that somewhat limits, I think, some of the concerns like Mr. Murray had with the different commercial uses.

But there's still a lot of questions remaining where we can't really determine where this is going to go.

I'm also wondering -- or Jeff, maybe you can clarify the affordable housing aspect, because it seems we have differing opinions of the conflict.

CHAIRMAN STRAIN: Well, and the other thing we ought to have in consideration is that we have to send the best document we can forward to the Board of County Commissioners.

If they get this document as it shows in here today, what do you think's going to happen at their level? You think that they're going to spend seven hours debating this issue and the fine tuning of that plan? They're going to say no.

They should come to us in a heck of a lot better, I guess, better reference or better quality than what we've gotten.

And like I said in the beginning, we should never have gotten this far with some of these issues still not

addressed, and I'm very concerned that it has gotten this far.

Mr. Klatzkow?

MR. KLATZKOW: What my recommendation to the Board of County Commissioners is going to be, to kick this back anyway if you kick the can down the road, because this isn't right for their consideration, okay. That's one.

Two, you can't kick this to the Board of County Commissioners until you're comfortable that this is -- this meets the Growth Management Plan. And I've heard questions from several of you as to whether different aspects of this are consistent with the Growth Management Plan. So you've got to get past that before we get to everywhere else anyway, and you're not there yet.

And as far as the question goes as far as the affordable housing, this subdistrict requires affordable housing. Now, I was there when the Board did what they did, okay, and I understand what the process was like, and perhaps we could have better processes in the future.

But there was an awful lot of sentiment in the community back then that you couldn't get teachers in town, you couldn't get fire folks in town, you couldn't get sheriffs in town because they were all overpriced out of the market.

And, you know, the Board in a lot of different areas, a lot of different PUD's were requiring these things. Unfortunately this is in the GMP and not in an ordinance base, so it's very difficult to change.

I thought David made a very interesting recommendation here where you can put in the PUD if down the road the Board decides to take this out of the GMP, then they won't have to come back and amend their PUD. I think that might save some time down the road.

But right now we're stuck with it. And if we take the position that it's not enforceable because it's inconsistent, you're opening up this developer to challenges all the years down the road by somebody who wants affordable housing. And I don't know how they're going to do business that way. They need a level of certainty.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Well, I tried once to offer Mr. Pritt the opportunity to continue and come back here with solutions to some of these issues. I'll give you one more shot.

MR. PRITT: May we have a couple of minutes? I need to talk to my client.

And before we do that, there were 21 other issues that I think that we had pretty much entered into a stipulation on.

Now, I don't know why one issue has to keep this running around. We've been here since 2004, and at some point we need to have some closure.

This came up last night. This came up last night after all of these years. And we need some closure. And if we can't get closure, we need to have the Board of County Commissioners give us closure on that issue.

You heard me this morning, and I know that you didn't like hearing it. And it sounds like you're agreeing with staff. But you heard me say this morning that this is not -- that under the plain meaning of the language that's in there, we are okay on this issue.

Now, I don't understand why you could not approve it and then present to the Board of County Commissioners. If you have a concern with that one item out of 22, pass that along to the Board of County Commissioners and let them make the ultimate decision.

Because really, what we're trying to do is discern what the County Commission had in its mind at the time they did it. The only testimony you have on that is from Mr. Goldmeier, a little bit from me, and some from Jeff Klatzkow. And what we need to do is get on with it. I don't know, this is a different era --

CHAIRMAN STRAIN: Mr. Pritt, the question was, I think Ms. Caron wanted to ask you if you wanted a continuance and now you're saying no, right?

MR. KLATZKOW: Mr. Pritt, I'm telling you right now, my recommendation to the Board of County Commissioners is going to be to kick this back to the Planning Commission, all right, because I don't think this is ready for their consideration. You don't have to consent to it, but that's going to be my recommendation anyway. You can get a date certain right now.

MR. PRITT: Well, I'm concerned about what your reasoning is then.

MR. KLATZKOW: There are too many outstanding questions here in my mind --

MR. PRITT: There's one.

MR. KLATZKOW: No, there's not. There's several outstanding questions, Mr. Pritt.

MR. GOLDMEIER: Basically we've agreed to everything else. The only thing is we have the question about internal and external. And I was there throughout the whole process. And I can't tell you what was in the heads of people but I can tell you that this would not be a traditional neighborhood design property if you flipped the buildings the other way and had the parking lots showing -- fronting on the street. So you have that built-in conflict.

We'll work with you in any way we can to make it a better project. But the last time we were here about a year ago we were asked to move a building off of the -- by this Board we were asked to move a building off of the corner of County Barn and Davis Boulevard because it was too prominent. And this Board had asked us not to have the buildings so close to the corner because of the prominence of the building, and that's what we did.

And we've -- and, you know, it's not only the six years we've spent, it's the tens of thousands of dollars in resubmittal fees which we've had, and continuance fees, and advertising. We've had four neighborhood meetings. And --

MR. KLATZKOW: There's going to be no additional fees with a continuance, all right?

CHAIRMAN STRAIN: Well, look at, I think their answer's been no to that. Let's just get this moved on. Mr. Schiffer?

MR. GOLDMEIER: Well, if we can work this one problem out, I think we're there.

CHAIRMAN STRAIN: Well, your statement that we -- I mean, I've got the master plan you submitted back in May of 2009. It didn't have any buildings on it. So I can't recall the discussion you're now referring to without going back and looking at the minutes.

But be that as it may, I think I understand your position, you feel that we can make a recommendation with the exception of the parking and then move it on to the Board of County Commissioners in some manner.

MR. PRITT: Can I ask --

MR. GOLDMEIER: With the intent of working it out.

MR. PRITT: Let me ask for one clarification, because Mr. Klatzkow has said something different from what I understand from the planning staff.

If this had to come back again one more time on a continuance, there's no fee? Because we've paid a lot of resubmittal fees.

MR. KLATZKOW: No, there's no fee. We're going to have a date certain and we're just going to come back.

MR. PRITT: And is there a fee for the continuance?

MR. KLATZKOW: No.

CHAIRMAN STRAIN: There's a time frame in which it has to be heard, though. Ray?

MR. BELLOWS: Our fee code has a continuance fee during the -- if it's continued by the applicant during the meeting. However, if the Planning Commission recommends a continuance, maybe the fee doesn't apply.

COMMISSIONER MURRAY: Move to --

CHAIRMAN STRAIN: Mr. Murray, just hold on a second.

COMMISSIONER MURRAY: I made the motion.

CHAIRMAN STRAIN: There's a motion already on the floor, Mr. Murray, so until we get done with that motion we can't have another one.

Go ahead.

COMMISSIONER SCHIFFER: Jeff, the question -- you know, my concern on this project is the aesthetics of it and is it in fact a traditional village and all that stuff. How far can the Planning Commission go?

I mean, we talked about it a lot today, you're right. But the impression I got from the conversation was it's not up to us, it's going to be solely up to the Board.

MR. KLATZKOW: No, if the board wants --

COMMISSIONER SCHIFFER: Not the board, I'm sorry, to the staff during the SDP process.

MR. KLATZKOW: Right. And what I said on that one, if it's the pleasure of the Board to ask you to review the site development plan, they have that discretion. You can make that as part of your recommendations if you think it's important.

COMMISSIONER SCHIFFER: Okay. As the motion maker I'm going to make that recommendation that

the Planning Commission does review it. It may fail the vote, Mark.

Paul, do you --

COMMISSIONER MIDNEY: I go with your motion.

CHAIRMAN STRAIN: So Brad, you had made a motion to recommend approval subject to the various stipulations that we've read earlier in the record.

In the discussion some of those stipulations weren't stipulations, they were points of discussion that we've now had some discussion on.

COMMISSIONER SCHIFFER: Right. But most --

CHAIRMAN STRAIN: And Mr. Midney seconded all those issues. And now you're adding a recommendation to add a review of the SDP by the Planning Commission to the Board of County Commissioners.

COMMISSIONER SCHIFFER: Correct.

CHAIRMAN STRAIN: And Mr. Midney seconded that.

COMMISSIONER MIDNEY: (Nods head affirmatively.)

CHAIRMAN STRAIN: Okay. I'm trying to keep order because somebody's going to be looking at this sooner or later and it has to be as orderly as possible. And I surely don't want a cluttered up record, although this one's going to be noted for that.

MR. PRITT: For what it's worth, if we're coming back to talk about one issue, Mr. Goldmeier would go along with that.

MR. GOLDMEIER: With no cost.

If we're coming back to talk about a single issue with no additional costs involved, I wouldn't mind working out that one issue. Although I think we're going to need some assistance from the Board also, because, as I said before, I see a conflict between what you're suggesting and what a traditional neighborhood design is, and we'd like to resolve that conflict going in instead of wind up in the same place we are today.

CHAIRMAN STRAIN: And to be honest with you, this should have had been resolved before it got here today. We should never, ever have been put in this position, to have all these issues subject to the SDP that were -- in a manner that we could have resolved some of them today, especially with a new design.

So I understand your point. Thank you. And we will certainly take it into consideration.

MR. GOLDMEIER: Thank you.

By the way, Mr. Strain, I just want to compliment you on your ability to bring order to these things, to see all of the -- to pick out all of these issues, to keep track of them, where I've even been lost. And I appreciate your, you know, overseeing the process in the manner you are.

CHAIRMAN STRAIN: Thank you. But I think I'm getting really lost right now.

We left off with Mr. Schiffer and Mr. Midney making a motion. There's been some discussion.

Ms. Homiak?

COMMISSIONER HOMIAK: Some of these problems that are listed here, trying to put community center in the commercial, doesn't it just -- kind of the problem may be that it's just too dense, the density is too great for that area? I mean, it's not compatible with the other communities surrounding it as far as the density or units per acre. Maybe that's the problem, you can't get to the traditional neighborhood because it's just -- you're not giving them much for amenities like a pool and --

CHAIRMAN STRAIN: If density is an issue and you have an idea on how to make it more compatible or balance it out, you need to state it and ask the motion maker to consider adding it to their motion, and the second, and then we continue with it there.

But that's the only way we get there from here. We have to respond to this motion. And any issues like you have are relevant, they need to be talked about, but you need to be able to put them in a manner that can be added and voted on.

So did you have -- did you want to follow it up with further discussion?

COMMISSIONER HOMIAK: I don't, because I don't have an answer. I just know that the minimum is 91 units and we're way over that.

CHAIRMAN STRAIN: Anybody else have any discussion?

Mr. Midney?

COMMISSIONER MIDNEY: Yeah, the reason I'm supporting the motion, we've talked a lot about

affordable housing. To me it's a non-issue. My family of five makes a lot less than \$57,000 a year but I don't think we're a detriment to our neighborhood. I think that is not dependent on the income level, it's dependent on the character of the family.

And as long as the housing stays cheap, these affordable housing stipulations are not going to be necessary. But in the future when housing prices normalize and it becomes difficult once again for teachers, nurses, law enforcement people to find housing close to their jobs, the affordable housing may help.

And I have confidence that the developer will develop a good traditional neighborhood design and that it can be made to work, so that's why I'm supporting the motion.

CHAIRMAN STRAIN: Okay. Anybody else?

Ms. Caron?

COMMISSIONER CARON: So Mr. Schiffer, you don't want to have this continued?

COMMISSIONER SCHIFFER: Well, I mean, I know something maybe they don't know, and that's the architectural standards. And I'm not going to worry about this parking lot.

Is the parking lot the main issue that everybody wants to bring it back on the internal?

Obviously I brought it up. I know it's not the way the words go. There's also not a grid. There's also a couple of other things that it's not. It's not that big a parking lot. So -- it's landscaped in the center. If they buffer it, it probably won't be the end of the world.

Barry actually kind of convinced me that if you focus everything on the internal street then maybe it makes sense to focus the buildings that way too.

So I'm not that freaked out about the parking lot. And like I said, there are requirements on placement of parking in the architectural standards that wouldn't allow them to do exactly what they have anyway. So they're going to be revising it and we'll see it when it comes back.

CHAIRMAN STRAIN: Ms. Caron, did you finish?

COMMISSIONER CARON: Yeah, I just wanted to find out --

CHAIRMAN STRAIN: Ms. Ahern?

COMMISSIONER AHERN: Corby had mentioned the additional buffering at the front. Was that in your list?

CHAIRMAN STRAIN: I read this as a point of discussion that the internal parking reference to the site in the GMP was something we needed to discuss because it could be resolved by staff's comment, either by moving the buildings or by possibly looking at the buffers and berms as a solution. And I had suggested maybe a cross-section to look at.

But it was a point of discussion, not a stipulation.

COMMISSIONER SCHIFFER: But in that discussion there was -- you said that that's what would have to be done to make it appear to be internal. I mean, to have it come back and have a debate over the word internal I'm not particularly looking forward to.

CHAIRMAN STRAIN: Anything else from anybody?

(No response.)

CHAIRMAN STRAIN: Well, there's going to be from me, as you might have expected.

I'm going to be not supporting the motion. I'm not going to support it because I feel it is inconsistent with the compatibility requirements of Florida Statute 163.3194.3.A, 3.B. It's inconsistent with the Future Land Use Element 5.4. Inconsistent with the LDC 407.02, B.1 and 2, D.3, D.F and G.

I believe the Housing Element Policy 1.4 has an internal inconsistency with the requirements of the affordable housing of this project. I feel Housing Element 1.4 does not meet the requirements of Florida Statute 163.3177.6.F.1.G.

And I believe all those incompatibilities are a result of the stipulations that we had talked about that have not been found on the document that we had in front of us today for those that should have been. And by should have been, I'm meaning a better layout of the plan, the element, the parking being internal to the site -- or I'm sorry, yeah, the parking being internal to the site or some buffers and berms between the buildings. We've seen nothing to support that.

We've not seen the recreation areas for the residents.

The setbacks to the roadway need to be refined.

The distance between the buildings need to be refined.

Had failed to reference the three-story maximum brought out at the NIM.

The fee simple standards were missing for the townhouses.

The tract lines were missing from the diagram.

The reference to public streets, there are no public streets, that we had to make a clarification on that.

The townhouse was missing as a permitted use, although it was on the development standards table.

The break-up of the buildings was acknowledged but not shown on the plan that was provided to us.

There was a clarification needed to Page 14 to modify the Affordable Housing Agreement. That seemed to be rather important and should have been done before this meeting.

And the footnote was missing that can now be instituted from the table for the commercial uses.

And I do believe the density is higher than is compatible with the neighborhood, especially if the affordable housing is eliminated. It should be at least lowered to a value reflecting that elimination.

Those are my reasons for voting no on this particular motion.

Mr. Schiffer?

COMMISSIONER SCHIFFER: Mark, aren't some of those things, the density is not one, and maybe there's others, but most of those are things that we discussed, they agreed. And when we have the summary, you know, when we see it again, those changes should be in the plan.

CHAIRMAN STRAIN: But, some things, as you know, cannot be revoted on in consent. Some of these issues I think won't necessarily be answered to everyone's satisfaction on the consent level.

For example, the plan that would evolve showing how the buildings are split up, possibly the setbacks, the buffers, the cross-section, how to show everything is internal versus external, I don't know what they'll come back with.

But if we make this to consent you know we cannot re-hear it on consent. So we're stuck with just accepting it as a response to our needs, and that's what I'm concerned about.

COMMISSIONER SCHIFFER: Why not? For example, Mr. Pritt said he's going to submit the plan that shows the building broken up. Non-issue once he does that. I mean, I -- most of those things on the table they never said no to, so -- but anyway, let's just vote, move on.

CHAIRMAN STRAIN: Okay. Did you want to make a comment, Donna?

COMMISSIONER CARON: I'm not going to be supporting the motion because I don't think that this plan is ready for prime time. I offered twice for it to come back so that we would have something that would resolve some of the issues that were brought out and that we would know.

Just getting it back on consent, I think Commissioner Strain is right, does us no good. Because if we have any questions then, we're still -- you know, we're left not to be able to do anything other than pass it along.

I also have a great deal of concern about the overall density of this project. That's why I asked Ms. Deselem to give us the densities surrounding the project. I think it is out of scale, especially if affordable housing goes away. And I can't support the motion the way it is.

CHAIRMAN STRAIN: Okay, any further discussion?

(No response.)

CHAIRMAN STRAIN: The motion's been made for a stipulated approval. All those in favor of the motion, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

CHAIRMAN STRAIN: Raise your hands, how's that.

COMMISSIONER SCHIFFER: (Indicating.)

COMMISSIONER MIDNEY: (Indicating.)

CHAIRMAN STRAIN: Two?

All those opposed, same sign.

COMMISSIONER AHERN: (Indicating.)

COMMISSIONER CARON: (Indicating.)

COMMISSIONER MURRAY: (Indicating.)

COMMISSIONER EBERT: (Indicating.)

COMMISSIONER HOMIAK: (Indicating.)

CHAIRMAN STRAIN: (Indicating.)

Okay, two against, six -- I mean six against, two in favor. The motion fails.

This will go forward with a recommendation of denial to the Board of County Commissioners.

MR. PRITT: I would like to ask if the motion that came forward concerning a continuance until the next month. So far you've denied it --

CHAIRMAN STRAIN: It's too late now, sir. You had that opportunity before we voted. Once we voted --

MR. PRITT: I did ask for it sooner. And you ruled it out of order.

CHAIRMAN STRAIN: I'm sorry?

MR. PRITT: There was a motion made and you ruled it out of order.

CHAIRMAN STRAIN: Well, the motion maker -- we had a motion on the floor that was being discussed.

Anyway, Mr. Pritt, I understand your argument --

MR. PRITT: What does the County Attorney say? Do you support that?

MR. KLATZKOW: I gave you so many opportunities here, Bob, and you waited till they took the vote.

MR. PRITT: No, I took the opportunities. I said that we were willing to do that.

CHAIRMAN STRAIN: Please, audience, you're going to have to remain quiet.

MR. KLATZKOW: Mr. Chairman, it's your discretion.

CHAIRMAN STRAIN: My discretion is we've taken the vote, it's over with. Mr. Pritt, you just have to do the best you can in front of the Board of County Commissioners.

MR. PRITT: I'll do that. Thank you, sir.

CHAIRMAN STRAIN: Thank you, sir.

Okay, let's just take a short 10-minute break before we try to finish up. We'll come back here at 3:50 and try to resume.

Cherie', thank you for hanging in there, kid.

(Recess.)

CHAIRMAN STRAIN: Okay, everyone, welcome back from the break. We're going to move on to our next and final petition now that Cherie's here. She actually controls the whole board.

***The next petition is PUDZ-2008-AR-14048, Robert E. Williams, Trustee. And it's the Corkscrew Commercial Center CPUD.

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 SCHIFFER: Nothing.

CHAIRMAN STRAIN: Paul? Nope.

Donna?

COMMISSIONER CARON: Just e-mails.

CHAIRMAN STRAIN: Okay. Diane?

COMMISSIONER EBERT: Nothing.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Bob. Nothing.

CHAIRMAN STRAIN: Miss Homiak, Karen?

COMMISSIONER HOMIAK: Just e-mails.

CHAIRMAN STRAIN: Ms. Ahern, did she leave?

And I had some e-mails that came through our -- I thought they came to all the Planning Commission members, but may not. And I have a discussion with Richard Yovanovich and maybe Wayne. I just can't remember.

Ms. Ahern, did you have any disclosures?

COMMISSIONER AHERN: Just e-mails.

CHAIRMAN STRAIN: Thank you.

With that, whoever is going to make the presentation, it's all yours.

MR. YOVANOVICH: Good afternoon. For the record, my name's Rich Yovanovich, and I represent the petitioner in this matter.

With me today are Bobby Williams and Jerry Cobb who are two of the beneficiaries within the trust. And also with me today is Wayne Arnold, the professional planner on the project and Mike Delate, who's the professional engineer on the project.

On the visualizer you have the aerial that depicts where the property's located. It's at the northwest quadrant of Platt Road and Immokalee Road. The property's about eight acres in size. The -- I'll call it not quite the front half that fronts Immokalee Road, it's roughly 3.25 acres, is already zoned C-2. And the back half of the property is zoned agricultural.

The entire eight acres is within the Corkscrew Island neighborhood commercial subdistrict within the Future Land Use Element.

This should be familiar to some of you on the Planning Commission. When we went through the Comp. Plan amendment process to establish this subdistrict, it was approved or adopted in December -- on December 4th, 2007.

And within the subdistrict, the subdistrict allows us to request the permitted and conditional uses that existed at the time in the C-2 zoning district as permitted uses under the PUD that's in front of you today.

The zoning to our north is agricultural with a mobile home overlay. It is owned by the state, so more than likely never going to be developed with any type of residential development on it.

To the east across Immokalee Road is also property zoned agricultural with a mobile home overlay.

To our west is also agriculturally zoned land with a mobile home overlay. And -- but there's a single-family residence on that property.

And then to the south across Platt Road is land zoned agricultural with a mobile home overlay.

The PUD Exhibit A is our list of requested permitted uses. I know there's some question as to what is the appropriate document to review for consistency with the Comprehensive Plan regarding the table in the LDC versus perhaps some other document. And we can go through any uses that there may be questions, if there are any uses.

I can tell you that in our two NIM's and our informal not required meetings with the neighborhood association out there, the uses have never been in question. The question has been hours of operation for some of -- for those uses. But the list of uses has really never been an issue.

We have addressed what we believe to be concerns of the residents regarding noise by agreeing to -- let me put the master plan up.

The issues the neighbors had regarding noise dealt with the project in Pebblebrook regarding -- that had -- you know, that's in question. I'm not going to repeat the name of the establishment. But that has been a catalyst for a lot of concerns over the last few years. And to address those concerns, we have agreed to a condition that we cannot have amplified music or TV outdoors.

We've also agreed to limit the location of those types of establishments, restaurants that also have cocktail lounges to building three, which on the visualizer is this building right here.

So we believe we've addressed those concerns by those two conditions.

And incidentally, that property is on -- that building is on the property currently designated C-2 zoning.

We also -- I think we had a discussion with staff over the car wash that would be an accessory use to a convenience store or a gas station, you know, those mobile on-the-run type stations as an example. I'm not saying that's what it would be, but that type of store.

The car wash, I think staff is agreeable to language that reads as follows. And it's in your language, but there's a slight modification, and I will read it into the record.

The condition would be: Only one single bay car wash may be permitted within the PUD and shall only be permitted on Area 1 identified on the conceptual master plan. The car wash facility must be designed, built and operated -- staff wanted the "and operated" language added -- utilizing a recycled water system in order to minimize water and wastewater demand for the facility.

We wanted to end the sentence there. It continued on and used best management practices. We -- I think staff is comfortable ending it where I suggested because we don't know what those best management practices are today, but we will be going through a review process and we will comply with the law as it pertains to car washes. And I think staff is comfortable with the revision that I just read in the record. And you can verify that with Corby when the staff presentation is made.

We've requested four deviations. In actuality, two of the -- the deviation regarding the wall, we asked for an abundance of caution because there had been an interpretation in the past that you only -- if you're a commercial or a

nonresidential use adjacent to a residentially zoned property, you're required to have a wall. We're next to ag. You're not required to have a wall when you're adjacent to agricultural. And that's been crystalized, if you will, in the most recent LDC amendments that were adopted in Ordinance number, I think it's 2010-83.

So obviously we had applied prior to the adoption of that ordinance. So I don't believe the wall deviation is needed anymore. We'll still build the same buffer we had committed to building, but instead of having it have a deviation for the wall, we'll just incorporate that buffer as our buffer standard. But I don't think we'll need the deviation any longer because the two properties that we're adjacent to are zoned agricultural.

There was a single-family home on one of those ag. parcels, so the question was did it apply to a residentially zoned district or a residentially used piece of property. I think the code is clear that it's a residentially zoned district, and you can verify that with staff. So I think the deviation regarding the walls along our west and north boundary is no longer necessary.

Staff is agreeing with our requested deviations. I believe they had -- in deviation number one, they wanted a clarification as to which facades it applies to. We're okay with staff's requested change to that deviation.

That's our presentation in a nutshell. You've seen a lot of this before when we did the subdistrict. Wayne or I or anybody else on our team can answer any specific questions you may have regarding the PUD documents in front of you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: The issue of the wall, if it were just ag. zoning, that would be one thing. But isn't all on your west and north, don't you have a mobile home overlay?

MR. YOVANOVICH: We have a mobile home overlay, but the zoning is still agricultural, which is a non-residential zoning district. It doesn't go to use, Ms. Caron. And that's why we had originally asked for the deviation in an abundance of caution. But I don't think we technically need that deviation.

Be that as it may, the property to the north is owned by the state. I don't think you're ever going to see any development on that parcel. So to go through the expense of building that wall for an immediate neighbor of the state that's not going to have any development on it --

COMMISSIONER CARON: I was more concerned about the homes to the west.

MR. YOVANOVICH: I understand that. And that home is about 135 feet away, I believe, from the boundary.

But again, it's agriculturally zoned property. That property owner has been notified about what we're doing and has not raised any objections regarding the petition.

CHAIRMAN STRAIN: Ma'am, I'm sorry, you --

MR. YOVANOVICH: I'll take care of it. Thank you.

CHAIRMAN STRAIN: Ms. Ahern?

COMMISSIONER AHERN: That property owner, is that the one that actually requested the landscaping as opposed to the wall?

MR. YOVANOVICH: That is the property owner to the south, across Platt. He didn't see a reason to have a wall on Platt Road.

But as Jerry was pointing out to me, because I didn't attend the last civic association meeting, our neighbor to the west was at the civic association meeting at which we discussed this project.

CHAIRMAN STRAIN: Okay, are there any other questions of the applicant?

COMMISSIONER SCHIFFER: One thing, Rick.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: And it's on your commitment four, which is the sound level. Do you think it's covered in there? One of the concerns might be the guy running the convenience store shouting through a PA system to the pumps and stuff.

MR. YOVANOVICH: Well, we -- and I think there's some language that Nancy is going to introduce on the record that we're fine with when she gets to that part of the presentation. We would need to still keep that, Mr. Schiffer, to have the ability -- I call it a call box. I don't know if that's the right language or not. But, you know, if you're at the pump and you need to get ahold of the person in the convenience store, we still want to have that. But as far as the amplified music out there, we're fine without having --

COMMISSIONER SCHIFFER: I'm sure there's some regulations, but I'll wait till Nancy --

MR. YOVANOVICH: But she has some language that would clarify this that we're comfortable with when staff gets to that.

COMMISSIONER SCHIFFER: I'm done, Mark.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah, back to the outdoor. The civic association had asked -- had talked to you about the cutoff of 10:00 p.m. Was that just for the outside portion?

MR. YOVANOVICH: I think if they had their wish, to be quite honest, the whole place would shut down at 10:00. We don't think that that's a fair or reasonable standard. I don't think it's been really applied to anybody else. We thought the amplification issue was really the issue.

COMMISSIONER CARON: But would you have any problem with moving everything inside at 10:00?

MR. YOVANOVICH: We don't have an objection to making sure there's no outdoor dining after 10:00.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

MR. YOVANOVICH: I know it's coming.

CHAIRMAN STRAIN: I don't know how to stop what I can't undo. So sorry, it's just my nature.

Let's start with this car wash. You're supposed to be consistent with the same uses that were actually used in the previous discussion. The discussion that those people came under and the code at the time was actually the same one that I believe that staff has told me falls under you.

I have got the code at the time and I've looked through it, and I cannot find the car wash.

MR. YOVANOVICH: Well, because -- let me make sure we're singing from the same hymnal, if you'll let me use that.

We were adopted in December, 2007. I don't know, and honestly, I didn't even listen to any of the last hearing, so I don't know all of the discussion. Let's go through -- I just want to make sure I have the right list that's in front of me that you're viewing. Because as I understand it, the table that was in the code in '07 has a supplement number three at the bottom. The document that you sent me, Mr. Strain, had supplement number one at the bottom.

CHAIRMAN STRAIN: The document I got, I asked staff to give me what they used, they said they used this.

MR. YOVANOVICH: And it's not significantly different, but there are some differences between it. And I know staff -- I know where we're going, and I don't want to interrupt --

CHAIRMAN STRAIN: Cut to the chase. Show me on the document where a car wash is allowed.

MR. YOVANOVICH: It's an accessory use -- what we're allowed to have is we're allowed to have gas stations, we're allowed to have convenience stores. Those are permitted uses. A car wash is an accessory use to either a gas station or a convenience store. So as an accessory use we're allowed to have that use. It's not a primary use on the property.

CHAIRMAN STRAIN: Richard, there are two tables. One is titled permissible land uses in each zoning district. The other one is titled -- I'll read it to you so we get it right. Land uses that may be allowable in each zoning district as accessory uses or conditional uses.

Can you show me where a car wash is allowed in a C-1 or 2 district in any of those tables?

MR. YOVANOVICH: I don't think that car wash is mentioned at all.

CHAIRMAN STRAIN: As an accessory use or as a permitted use.

MR. YOVANOVICH: I don't believe it's mentioned at all in the -- I believe it may be in the permitted use table, but I don't believe it's mentioned at all in the accessory use table.

CHAIRMAN STRAIN: It is in the permitted use table. And the accessory use table, the reason it may not be mentioned is because it wasn't allowed at the time. And this is -- remember, you're going back to the time you were put in -- the code was at that time, not today.

MR. YOVANOVICH: Let's take a step back, if you will, and this is where I started to go.

I think we can all acknowledge when the recodification occurred of the LDC, there were glitches, that not everything that was in the original Land Development Code made its way to the new Land Development Code.

CHAIRMAN STRAIN: I have no doubt. I'm the one that found a lot of them. So I agree.

MR. YOVANOVICH: I know, and I remember going to the hearing when we adopted this and I said, please don't change the code, because who knows what you're going to miss. And that's why we had the glitch language in

the recodification.

This table I think has proven to be ineffectual at best for the county. So what I will tell you, Mr. Strain, is if you go back to the predecessor before it adopted, we had those nice laundry lists of things that were permitted and conditional uses. And in all of the commercial districts they had the phrase accessory use was any other use customarily found with the permitted or conditional use. That language was in the code before the tables took over.

I'm telling you that you would have not seen it before either, but I am telling you that there are -- in Creekside, the mobile on the run there, there's no specific mention of a car wash in there, and that's because the car wash is not a permitted or a conditional use, it's an accessory use to one of those uses. And I think that's the way it's applied all along. I think there were problems with this table. That's why we went in '08 back to the laundry list that you have now.

If you looked at the laundry list that predated the table, you would have that language that says any other customary uses is an appropriate accessory use. And that's what we're relying on as the basis for our being allowed to have a single-bay car wash as an accessory use to the convenience or gas station.

CHAIRMAN STRAIN: So you believe in 1991 the car washes were customary uses to gas stations in 1991?

MR. YOVANOVICH: In 2004.

CHAIRMAN STRAIN: Well, 91-102 is the code that was replaced by 04-41.

MR. YOVANOVICH: I'm telling you at the time that we did the recodification in '04 and our subsequent adoption, yes, I believe a car wash was a customary accessory use to a gas station or a gas station/convenience store.

CHAIRMAN STRAIN: Okay, that goes back quite some time. And I'm just wondering --

MR. YOVANOVICH: We've had a lengthy discussion with Mr. Bellows on this very issue. You find them all the time --

CHAIRMAN STRAIN: Richard?

MR. YOVANOVICH: -- out there.

CHAIRMAN STRAIN: Richard? I don't care if you build a car wash or you put it upside down. If the code says you're not allowed to have one, you're not allowed to have one without changing the code. I'm trying to make sure that if you do have one here it's consistent with the code.

I don't care if one's there or not, I just want to make sure it's consistent with the code. That's the job of this Board and that's all I'm looking at.

MR. YOVANOVICH: What I'm saying, Mr. Strain, is the code doesn't say I can't have one, okay, it doesn't say --

CHAIRMAN STRAIN: No, no, don't go there, because now you're saying whatever the code says it doesn't have you can't have. We don't work that way.

MR. YOVANOVICH: The code says I can have customary accessory uses. And what I'm saying, the use I'm requesting for the car wash is a customary accessory use. So yes, I'm allowed to have it.

CHAIRMAN STRAIN: Corby? You're going to wish you didn't come to this building today.

MR. YOVANOVICH: Mr. Strain, could I put the SIC code up for you real quickly, if you don't mind?

CHAIRMAN STRAIN: Sure.

MR. YOVANOVICH: Now, I'm on a disability here. I'm just trying to learn how to work these.

This is one of our permitted uses, the gas station. If you read the highlighted, it talks about gasoline stations combined with other activities such as grocery stores, convenience stores or car washes are classified according to the primary activity.

CHAIRMAN STRAIN: Who found that?

MR. YOVANOVICH: We did.

CHAIRMAN STRAIN: No. We who? Which member of the team found it?

MR. YOVANOVICH: Wayne and I, yesterday when we went through this issue.

CHAIRMAN STRAIN: Whatever you paid Wayne, you're well worth it.

MR. YOVANOVICH: I don't get any credit for the Wayne and I?

CHAIRMAN STRAIN: No, Wayne caught that, and that's good. I'm glad you brought it up, that clarifies my question. Thank you.

If it was pointed up a couple of days ago, it would have been easier but you weren't aware of it then, so --

MR. YOVANOVICH: Yeah, thanks.

CHAIRMAN STRAIN: Your issue about sound, what is it that staff is going to -- what verbiage are they going to use; do you know? Because the sound issue is one I had a concern over.

MR. YOVANOVICH: I'll read in staff's, since she -- okay, this is -- it looks pretty, I just didn't know where it goes.

MS. GUNDLACH: For the record, I'm Nancy Gundlach, Principal Planner with the Department of Land Development Review.

And staff proposes a revision to developer commitment number four. And would you like me to read it from the beginning?

CHAIRMAN STRAIN: Why don't you just put it on the screen. Is that's possible?

MS. GUNDLACH: I'm afraid you won't be able to read my writing, but we could try.

CHAIRMAN STRAIN: No, go ahead and read it into the record, that's fine.

MS. GUNDLACH: The first sentence, the beginning of the sentence is the same, and it reads: Because ambients noise levels are typically lower in rural areas than in urban areas, the developer shall minimize intrusive noise by prohibiting outdoor amplified -- and the rest of the sentence we have struck through and replaced it with the following language: Outdoor amplified sound, excluding intercom systems needed for service calls.

CHAIRMAN STRAIN: Good. Much better. Thank you.

MS. GUNDLACH: You're welcome.

COMMISSIONER CARON: And you're also going to add --

CHAIRMAN STRAIN: Ms. Caron then Mr. Murray.

COMMISSIONER CARON: -- that they've committed that there will be no outdoor seating after 10:00. So you can add that in there.

MS. GUNDLACH: That should probably be a new condition.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Nancy, what is a service call?

MS. GUNDLACH: I think that's when somebody's having an emergency at the gas pump and they need to speak to somebody regarding --

COMMISSIONER MURRAY: It couldn't be Louie calling out hey, come in here with the wrench?

MR. BELLOWS: For the record, Ray Bellows.

It's intended to anyone, say somebody who's handicapped that needs help with the pump, they can press a button and get somebody to come out.

COMMISSIONER MURRAY: That's what I -- maybe that needs to be. I mean, service call is a little nebulous. But if that's well understood, I don't have a major problem with it.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: And Nancy, should we refer that this is to Area 1. Area 2 you don't have any amplified music; is that right?

CHAIRMAN STRAIN: That's the whole project.

MR. YOVANOVICH: The entire PUD would be prohibited.

COMMISSIONER SCHIFFER: To have that.

MR. YOVANOVICH: The only place I could have the service calls would be for the convenience gas station.

COMMISSIONER SCHIFFER: And service call, where did that come from? That was just brainstorming? In other words, is that a regulation? I mean, there are regulations as to what should happen between --

MS. GUNDLACH: We can work on the word service call.

(Mr. Midney has left the boardroom.)

COMMISSIONER SCHIFFER: Okay. Because what would be good is anything that doesn't come from a governing regulation I think is what we would want on there.

MR. YOVANOVICH: We can work on that language, but I always envisioned it was one thing that Ray said. But another thing -- you know, hitting the button, hey, the pump's not working, to get a hold of the -- and they'll probably say, Mr. Yovanovich, your credit card's not working, come in here. Okay.

COMMISSIONER SCHIFFER: The reason I kind of wants to do it is you don't want to have it being used, let's say there's a restaurant there --

MR. YOVANOVICH: No, no --

COMMISSIONER MURRAY: -- they could be using it to call people --

MR. YOVANOVICH: No. That's clearly not what that's supposed to be, and it's supposed to be related to the gas station service calls.

CHAIRMAN STRAIN: Anybody's else?

(No response.)

CHAIRMAN STRAIN: Okay, I'm going to move on then. The 10:00 p.m. in the evening restriction, you're going to agree to that with every building except for building three?

MR. YOVANOVICH: I thought that what we were going to do is we were going to prohibit any outdoor dining or activities after 10:00 within the PUD.

CHAIRMAN STRAIN: Right. But what are you going to do in the other two buildings. So you don't have outdoor activity, what are you going to have there that could create noise? You're going to say those could be open past 10:00 to create noise?

MR. YOVANOVICH: You could have a restaurant in there that doesn't have a cocktail lounge. You can have a restaurant in one of those, and we don't think -- and everything is indoors. What's the harm of having a restaurant in one of the other two buildings, if everything is indoors that operates past 10:00?

CHAIRMAN STRAIN: So at 10:00, all elements of the building are to be indoors. But building three, which houses the restaurant and cocktail lounge, has the potential -- I mean, you could have a restaurant in the other two but only building three has the potential of a cocktail lounge; is that correct?

MR. YOVANOVICH: With the restaurant. Not a standalone.

CHAIRMAN STRAIN: Well, Stevie Tomatoes isn't standalone and look at the trouble we have with that. So you can go forward in building three with the Stevie Tomatoes type establishment and have the walls interior vibrate to beat the band, and because it's inside it's okay. Is that what you're saying?

MR. YOVANOVICH: If it's inside we can have a -- yes, we can have a restaurant with a cocktail lounge that goes beyond 10:00, keeping in mind where we're located.

CHAIRMAN STRAIN: Do you know that Stevie Tomatoes is inside, but yet when they open their doors up and they have the walls and windows open, it doesn't make any difference to that neighborhood then.

MR. YOVANOVICH: Excellent point. Our neighborhood is State of Florida land --

CHAIRMAN STRAIN: No, you have a community --

MR. YOVANOVICH: -- that probably is not going to get impacted. We have no objections from our immediate neighbor to the west, who's the only residential around us. You have ag. all the way around us. We don't have any residentially zoned property around us. Everything will be indoors after 10:00.

CHAIRMAN STRAIN: I've got a page of objections that were sent to us basically over concerns of the establishment. And I sent those to you.

MR. YOVANOVICH: And those were raised in 2009. We had another meeting two weeks ago, maybe a month ago tops, with the association, and I believe you -- there was a letter that came from an individual member, and then I think there was a follow-up that also came from one of the officers in that saying, hey, you can't represent that those are concerns of the entity, the association, they're just her own personal observations and concerns.

And what we believe we've done by bringing everything indoors after 10:00 and prohibiting any outdoor amplification of sound would address those concerns.

CHAIRMAN STRAIN: This Ms. Jean McCullom, when she wrote this letter to us in which she attached the neighborhood's concerns with theirs various motions, she did that on her own, she wasn't doing that representing the association?

MR. YOVANOVICH: Which one is Ms. Jean McCullom's?

CHAIRMAN STRAIN: That's the one that had the attachment to it that included the list of motions that they made. I can read it if you'd like.

It was e-mailed to all of us on August 31st at 10:25 p.m., so it's fairly recent. And it says they'd like to add several items to the Corkscrew Commercial CPUD.

Our neighborhood has repeatedly requested that the Corkscrew Commercial Center permitting set a closing time of 10:00 p.m. for any business. We are a rural residential neighborhood and feel that this is late enough for commercial activities in our area, that a 10:00 p.m. closing time would not hinder successful operation. We feel very

strongly about this issue.

So did they change their mind on this?

MR. YOVANOVICH: She may feel that way. I can only tell you that at this point, Mr. Strain, our belief is no other project that I know of in Collier County has been required to shut down at a specific time. When there are legitimate concerns about potential noise, we believe we've addressed those by bringing everything indoors, all outdoor dining, and prohibiting TV's, stereos, whatever to be outdoors in the first place to address the concern. We thought the request that we close at 10:00 was an unreasonable request, especially in light of the fact that we already have C-2 zoning on the front three-and-a-quarter acres. So we don't have any -- if we went with the straight zoning you couldn't impose that time frame on us.

CHAIRMAN STRAIN: Richard, you said that she requested this. Let me read to you the motion.

Motion one, that all establishments in the Williams Mall be opened no later than 10:00 p.m. in the evening. Moved by Jean McCullom, seconded by Maureen Bonness, carried unanimously.

How do you say that's it's just she that is bringing this up?

MR. YOVANOVICH: It was the same person bringing the same motion. I believe there were --

CHAIRMAN STRAIN: Richard, you know -- if you're going to have --

MR. YOVANOVICH: I understand.

Mr. Strain, there were not a lot of people at that meeting. These are were the beliefs of certain individuals in the association. What I'm saying to you is we believe that was an unreasonable condition. We believe the standards we're proposing and the conditions we're agreeing to are reasonable requests and address the concerns of noise. The most immediate neighbor has not raised a single question regarding this project.

CHAIRMAN STRAIN: This is like Estates zoning, Richard. The most immediate neighborhood is like the neighborhood I live in, that we're scattered distant-wise, but the sound out there travels tremendously different than it does in the urban area. That's why our sound code is virtually useless in the rural area.

MR. YOVANOVICH: Everything is indoors, Mr. Strain.

CHAIRMAN STRAIN: You ever see Buford Pusser?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: He carried a big stick and what he did is he went around and tried to shut down establishments that were all indoors too. They had bands vibrating the walls so loud that you could hear them for a long distance. How do I know that's not going to happen here?

MR. YOVANOVICH: Let me ask you this, Mr. Strain, I'm straight C-2 zoning. I bring a site development plan in today to do everything on the east side of this project. You couldn't impose that condition. So why don't we agree that on the a C-2 piece, the piece that's currently zoned C-2, we don't have to shut down at 10:00.

On the stuff that's not zoned C-2, we will cease operations, feeding people in the restaurants that may be in buildings one and two at 10:00.

CHAIRMAN STRAIN: When you came in with a GMPA, you got benefits for that process based on the fact this is all going to be looked at differently. Now you want to fall back on the C-2 because it isn't convenient as to what your differences were then. I don't necessarily agree with that.

And I'd still like to know are you going to soundproof the walls, are you going to keep the doors and windows closed with the exception of people exiting?

We can't have another Stevie Tomatoes in the neighborhood. It's as simple as that.

MR. YOVANOVICH: If a condition that we will keep the doors and windows closed except for people going in and out of the building is necessary, we'll add that as a condition. We'll meet the building code requirements for this type of an establishment.

CHAIRMAN STRAIN: No, establishments don't have to have soundproofing. What about soundproofing the walls and the ceilings?

MR. YOVANOVICH: Okay, soundproofing of the walls and ceilings is not a problem for those types of establishments.

CHAIRMAN STRAIN: Okay, that gets us --

COMMISSIONER SCHIFFER: Mark, let me ask -- I've never heard of this kind of soundproofing. So what kind of criteria are we going to use for that?

CHAIRMAN STRAIN: Well, we actually instituted a same criteria on a PUD off of Airport -- off of 951

across from Rattlesnake Hammock that was going to be up against the swamp buggy grounds, and they were going to be putting in an ACLF there. And we were concerned about it and so we put the same kind of request on that particular project too.

So you were on the Board at the time. What did you mean by that?

COMMISSIONER SCHIFFER: Yeah, I'm just trying to -- how would you ever test -- I mean, there's obviously STC ratings for walls that we use, and the code has for interiors, but I mean, if you're really afraid the joint's rocking, I don't know. I mean, is the test that you can put a country band in there and a guy with a big stick and chase everybody around and you don't hear anything?

I mean, I'm not sure. I mean, the building is pretty soundproof from the exterior. Obviously when you open and close the doors you don't, you lose it.

CHAIRMAN STRAIN: Well, I know that we instituted the same or similar language in that other project. The developer came forward and said he'd be glad to do it and he knew just what to do.

No if you're telling us that was wrong and this one's wrong, then maybe as the architect, you can help us.

COMMISSIONER SCHIFFER: I don't know what he did.

CHAIRMAN STRAIN: I don't either, he hasn't built it yet.

COMMISSIONER SCHIFFER: Hasn't built it, so -- or maybe he knew, I'll just build it, if it's making noise I'll try to calm it.

MR. YOVANOVICH: Nancy tells me it was the McMullen PUD that I think you're referring to.

CHAIRMAN STRAIN: May have been. I don't remember. It's near the Collier hospital over there on 951. Nancy -- I'm sorry, go ahead.

COMMISSIONER SCHIFFER: Which way do the neighbors live that are concerned about the sound?

Which direction?

UNIDENTIFIED SPEAKER: A few miles away.

MR. YOVANOVICH: North and east, right? North and east if you were to --

CHAIRMAN STRAIN: Nancy, if you could find the language that we used in the McMullen and just apply it here, that would take care of it.

The other item they talked about was that light pollution in the Williams Mall be reduced to the maximum feasible extent. How have you accomplished that or are you not bothering to?

I've got to get Richard to provide the answers and I just want to make sure they're here, that's all.

And I mentioned to you, Richard, we did have some standards in the Golden Gate area that seemed to work.

MR. YOVANOVICH: It's condition number three in our Exhibit F.

CHAIRMAN STRAIN: Okay, I circled that. Minimize unnecessary outdoor lighting. What does that mean? You're going to meet the intent of the International Dark Sky Association recommendations, is that --

MR. YOVANOVICH: Right. Is that --

CHAIRMAN STRAIN: That works.

Number three, that all external lights in the Williams Mall be shut off at 10:00 p.m. I'm sure you probably addressed this. You want to tell me where?

MR. YOVANOVICH: We didn't. We said that -- that goes kind of back to the hours of operation question. And obviously the convenience store, we can't turn the lights off, because we anticipate that that use will be potentially 24 hours a day. I'm sure there are going to be the -- there's going to be for security reasons you're going to need to have some lighting within the center when it's dark.

So a condition that all lights get turned off at 10:00, we cannot agree to. We think that the condition number three addresses the light pollution concern I think the residents are raising a concern about.

CHAIRMAN STRAIN: Okay, the motion four, that six-foot walls be installed on the west and north property lines of the Williams Mall. You have expressed concern that you don't want to put the walls in.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: The vegetation does nothing for sounds buffering, it's the walls that help. So eliminating those walls isn't going to help sound buffering.

MR. YOVANOVICH: Again, with the limitations we're placing on the project regarding outdoor dining and the prohibition on sound, amplified sound outdoors, we think the concerns regarding sound have been addressed through our other conditions in the PUD.

CHAIRMAN STRAIN: Is this orientated north to south in the way it's shown here? I can't recall.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: So the two that they're talking about is the one at the end of that long building on the north end and the one to the left, which would be the west. Is that correct?

MR. YOVANOVICH: Correct. You're asking me for directions, let's the record reflect.

CHAIRMAN STRAIN: I don't see a north arrow, that's why I have to rely on you on this one.

The -- what's the property to the north, is that the one --

MR. YOVANOVICH: That's the state owned land.

CHAIRMAN STRAIN: The property to the left is the residential --

MR. YOVANOVICH: The residential, who's been at the meetings.

CHAIRMAN STRAIN: I think I had read other correspondence where it didn't make a lot of sense to put a wall up against the state owned land. But I certainly think it makes sense to put it up against the residential land.

Do you have any problem with that?

MR. YOVANOVICH: Well, the gentleman who owns that property was aware of our request for the, quote, deviation and didn't object to the request for the deviation. So that gentleman is not concerned about having a wall there.

And with, again, all the conditions that we're agreeing to as far as hours of operation and the enhanced buffer that will be over on that side, I don't see the need to put the property owner through the expense of a wall.

CHAIRMAN STRAIN: Well, the only difference is the sound that's generated from the site will travel farther than -- in this rural area than just that one neighbor next door.

Ms. Caron?

COMMISSIONER CARON: Well, I have an issue with deviation number one. He may get a wall whether he wants it or not because they don't want to have any architectural standards for this building, other than on the front side.

So how long is that building? What's the size of that building?

MR. YOVANOVICH: Which one? I can't tell where you're pointing.

COMMISSIONER CARON: I'm sorry, to the west. I don't have a pointer. The building to the west.

MR. YOVANOVICH: Wayne's going to put a scale on that. We'll put a scale on it, but it looks like it's approximately 250 feet.

COMMISSIONER CARON: With no architectural features facing that house.

MR. YOVANOVICH: It's a one-story building with enhanced landscaping. And I think the only reason we're doing this is because I think because we're a PUD. We have to have it on all four sides. Do I have that right, Nancy, is that the reason?

MS. GUNDLACH: That's correct.

MR. YOVANOVICH: Yes. Straight zoning, I don't think we would have to do that. I think it's just because it's within a PUD.

So, again, it's single-story building with enhanced landscaping. I don't think it's going to create visual blight on our neighbor to the west.

CHAIRMAN STRAIN: We'll take that into consideration.

Motion five --

MR. YOVANOVICH: I'm sorry, it's slightly over 200 feet, Commissioner Caron.

CHAIRMAN STRAIN: Developers will work with the Collier area transit, CAT, when designing their parking lot so as to facilitate access of buses.

Do you have any problems with doing that?

MR. YOVANOVICH: Yeah, I don't think CAT wants a stop here. It's probably a liability we don't want to incur by having a CAT station there. But I believe there was an e-mail in the record that says it's really not something that the CAT system wants.

CHAIRMAN STRAIN: John, you're coming up to address this issue?

MR. PODCZERWINSKY: Yes, sir. John Podczerwinsky, for the record. Transportation Planning.

I know I'm probably speaking out of turn, but I did discuss this very issue yesterday with our ATM Director, Michele Arnold. And the discussion was that at this time there is not a desire for a bus stop at this location on

Immokalee Road.

On the -- for buses that are may pass by southbound at this location, it would be a safe location, but for buses to drop passengers off a northbound direction, it would require pedestrians to cross the street, and we don't have any kind of accommodation for a mid-block crossing at that location. Michele felt that it would be an unsafe location for a bus stop and she recommended that we do not pursue.

CHAIRMAN STRAIN: Thank you, sir.

Developers of Williams Mall will consult with the school board on the safety of children getting on and off the buses. Do you know what -- have you been involved in that at all? Do you know what they mean by that?

MR. YOVANOVICH: I don't know the details of what they mean by that. But we always work with the school board, and Mr. Eastman in particular, who I think --

CHAIRMAN STRAIN: Yes, Jeff?

MR. KLATZKOW: Yes, Mr. Eastman spoke with me just before he left me and asked me to convey the following note to you.

He requests that the school district staff will work independently with the developer to potentially coordinate a school bus stop at the site and that it not be part of the PUD.

CHAIRMAN STRAIN: Okay. Thank you.

The Transportation Department revisit whether a turn lane can be put in in the northbound and southbound lanes at Platt Road to accommodate the Williams project.

John?

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Okay, the Transportation Department revisit whether a turn lane can be put in in the northbound and southbound lanes at Platt Road to accommodate the Williams project.

MR. PODCZERWINSKY: Did we revisit it? We had evaluated this site for operational impacts and we looked at -- we believe there probably will be a need at some point based on what they end up constructing there, what they're zoned for at this point, that there will likely be warrants met for turn lanes.

We did seek additional, I won't say that we sought additional right-of-way for the turn lane at this point but we gave them notice that at the time of SDP when we do request an additional turn lane that there will compensating right-of-way required for it. And that's the southbound direction.

CHAIRMAN STRAIN: So your department has a mechanism that when they come with SDP, if the turn lanes are warranted they will be required to put them in.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Okay. I'm just trying to address the questions from the association.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Okay, thank you.

In your list of permitted uses, Wayne, since you are the one that found this, I'd rather get a real answer. You have civic, social and fraternal associations, group 8641. I didn't find that in the C-1 or two categories. How did you?

MR. ARNOLD: If I might, Mr. Strain. I'm Wayne Arnold with Grady Minor for the record. And as Rich mentioned early in his presentation, the tables have been subject of some conversation. We also had looked at the previous document and the post document to the use in the tables.

And if you go to the preceding ordinance right before the table supplement three or four, whichever one it was, was utilized, you find the reference to the civic uses in that list of permitted uses. When you go to the table, you do not find that.

CHAIRMAN STRAIN: Okay, let's take a look.

So you're saying in the ordinance before 04-41, we already had in there the existence of these particular uses that you've got on there. So that would be the -- what's that ordinance that it's from, though, what number?

MR. YOVANOVICH: That's the ordinance -- that's the LDC version immediately preceding 04-41.

CHAIRMAN STRAIN: Which is what number? Do you have a number in the front of it?

MR. YOVANOVICH: I didn't bring my entire book, I just copied the pages from it.

CHAIRMAN STRAIN: Because prior to the institution of 04-41 there were two ordinances from 91-102 that affected some of these zoning categories of C-1 and C-2. After 04-41 there were one, two, three, four, five, six, seven, eight, nine ordinances that modified zoning categories within 04-41. In particular, charts came out at some

point after on 04-41, I'm not sure which of those nine.

But I'm not -- can you show me where the zoning wasn't changed in one of the prior ordinances after 04-41 but before the tables? It could have been in the old code, but we had several ordinances since 91-102 or 04-41 were introduced that changed the zoning categories.

MR. YOVANOVICH: I believe the tables came about in 04-41.

CHAIRMAN STRAIN: Okay, I'll tell you what, in order to expedite this meeting, I'm going to ask staff between now and the time it comes back for consent to verify that principal uses 16, 25, 30, it will be those, were in fact part of another ordinance and they failed to be carried over to the new ordinance. And if that's the case you're right, then they get fixed. But if they were modified after the new ordinance intentionally, they don't get fixed.

So we just need to get that verification. We can do that by consent --

MS. ASHTON: Mr. Chair, the number 16 that you're asking about, I found it as a conditional use under fraternal lodges, private club or social club.

CHAIRMAN STRAIN: Okay. Do they get conditional uses?

MS. ASHTON: As a conditional use. Under that category there's no SIC Code, but under fraternal lodges, private club or social clubs, it's supplement one, Page 2, call-in 122.

COMMISSIONER STRAIN: But that doesn't give us the civic, social and fraternal associations.

MS. ASHTON: It's worded differently.

CHAIRMAN STRAIN: Right. Well, I just -- is staff could take a look at those few to verify there's not a problem. That's what I'm -- I guess it's all I'm asking.

With that --

MR. YOVANOVICH: Can I have those -- did you get all those numbers, Wayne? Sixteen, 25 and 30, Mr. Strain?

CHAIRMAN STRAIN: Yes. Then the last one, your accessory uses and structures, you bring up cocktail lounges, group 5813. I need someone to verify between now and consent that cocktail lounges were in fact a standard traditional accessory use at that time frame that you were adopted as a subdistrict. Because you're looking at cocktail lounges as now an accessory use to the restaurant, or to the eating places. I just want to make sure that they in fact are considered typical accessory uses.

So other than that, I'm done.

Anybody else? Worn everybody out?

Ms. Caron?

COMMISSIONER CARON: Well, I'm going to bring up deviation number one again from the architectural standards here. I think that these buildings are large. They are 200-plus feet long. And as you -- if you only have to have a front facade on one side, when you come down Immokalee you're going to be looking at blank walls there, this poor guy in the house to the west is going to be looking at a blank wall up against his property.

I have a real issue with this. And I can cite it from a very specific instance, and that's at the corner of Wiggins Bay in the Benderson project. Suddenly that was a staff thing. They said oh, well, you don't really need to have facades. And so suddenly there were concrete walls up against 41 and Wiggins Pass Road. They were absolutely unsightly. And you end up having to fight. Now, I got them changed as best I could, but they are not true front facades. And they're just not what they should be.

And I would hate to see that kind of thing start happening out here in the rural area. I just think it's, you know, it's bad policy.

CHAIRMAN STRAIN: Wayne?

MR. ARNOLD: Thank you, Mr. Chairman. Wayne Arnold again.

I want to clarify this, because I think it took a couple of iterations before staff got exactly what we were asking for, and we recently moved the deviation location to make it more specific. Our intent is that all the buildings will have architectural standards on all four sides, with the exception of two buildings. And those two buildings were buildings two and one.

And only the north elevation on building one, which is the building to here on the visualizer, that narrow side of that building would not have to have primary facade architectural treatments. Now keep in mind primary architectural facade treatments require window glazing, canopies, awnings, things that probably aren't going to be functional aspects of that building.

COMMISSIONER CARON: That's not building one.

MR. ARNOLD: I'm sorry, am I misreading that? I need Rich's eyeglasses. Building two, excuse me. Building two to the north and building one to the west. Sorry.

But -- so it's only for that one narrow end. And if I go to the larger exposure of the building to the west, it only applies to the western building elevation.

And again, keep in mind that when we get to primary facade standards you're requiring things like window glazing on a certain percentage of that building. And we didn't think that that's necessarily the most compatible scenario for the homeowner to the west. So what we did was offered up an enhanced landscape buffer in lieu of providing a primary facade.

Because, keep in mind, these again are one-story buildings, and to have a double hedgerow with additional trees we thought was a good solution to not providing primary facade treatments on that side.

COMMISSIONER CARON: Your building number two where it would just be the end of the building up against the state owned property --

MS. ARNOLD: Correct.

COMMISSIONER CARON: -- is probably okay. But that's not the way this deviation reads.

MR. ARNOLD: And I apologize, that is my fault, and I'll take responsibility for that. I think the version that

--

COMMISSIONER CARON: But let me continue on here. My primary concern here is also this building number one, the building furthest to the west that is up against the single-family home. What you're going to end up with on that side is essentially a concrete wall with doors, service doors out the back.

So they're going to get clanging service doors and maybe the dumpster against that house, and, you know, all that, and a double hedgerow is going to suffice for those people?

MS. ARNOLD: Well, I would hope that the master concept plan, while it's not the final plan and subject to some minor refinement, I think what we're trying to demonstrate, probably, and Mr. Schiffer knows better than any of us, whatever the fire code may dictate is what I'm envisioning we have in the back of that building. Because we're presenting a wide landscape buffer back there without having access to the building for service, et cetera.

And again, keep in mind, the reason that we asked for these is because we're in a PUD and it says all freestanding buildings within a PUD have to have all sides treated as a primary facade, which probably makes sense if you're an outparcel, which it was probably largely directed to be. But when you can present and push the building back, which it did two things in this case, Ms. Caron, putting the building there also acts kind of like a wall treatment, if you will, so it keeps the automobiles and the drive areas separated from the home that is to the west. And then we're not promoting access behind the building for services or deliveries or anything like that.

COMMISSIONER CARON: But you are pretty much in an outparcel position.

MS. ARNOLD: That's -- I'm telling you our justification for that is we thought fairly simple.

COMMISSIONER CARON: Weak at best.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Wayne, how much traffic is coming eastbound on Platt? Is that a heavily -- what's the future of that road?

MR. ARNOLD: Well, right now it's a -- I think there are three structures on Platt Road. It's a dead-end road. It's a gravel road right now. We'll be improving it to some county standard up to our driveway entrances. But I think somebody said, and I haven't verified, but somebody said at maximum build-out with the way you can subdivide properties, you could have up to 14 homes on that street at some future date.

I don't know if that's an accurate number. I could probably take another look at that and tell you exactly. But that's what I was told earlier today.

COMMISSIONER SCHIFFER: I'm on the fence on -- obviously I like the architectural standards. I really am not sure that that particular one is a --

MR. ARNOLD: Well, I think our issue isn't so much that having architectural -- some architectural standard, but it's the primary facade standards that's the tough one because you do get into these glazing, the clock tower treatments, gabled entry features. That's not what that side of this building will be. And I hate to have the owner go to an expense to design something that should look like it's the front door but it's really the back door.

And what we're hoping to do, and maybe we can -- certainly we can talk to the applicant, but I mean, if there

are some architectural treatments less than some of those primary facade treatments that might make you more comfortable, I mean, a banding element or something that we do. But again, keep in mind, like Rich said, we're envisioning these to be only single-story buildings less than 25 feet.

COMMISSIONER SCHIFFER: Maybe what you want to do is look at that and eliminate -- let's say it's a menu driven thing, so just, you know, where you have to have three choices, make one choice or something like that.

I agree that that is going to essentially be the back of the building. It probably will have a door, it will have the air conditioner, the units, it will have the meters and stuff. It would be better just to somehow hide it rather than -- because the building, one of the facades has to carry that stuff.

MR. ARNOLD: Maybe the issue is -- the landscape buffer is pretty substantial. And I don't know what the owner may want to do, but generally speaking, landscaping can be a cheaper alternative than to do some architectural treatments. He's also in the plastering and stucco business. So putting some embellishments on the building may be something worth looking at.

COMMISSIONER SCHIFFER: I think that if you did landscape it to something that would grow into the future when those houses down the road ever do come about, they would probably rather not see the building than see a pretty building.

CHAIRMAN STRAIN: Okay, anybody else have any questions?

COMMISSIONER EBERT: Yes, I do.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: I have one. Because of Stevie Tomatoes and just this buffering to the west, that kind of bothers me, because I know what happened behind there where they were going through and everything. I would like to see a wall just for the home -- I mean, because she's right, Ms. Caron is right, you've got over 200-foot building here and people can just walk right through that buffer.

MR. YOVANOVICH: But that building, Ms. Ebert, Stevie Tomatoes couldn't go in that building. Let meet point, so make sure we -- you're concerned about this building, correct?

COMMISSIONER EBERT: I am. I'm just concerned about the neighbor next to it.

MR. YOVANOVICH: Right. Stevie, if you're going to use that, someone else, they built a -- whatever, a restaurant with a cocktail lounge can only go in this building.

COMMISSIONER EBERT: But the people can just walk right through this buffer area over here. I don't care if they go on the state land or out on Immokalee Road, I just guess I'm worried about the neighborhood to the west. It's the only --

MR. YOVANOVICH: Again, and he's been in all of the meetings and hasn't had a concern. And I'll show you where his house is, and he stores his dump trucks immediately adjacent to our western boundary. It's hard to see them on the aerial. Let me make sure I get this oriented in the right direction. I'm trying to get you dizzy --

CHAIRMAN STRAIN: Well, Richard, you know what might help is just say you're not going to put restaurants in buildings one and two.

MR. YOVANOVICH: But why would I -- why would I -- a regular restaurant that doesn't have a cocktail lounge, what would that be as a problem to -- you know, if you put a --

CHAIRMAN STRAIN: Well, good, Rich, you can ask a question that I wish you had been in another meeting. What do you consider Stevie Tomatoes, a restaurant, cocktail lounge or a bar?

I'll tell you what they consider themselves and what their court case ended up winning. They consider themselves a restaurant.

MR. YOVANOVICH: And I think they are.

CHAIRMAN STRAIN: Okay. So Stevie Tomatoes could go where Ms. Ebert is concerned?

MR. YOVANOVICH: No, they -- what do you consider Michelbob's?

CHAIRMAN STRAIN: That's a restaurant as far as I'm concerned.

MR. YOVANOVICH: That's what we're talking about, because Michelbob's doesn't have a cocktail lounge, but they do serve alcohol.

What I'm saying is the Stevie Tomatoes type of operation, restaurant will be limited to -- oops, wrong video -- or picture -- this building.

So I think we've been responsible in locating that type of establishment should it want to go to this center. But I don't think it would be inappropriate to have a Michelbob's type restaurant in any of the other two buildings.

And I don't know why that would be an issue for the neighborhood.

CHAIRMAN STRAIN: That's quite a noise generation, Richard. That's more than just a casual sit down restaurant. Those are very active. They're noisy with take-outs, and people in the parking lots are pretty active.

I mean, that's a little different from what I thought you were proposing with all the other uses you had asked for. It's going to have a lot of restaurants in this one PUD.

MR. YOVANOVICH: No, it has the ability, Mr. Strain, to put a restaurant there. What's confusing to me is the neighborhood didn't object to any of these concerns regarding restaurants, and why is it an issue when it's not a neighborhood concern regarding having a restaurant without a cocktail lounge in either buildings one or two?

CHAIRMAN STRAIN: They didn't object when Stevie Tomatoes went in.

Go ahead, Mr. Murray.

COMMISSIONER MURRAY: I'm not in that fight, okay. But I do think that it's a valid point about odor and so forth if there is a dumpster somewhere behind that building. Perhaps a partial wall. Perhaps the botanicals can remain but then an area where they would put the dumpster could have a wall there, if that might help. It needn't been very long. And it might achieve what you want.

MR. YOVANOVICH: That's fine.

COMMISSIONER MURRAY: The distance you said is 135 feet --

MR. YOVANOVICH: To his house.

COMMISSIONER MURRAY: To his house. And of course, I don't know if it's at straight across, at diagonal, or wherever. But in any event, I think it's a point well taken that if you do have some activity there -- now the activity that the Chairman is referring to is generally in the front and then the house or the restaurant itself blocks that noise to some degree.

But in the back where they would dumpsters, there would be activity, and even in the evening, it would be useful I think to have some kind of a half wall. I don't mean half in height, I mean half in the sense that 20-feet, 15, whatever is reasonable.

Does that appeal to you?

MR. YOVANOVICH: We have no issues with putting a wall in front of any dumpster that may be back behind that building adjacent to the residential --

COMMISSIONER MURRAY: I just hope that that maybe satisfied some of the thoughts --

MR. YOVANOVICH: If that's a noise concern, we don't have an issue with that.

CHAIRMAN STRAIN: Any time other questions?

Mr. Schiffer?

COMMISSIONER SCHIFFER: All dumpsters have to be in enclosures, anyway, so no gifts there.

You know, Rich, my only concern with the whole thing, and I hate to bring it up at almost 5:00, is the parking lot. Because the club's going nice, I'm not worried about the noise out of the building. If we really were, we should worry about where we place the doors, because that's where the noise is going to come and go.

But the parking lot will be lit, correct?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER SCHIFFER: Now the night sky thing, that -- because the big parking lot behind it my only concern, the people hanging out there. So as long as it's lit, I think, to make sure that it's a safe place to hang out there.

MR. YOVANOVICH: Right. And we're going to -- and we believe under the night sky standards we can accommodate both the safety aspects and the community's concern about too much light.

COMMISSIONER SCHIFFER: Because essentially the night sky shields and blasts the light to the ground, not upwards and doesn't have bright luminaires.

COMMISSIONER MURRAY: If I may.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: You could use bollard lighting. We've had that as an opportunity before. And that will -- in that area over there, that's actually very good in that sense. It's low to the ground relatively and it does provide adequate light. That should certainly make dark skies a lot more effective.

CHAIRMAN STRAIN: Any other questions of the applicant?

(No response.)

CHAIRMAN STRAIN: Okay, we'll hear from staff report.

MS. GUNDLACH: Good afternoon, Commissioners. I'm Nancy Gundlach, Principal Planner with the Department of Land Development Review, for the record.

And staff is recommending approval. And that is because of the proposed revisions that we are making to the car wash commitment language in the PUD.

And I do have a couple of questions, if I may, some clarification questions for you.

CHAIRMAN STRAIN: Sure.

MS. GUNDLACH: Are we going to be soundproofing the walls and ceilings of all the buildings or just certain buildings?

CHAIRMAN STRAIN: My concern was the one that was going to contain the most noise, which would be the one with the cocktail lounge. It would be building three.

MS. GUNDLACH: Okay, building three. And then you also requested that we look at the land uses for three particular items. Would you like to double check all of them?

CHAIRMAN STRAIN: Well, I thought you may have done that, because when Kay had sent that e-mail out, she said that's the one that was used for this. If you hadn't checked them, you should because we're relying on you to have done that. So if you hadn't already checked them, I think you should.

And by the way, my points were suggestions, they have to withstand the test of time here before we make a motion.

MS. GUNDLACH: Okay.

CHAIRMAN STRAIN: Thank you, Nancy. Anybody got any questions of staff?

Mr. Murray, then Ms. Caron.

COMMISSIONER MURRAY: Nancy, you're going to skip this one, John's going to get it unless you know the answer directly right off. In Page 9 of 21, transportation review where it talks about compensating right-of-way and no credits being issued, is that standard procedure?

MS. GUNDLACH: I always defer to my experts.

COMMISSIONER MURRAY: I thought. I know that above we talked -- or below we talked about providing some benefits.

MR. PODCZERWINSKY: John Podczerwinsky.

COMMISSIONER MURRAY: You know what I'm talking about, John?

MR. PODCZERWINSKY: Yes, sir. I don't see the text in front of me at the moment.

COMMISSIONER MURRAY: Well, I'll read it to you if you'd like.

MR. PODCZERWINSKY: Sure.

COMMISSIONER MURRAY: Compensating right-of-way 15-foot wide for a right turn lane shall be dedicated by the county -- by the owner to the county as a road easement to reimburse the county for the use of the existing Immokalee Road right-of-way.

Compensation shall be along the length of the turn lane along Immokalee Road only. Such dedication shall be considered site related and there shall be no road impact fee credit due the developer.

I just wondered why that. Now maybe it's a standard and I don't know that.

MR. PODCZERWINSKY: Typically it is a standard, yes. It's a right-of-way handbook standard that we apply at SDP. The reason that we brought it up in this case is because of the remote location of this development, and we really just wanted to make sure that the applicant knew that this is an anticipated feature of the site development plan.

COMMISSIONER MURRAY: Okay. But then we're starting to slip back into the mode of putting things in that we already know are there by --

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER MURRAY: I think probably it's unnecessary. You've already conveyed that, they know it. You should probably take it out.

MR. PODCZERWINSKY: Understood and agreed, sir. That's perfectly acceptable.

CHAIRMAN STRAIN: Any other questions of staff?

Oh, Ms. Caron, you had a question.

COMMISSIONER CARON: Oh, yes, actually, I was going to ask Nancy to weigh in on the wall issue to the

west of building one.

MS. GUNDLACH: That would be my pleasure, Commissioners.

Early in the project review I was pretty adamant about the wall along the west property line. And then on the night of the NIM when I drove out to look at the site, once you get out there and you see what the neighborhood looks like, at that point I was less adamant about the wall.

And I do believe that a hedge would be in that -- just on that particular location, a hedge would be an appropriate solution.

COMMISSIONER CARON: And so you're okay both that there's no wall and that it does not have to be a primary facade.

MS. GUNDLACH: Well, I believe that the landscaping that's proposed will hide the building wall.

COMMISSIONER CARON: Okay. Thank you.

CHAIRMAN STRAIN: Okay, anybody else have any questions of anyone from staff?

(No response.)

CHAIRMAN STRAIN: Thank you, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Do we have any public speakers Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Anybody in the audience wish to address us on this matter?

(No response.)

CHAIRMAN STRAIN: You want a rebuttal to nothing?

UNIDENTIFIED SPEAKER: I'm dying to, though. But it's 5:01.

MR. YOVANOVICH: I'll reserve.

CHAIRMAN STRAIN: You'll reserve.

MR. YOVANOVICH: Should there be any issues that come up. But no, I don't have any rebuttal --

CHAIRMAN STRAIN: There's going to be some discussion I'm sure.

But with that we'll close the public hearing and have discussion or a motion, whichever the Planning Commission prefers.

COMMISSIONER MURRAY: I would make a motion of a recommendation for approval.

CHAIRMAN STRAIN: There's been a motion made for approval. Is there a second?

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Second made by Mrs. Ahern.

Discussion?

Ms. Caron?

COMMISSIONER CARON: Are any of the things that we've discussed, Mr. Murray, part of your motion?

COMMISSIONER MURRAY: I was anticipating our good Chairman reading off his numbers so that we could have that benefit.

CHAIRMAN STRAIN: I was going to. The first -- well, some of these are my issues that I brought up that I don't know if we have consensus on. So after I bring them up, we need to discuss them.

The first one is the wall deviation for the west property line. I'm inclined to go with the homeowners association or the whatever group it is out there that had requested it be on that residential side. I know there's a debate whether the residential is residential versus agriculture, but there are homes there and there are more further deep into that project.

So I think that would cure the problem of the architectural concern around the back side and any additional noise from that parking lot. So I'm inclined to insist they put the wall on the west properly line.

COMMISSIONER CARON: I would agree.

COMMISSIONER SCHIFFER: I think we should talk as we go rather than -- that last one got. I agree too. I fear that the failure of this thing won't be a Stevie Tomatoes, it will be a bunch of people hanging out in the parking lot.

CHAIRMAN STRAIN: So, okay, it's three of us. Mr. Murray, did you accept that?

COMMISSIONER MURRAY: I'm going to go with consensus.

CHAIRMAN STRAIN: Ebert, agree?

COMMISSIONER EBERT: I agree with the wall.

MR. YOVANOVICH: Can I --

COMMISSIONER MURRAY: I'll accept the consensus on that.

MR. YOVANOVICH: Are we allowed to participate in the discussion, Mr. Chairman?

CHAIRMAN STRAIN: I prefer that you did not, but it's going to be hard to stop you.

MR. YOVANOVICH: You know me.

CHAIRMAN STRAIN: As a courtesy, go right ahead, Richard. Just keep it brief, please.

MR. YOVANOVICH: I will. I'm always brief. I believe what Ms. Bonness said -- is that John back there?

CHAIRMAN STRAIN: That's the whole room --

MR. YOVANOVICH: I think the concern that Mr. Schiffer just raised was really related to the parking area, so -- and I also think that Ms. Modess (sic) said let's revisit this a year after there's been an operation. So I would like to see a year after operation if there's a need for a wall that the wall would go by the parking area on the west side. And I believe that's what Ms. Bonness said was, let's see how it operates and revisit the noise issue, the wall issue in a year.

So I would hope maybe that's a fair compromise, that if the concern is the parking area, let's put a wall by the parking area and then -- but do that after we've had a year to see if it's really a concern.

CHAIRMAN STRAIN: My reading of her remark was in relationship to the north one. I'm not even suggesting it there. I think what she's saying, the adjacent parcel to the north is owned by the State of Florida and it's not likely to be homesteaded, so -- and there's questionable value to requiring a hedge at this location will not abate noise, there are no neighbors, however, I suggest adding a provisional clause that one year after the commercial center opens for business, the issue of noise be revisited to determine if other measures are required.

To that to me, seemed -- she starts the sentence out concerning the variances you've requested on all construction on the north border towards Corkscrew Swamp Sanctuary.

So I think that's the one I didn't suggest. The one I suggested was the west side, Richard.

Go ahead, Ray.

MR. BELLOWS: Yeah, and I don't believe we have a process to bring something back to determine after one year if there is a problem or not.

CHAIRMAN STRAIN: That's why I didn't go --

MR. KLATZKOW: We do have a process. We have the one in Jones Mines and it works terribly.

CHAIRMAN STRAIN: Well, thanks for that.

MR. KLATZKOW: Well, it does. It comes back, comes back, the Board doesn't like it, the owner doesn't like it, staff doesn't like it. And so you can do it, but I'm telling you, it doesn't really click very well.

CHAIRMAN STRAIN: Well, I think the issue is the wall along the west side. There seems to be consensus on the Board that that's a good thing to do.

Mr. Murray?

Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: Yeah, I had no problem with that wall stopping at the edge of the parking lot though. Just sending a wall into the woods doesn't make a whole lot of sense, though.

CHAIRMAN STRAIN: Well, I suggest it start at the line -- there's a line on here just -- yeah, at the edge of the parking lot, that works.

Okay.

COMMISSIONER MURRAY: As I said, I would accept consensus as these go by.

CHAIRMAN STRAIN: Ms. Ahern, you're the second. Do you accept it?

COMMISSIONER AHERN: If that is consensus, yes.

CHAIRMAN STRAIN: Well, seems to be consensus, I guess the vote will tell us that.

COMMISSIONER SCHIFFER: Or you could go 20 more feet if you want. Yeah, go 20 more feet to so that it's to --

MR. YOVANOVICH: I see what you're saying.

CHAIRMAN STRAIN: Up to 20 feet past the north side of the parking lot.

The other one is Nancy suggested some changed language to development commitment number four regarding lighting. I don't know if any of us had a problem with that.

COMMISSIONER MURRAY: My recommendation would be to put bollard lighting in there or an equal.

COMMISSIONER SCHIFFER: Here's what I'm concerned about, Bob, is you know, people sitting on cars, car hoods, lighting four feet high, it's going to make that more fun than it should be.

COMMISSIONER MURRAY: You're making it sound like it's a real rodeo place.

COMMISSIONER SCHIFFER: Let's hope it is.

COMMISSIONER MURRAY: Well, I made a recommendation for that because it does treat the night skies very nicely. But I'm certainly not closed to the notion of putting perhaps overhead lighting that's closer to the ground, maybe six-foot high, I don't know.

CHAIRMAN STRAIN: The change to development commitment number four is by -- that Nancy suggested was the one for the noise levels, I'm sorry. It was the one for the noise levels.

Did we have any issues with the one for the noise levels, the language. That's what that one was, Bob.

COMMISSIONER MURRAY: I don't remember any issues.

CHAIRMAN STRAIN: Okay. And then your issue was the bollard lighting, which I guess we've got --

COMMISSIONER MURRAY: It is a suggestion, it's not an absolute.

COMMISSIONER SCHIFFER: Here's the other problem, Bob, is there's like 60 feet paving between landscaped areas. You really -- it would be tough scooting light across that. Again, you don't want to make it too romantic out there.

COMMISSIONER MURRAY: What are they doing out there, Brad?

COMMISSIONER SCHIFFER: I think I'm exposing a different childhood than you guys had.

CHAIRMAN STRAIN: Okay, do we -- we have consensus on Nancy's. We have consensus on the wall. Let's go to the outdoor seating after 10:00. And they said no outdoor seating after 10:00. I don't remember if that got into the document somewhere, but I think we're all in consensus on that.

COMMISSIONER CARON: That was just brought up today.

COMMISSIONER MURRAY: We're all -- we're in agreement.

CHAIRMAN STRAIN: Okay. The doors and windows are to remain closed except for people entering and exiting. Everybody in agreement on that?

(Commissioners responding yes.)

CHAIRMAN STRAIN: Okay. And then the soundproofing the ceilings and the walls, and this is in building three. And the applicant has nodded affirmatively, Richard hasn't expressed an objection.

Is everybody in agreement with that? Nancy's going to check the language we used in the McMullen PUD.

COMMISSIONER MURRAY: Yeah, I guess if we go by the McMullen PUD. But in truth, just like that one-year later thing, you're not going to be able to verify it.

COMMISSIONER AHERN: Yes.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: I just have a question here on the wall. I'm seeing two marks, and I'm assuming that the wall is going to begin down at Platt and go up to the highest mark there is -- right, exactly, the highest mark that you just put in. So from Platt, I don't know what these ones in the middle are --

CHAIRMAN STRAIN: Going to be a continuous wall from Platt to 20 feet north of the parking lot.

COMMISSIONER CARON: Thank you. I just wanted to confirm --

MR. YOVANOVICH: No. What we had proposed was the wall would be the entire length of the parking lot. And what Mr. Schiffer said to me, Mr. Yovanovich, you put the shortest part of the parking lot, I want you to go to the widest part of the parking lot I think is the comment.

COMMISSIONER SCHIFFER: They feel if you run the wall down to Platt, then a deviation of that facade becomes less of a concern for them. And believe me, the wall is cheaper than the primary facade.

MR. YOVANOVICH: I thought we had addressed that by the additional landscaping was the concern --

COMMISSIONER SCHIFFER: I'm with the landscaping. I'm just speaking from --

MR. YOVANOVICH: I thought this was sound issue, the wall was a sound issue, not a pretty building issue.

CHAIRMAN STRAIN: It is. And you acknowledged a Stevie Tomatoes could go in building one. So why wouldn't we want the sound protection there?

MR. YOVANOVICH: No, I did not. Stevie Tomatoes has a cocktail lounge area.

CHAIRMAN STRAIN: It's considered a restaurant, Richard. That's what they classify themselves and the

courts have awarded them that classification. So if they can be a restaurant, that means they can be there under the classifications you've asked for. So there's no protection then except they have to shut down at 10:00.

MR. YOVANOVICH: Okay, I think that would be a pretty big protection against a Stevie Tomatoes type of operation, closing at 10:00.

CHAIRMAN STRAIN: This is our discussion. The wall was intended to go from Platt Road to 20 feet north of the parking lot. That was what I had proposed. I'm still proposing that. Let's try to get the consensus on that and then go from there if we don't.

Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm good with it if it gives them the deviation for the architectural primary facade on the back.

CHAIRMAN STRAIN: Ms. Ahern?

COMMISSIONER AHERN: I'm good with that.

CHAIRMAN STRAIN: Donna?

MR. YOVANOVICH: Can I reduce my landscaping to go along with that?

COMMISSIONER SCHIFFER: Yeah, nobody will see the plants if they're on the wall.

CHAIRMAN STRAIN: And anybody else on this side? Everybody okay with that?

Mr. Murray?

COMMISSIONER EBERT: I agree.

COMMISSIONER MURRAY: I'm good with it.

COMMISSIONER HOMIAK: I'm good with it.

CHAIRMAN STRAIN: Okay. Let's go to the next one. There was a discussion about restricting restaurants, I brought this up, to just building three. With a wall in place, a restaurant on building -- any other buildings with a 10:00 cutoff I think works, so I'm willing to drop that issue, unless anybody else wants to carry that.

COMMISSIONER MURRAY: Sounds good.

CHAIRMAN STRAIN: And then the discussion about removing the compensating right-of-way issue for number six in Exhibit F. Is that correct, Mr. Murray?

COMMISSIONER MURRAY: I think that's a staff activity. They'll do that. I don't think we have to put that in the motion.

CHAIRMAN STRAIN: Well, it's in the PUD, so if we're taking it out, we have to tell them to.

COMMISSIONER MURRAY: Okay, then let's take it out.

COMMISSIONER AHERN: What was that one?

CHAIRMAN STRAIN: The requirement for compensating right-of-way on the issue number six, that's already taken care of by our code so it's not needed in our PUD.

Ms. Caron?

COMMISSIONER CARON: Yes, Mr. Arnold was going to clarify deviation one language so that it is -- when he talks about the north it is just the end of building number two, as well as the west of building number one.

MR. YOVANOVICH: Right, and I believe that was staff condition number two, which we had agreed to.

CHAIRMAN STRAIN: Staff condition number two. Okay, does anybody have --

COMMISSIONER SCHIFFER: Question, Mark.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Since deviation number three was to get rid of the western wall, can we put it on. Should we not allow them not to have to put the landscaping and everything. If you look at deviation --

COMMISSIONER AHERN: Yes, that's what we said.

CHAIRMAN STRAIN: We did say that. Staff's going to come back with an amended write-up when this gets cleaned up to whatever landscaping would be required with that type of buffer and a wall. Just standard landscaping at this point.

COMMISSIONER MURRAY: And we wouldn't require landscaping on the other side of the wall.

CHAIRMAN STRAIN: That's where they do require it.

COMMISSIONER MURRAY: But I would think that we should not based on the fact that it's ag. and no activity.

CHAIRMAN STRAIN: I mean, we have a code in place for landscape buffers with walls, why don't we just

follow it at this point. It's less than what they're putting in now in regards to landscaping. And I think the guy living in the house next door ought to have more than just a wall to look at.

COMMISSIONER MURRAY: All right.

CHAIRMAN STRAIN: Okay, are we done discussing?

Motion's been made, it's been seconded. We've had discussion on the stipulations, they've been more or less outlined. If everybody's okay with that, I'll call for the motion.

All those in favor signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0. Thank you. And we will try to finish on consent.

Well, everybody, it's been a long day, to say the least.

COMMISSIONER SCHIFFER: Mark, let me ask a question. The prior application. We essentially what we did is we -- it was a motion to approve that failed, and that goes to the Commission.

CHAIRMAN STRAIN: Right.

COMMISSIONER SCHIFFER: Do they come back on the consent agenda with the items we discussed?

That would only be if it passed?

CHAIRMAN STRAIN: Right. I don't believe they haven't -- that's not been what we've done in the past.

COMMISSIONER SCHIFFER: Well, in the past haven't we normally had a second motion to deny it and then that's what goes to the Commission. This one's a little bit unique.

COMMISSIONER MURRAY: Deny or extend.

CHAIRMAN STRAIN: I don't recall that being done in every case, no.

COMMISSIONER SCHIFFER: Because here's the -- it would be good to see it on the consent just to get those items that we wanted -- and a lot of them weren't controversial, into the package that does go before the Commission.

CHAIRMAN STRAIN: Well, we had spent over six and a half hours discussing that item. If we wanted to go into another motion, I wasn't understanding that from the way the vote came down. So honestly, I can't tell you what we can do at this point.

COMMISSIONER SCHIFFER: So all the debate, the negotiations we had --

MR. KLATZKOW: You know, and I've been thinking about this, because I chatted with Corby about this. I don't think there's anything to bring back here. There was no vote as to any of the stipulations. And, you know, the applicants sort of stormed out of here so there wasn't much of a chance to do much else.

CHAIRMAN STRAIN: The applicant wanted a third bite at the apple. We offered two, three, I don't know how many times the suggestion to go for continuance, and they didn't really take us on that until we were into the motion, which I had pleaded with them not to do that. So I'm not sure we need to have that --

MR. KLATZKOW: My recommendation to the Board is going to be that they refer it back here anyway. Because we're at a point where it seems -- it almost seems like the thing has been designed for litigation rather than for development, to be blunt with you. And, you know, there's no cause for that. There are a lot of issues I think that could be worked out.

COMMISSIONER SCHIFFER: The reason I thought, like sometimes, for example, we reviewed some GMP amendments that we voted down. Yet in the process we came up with good stuff that, you know, we had good stipulations and we just -- the motion was to deny and we voted it down and all the stipulations drop off. They go to the Commission and they accept it. So the point is that all that good work we did is shed.

Should we not maybe, even though we're package denial, package it in such a way that if the Commission reverses it and they do get the benefit of our work.

CHAIRMAN STRAIN: Looking back, Brad, that's an option that might have been something to consider. We had spent seven-and-a-half hours -- or six-and-a-half hours on that one issue. And I don't know if we would still be here now discussing that one issue if we were discussing more parameters on how to send it forward, even as a denial.

It had to end at some point, and I think the vote ended it. And that's where I left it. And that's the best I can tell you at this point.

MR. KLATZKOW: I think staff can make whatever -- the staff will make the notations in the executive summary as to what was discussed and --

MR. BELLOWS: Exactly. There's no formal motion taken by the Board as to what they should be doing. This is a recommendation of denial. So if they brought something back on consent, there was still nothing that was unanimously voted on by the Planning Commission.

COMMISSIONER SCHIFFER: But it's not a recommendation of denial, it's a failed vote on approval.

MR. BELLOWS: That's true. But it's still nothing that they can respond to because there was no direction for them to actually do those particular things.

CHAIRMAN STRAIN: I do remember members of the Board of County Commissioners commenting that when something comes to us with a split vote or a vote of non-support, they look real hard at it. So it won't be consent or summary, it will be on --

MR. KLATZKOW: No, it has to be on regular.

MR. BELLOWS: It will be on regular, and we'll even attach the minutes of the Planning Commission.

CHAIRMAN STRAIN: So that means the issues we did raise will all be available to the Board.

MR. KLATZKOW: It will be to the Board, but again, I mean --

MR. BELLOWS: Yeah, the minutes will do it.

MR. KLATZKOW: The minutes will do it, and I told you what my recommendation will be --

MR. BELLOWS: And they may be watching too.

CHAIRMAN STRAIN: That brings us to old and new business. I don't know of any. Ray?

MR. BELLOWS: Yes, you asked earlier about the AUIR CIE books. Mike Bosi has responded and he said that he will be getting them back from the printer either on Friday or Tuesday of next week, and he's hoping to have them delivered at least two full weeks ahead of the meeting.

CHAIRMAN STRAIN: Excellent. Thank you very much, Ray.

Any other issues?

(No response.)

CHAIRMAN STRAIN: Hearing none, is there a motion to adjourn?

COMMISSIONER AHERN: Motion to adjourn.

CHAIRMAN STRAIN: Ms. Ahern. Seconded by --

COMMISSIONER CARON: Second.

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER CARON: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Nobody opposed. We're out of here.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 5:18 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK P. STRAIN, Chairman

ATTEST:

DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 10-7-10, as presented ✓ or as corrected _____.