

July 1, 2010

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
July 1, 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 P. Strain
Melissa Ahern
Brad Schiffer
Donna Reed Caron
Bob Murray
Karen Homiak
Paul Midney (Absent)
Robert Vigliotti (Absent)

ALSO PRESENT:

Nick Casalanguida, Growth Management Division
Ray Bellows, Zoning Director
Heidi Ashton-Cicko, Assistant County Attorney

CHAIRMAN STRAIN: Okay. Good morning, everyone. Welcome to the July 1st meeting of the Collier County Planning Commission.

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

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Thank you.

Item #2

ROLL CALL BY SECRETARY

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

COMMISSIONER CARON: Yes.

Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER CARON: Mr. Schiffer?

COMMISSIONER SCHIFFER: I am here.

COMMISSIONER CARON: Mr. Midney is absent. Ms. Caron is here.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER CARON: Mr. Vigliotti is absent.

Mr. Murray?

COMMISSIONER MURRAY: I'm here.

COMMISSIONER CARON: And Ms. Homiak.

COMMISSIONER HOMIAK: Here.

CHAIRMAN STRAIN: Thank you.

Item #3

ADDENDA TO THE AGENDA

CHAIRMAN STRAIN: Okay. Addenda to the agenda. Any changes needed by anybody?

(No response.)

Item #4

PLANNING COMMISSION ABSENCES

CHAIRMAN STRAIN: Okay. Planning Commission absences. Next meeting is 7/15/10. Anybody know if they're not going to be here for that meeting?

COMMISSIONER CARON: I thought that meeting got canceled at our last meeting.

CHAIRMAN STRAIN: Oh, that's right. It might be. Ray was -- good point.

MR. BELLOWS: Yes. That meeting has been canceled.

CHAIRMAN STRAIN: Okay. But how many would like to come anyway? No, nobody? Oh, darn, okay. Thank you, Ray.

We had, in my -- at some point we had scheduled a meeting for the GMP on 7/19 and 7/20. I don't find them still on the book. I did find them on my Rolodex. It looks like they've been canceled, too. Okay.

Wow, that wipes out the month. We won't be back here until August. And I don't even know -- what's the first one in August; does anybody --

MR. BELLOWS: That would be --

COMMISSIONER CARON: The 5th.

MR. BELLOWS: -- August 5th, and we do have items on that agenda.

CHAIRMAN STRAIN: We do have?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Does anybody know if they're not going to be here on the 5th this far in advance?
(No response.)

Item #5

APPROVAL OF MINUTES – MAY 20, 2010 AND JUNE 3, 2010

CHAIRMAN STRAIN: Okay. With that, we have two sets of minutes for approval. We'll need a motion, assuming everything's okay, for the May 20, 2010, minutes.

COMMISSIONER CARON: Motion to approve.

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Motion made by Ms. Caron, seconded by Melissa Ahern. I'll get your last name right here, Melissa. Sorry.

All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

How about the June 3, 2010, minutes?

COMMISSIONER CARON: Motion to approve.

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Same, by Ms. Caron, by Ms. Ahern.

All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: All those opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

Item #6

BCC REPORT – RECAPS – JUNE 22, 2010

CHAIRMAN STRAIN: Ray, we have BCC report and recaps.

MR. BELLOWS: Yes. On June 22nd the Board of County Commissioners heard the Heritage Bay PUD amendment and the signed variance for American Momentum Center. Those two items were approved on the summary agenda.

CHAIRMAN STRAIN: Great, thank you.

Item #7

CHAIRMAN'S REPORT

CHAIRMAN STRAIN: Chairman's report. A couple of things. The last meeting we had, or two meetings ago, we had a dock extension for Rotkovich, and I guess it's coming back today. There was a memo sent out, Nick, by your office to the Board of County Commissioners concerning that petition, and the petition said the following: The boat dock petition was continued to July 1st CCPC meeting because the applicant has provided a plan that is slightly different from the DEP plan.

First of all, I'm not sure what the significance of the word slightly was, because the plan had two things missing on it that we ask of every other applicant, an accurate depth readings and a mangrove line. Both of those are criteria involving primary and secondary considerations.

So I don't think it was a slightly different issue. It was a serious issue because we had a series of primary and secondary conditions that were dependent upon it. And I don't want -- I really don't think it's good to trivialize our position to the board as an independent memo, or even any memo for that matter.

MR. CASALANGUIDA: Yeah. It wasn't intended to trivialize your position, Commissioner. So we'll make a note of that and make a correction for the future.

CHAIRMAN STRAIN: Great, thank you.

And then the other thing is, admin. report or I mean admin. code. I watched your -- Susan's presentation, then yours. Susan's basically was that we recommended approval and you -- and I've got to give you credit for standing up for the Planning Commission. You got up and elaborated a little bit on our position, although at the time you did I didn't know that the Board of County Commissioners had any knowledge of the fiscal impact, but you did express a concern about that.

When I talked with you, I found out it was on the overhead. I just hadn't seen it either -- I didn't check it on the packet or didn't see it on the television.

The only thing I wanted to add to that is, they approved the admin. code at a time when this county has significantly less dollars to spend on many things that are very important. The admin. code isn't a necessity. We're doing fine with the LDC. We've been doing it that way since time began.

I thought the intent of this board was to say, yes, it's a better concept, but with the budget issues you have, it may not be the necessity you need to react to at this time.

I'm just kind of making that note for the record, because at least that was my intent when I was speaking on the admin. code. I certainly can't speak for the rest of the panel here.

I still don't see the necessity, and I think your numbers -- I think you told me 160 on the phone, and it might have been around that number. I think that's woefully shy of the money it's going to cost when all the factors are weighed in. But so be it. I wanted to clear that piece up.

COMMISSIONER SCHIFFER: Just a question.

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: No, Nick, when you gave your presentation, there was a slide that -- okay. That makes sense.

MR. CASALANGUIDA: Yep.

CHAIRMAN STRAIN: Okay. With that, we'll move on to the consent agenda items, and we've got a slough of them, and we'll have to take them individually.

David, I guess you want to -- why don't you come up and just walk us through each one. And after you call them out, we'll ask for a vote.

Item #8A

PETITION: CP-2007-3, AMENDING THE GOLDEN GATE AREA MASTER PLAN TO CREATE THE MISSION SUBDISTRICT

MR. WEEKS: For the record, David Weeks of the Comprehensive Planning Section. Commissioners, first up is petition -- petition CP-2007-3. And the -- in your packet you received from

Comprehensive Planning staff, a four-page document identifying the consent agenda changes for your review today.

The text that has been added or deleted is in double underline, double strikethrough, bold, and highlight to make it stand out.

For the petition, CP-07-3, one phrase was added regarding height. And the only change from the text you see here versus the text that was in your packet from the applicant is the word except. In the applicant's language it said however; I changed that to except. I think it reads better. It certainly has no substance of impact.

CHAIRMAN STRAIN: Okay. Is there a motion or questions? Mr. Schiffer?

COMMISSIONER SCHIFFER: I will move that we forward with a recommendation of approval.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Motion made and seconded, by Mr. Schiffer, seconded by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

Item #8B

PETITION: CP-2008-2, AMENDING THE GOLDEN GATE AREA MASTER PLAN FOR THE EXPANSION OF RANDALL BLVD. COMMERCIAL SUBDISTRICT

CHAIRMAN STRAIN: Next one is CP-2008-2.

MR. WEEKS: Looking at the handout from staff, the bottom of Page 1, there's a sentence that has been struck through. And turn over to Page 2 in the middle. What used to be letter E1 has been struck through. Both of those were presented at the -- at your hearing on this matter, and those were changes made by the County Attorney's Office to correlate with other changes that have been presented to you, and that pertains to the fact that tract 71 is no longer a part of this amendment.

Then turning over to Page 3, at the very bottom, the placeholder text regarding transportation mitigation has been struck -- stricken through, and then the actual text has been inserted, and that reflects what was discussed at your hearing.

CHAIRMAN STRAIN: And you've got the addition on Page 4 on the bottom.

MR. WEEKS: That's for the next petition.

CHAIRMAN STRAIN: Oh, I'm sorry. You're right. Okay. Are there any --

COMMISSIONER SCHIFFER: Move to approve.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Made by Mr. Schiffer, seconded by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.
CHAIRMAN STRAIN: Any opposed?
(No response.)
CHAIRMAN STRAIN: Motion carries.

Item #8C

PETITION: CP-2008-4, AMENDING THE FUTURE LAND USE ELEMENT AND FUTURE LAND USE MAP AND MAP SERIES

MR. WEEKS: And finally, Mr. Chairman, petition CP-2008-4 on the bottom of Page 4, and that simply reflects what was discussed at your hearing.

CHAIRMAN STRAIN: Okay. Brad?

COMMISSIONER SCHIFFER: I move with a recommendation of approval.

CHAIRMAN STRAIN: Bob?

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Okay. Motion made and seconded by the same parties.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

MR. WEEKS: Thank you.

Item #8D and #8E

PETITIONS: CPSP-2008-7 AND CP-2009-1

CHAIRMAN STRAIN: And David, for the record, the CPSP-2008-7 and CP-2009-1, because there were no changes in those, those don't need to be reviewed on consent, and they're going forward like we approved them at the last meeting.

MR. WEEKS: That is correct, and actually CP-09-1, you recommended denial.

CHAIRMAN STRAIN: Right.

MR. WEEKS: You're correct. Thank you, sir.

CHAIRMAN STRAIN: Okay. Thank you.

Item #8F

PETITION: PUDZ-2008-AR-13375, NORTH NAPLES UNITED METHODIST CHURCH, INC.

CHAIRMAN STRAIN: The next two items on consent are PUDZ-2008-AR-13375, the North Naples United Methodist Church, Inc., on Goodlette-Frank Road.

Anybody have any questions or concerns about the agenda item?

COMMISSIONER SCHIFFER: I mean, it has nothing to do with the consent part of it, but I wish we would

get the road right-of-ways dedicated on these kind of sites that go to the center line of the right- -- what would be the right-of-way. Just a comment.

CHAIRMAN STRAIN: It would make it simple, huh?

Is that a motion to approve then?

COMMISSIONER SCHIFFER: I will make a motion to approve.

COMMISSIONER MURRAY: I will second it.

CHAIRMAN STRAIN: Ah. Mr. Schiffer and Mr. Murray, first and second.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

Item #8G (Discussed and continued to later in the meeting)

PETITION: PUDZ-A-PL2009-2031, ROCK CREEK HOLDINGS: MERIDIAN VILLAGE MPUD

CHAIRMAN STRAIN: Next one up is PUDZ-A-PL2009-2031, Rock Creek Holdings, LLC, the Meridian Village MPUD. And I had a discussion with Mr. Hancock on this, and it looks like there's a, maybe, possible discrepancy between what the applicant had agreed to and what staff had interpreted.

So, Bruce, you want to tell us what's going on?

MR. ANDERSON: Yes, sir. This is on Page 14 of the PUD document. My name's Bruce Anderson, for the record. And it's paragraph eight.

And first let me say that the discrepancy is the applicant's fault, or the applicant's agent's fault. There was a change that was supposed to be made when it was resubmitted to the county. That change was not made.

I've set out there the paragraph in question, and it has been struck through and underlined from what you had before you when this was heard two weeks ago, and those are the changes that we interpreted what you meant to do.

What you have in the agenda packet gives Collier County an additional 45 days after the six months that was approved at the Planning Commission meeting. And our understanding was, six months was six months was six months, and the county had six months to act and make an offer and buy the units, just as a qualified buyer would have, because we specifically discussed seven months or more, and the compromise was made that it would be six months instead of seven. If you tack that 45 days on, you wind up at seven-and-a-half months total.

CHAIRMAN STRAIN: Okay. So what you're suggesting is that within that six-month period, it's open for everybody within the same time frame, and there is no add on of 45 days after that. Say you couldn't get the public interested; then the county could have 45 days to react to that?

MR. ANDERSON: Correct.

CHAIRMAN STRAIN: Instead, their 45 days, or whatever time frame they want to allot for themselves, is captured within the initial six months. So if it takes 45 days for the county to react, they have to do so four-and-a-half months after the game starts?

MR. ANDERSON: Yes, correct. The 45 days, when it was put in there originally -- and I took this from the Heritage Bay language almost verbatim. The 45 days was put in there because the acquisition period was tied to the building permit, and there wasn't any extra time period after the CO was issued.

CHAIRMAN STRAIN: Anybody? Mr. Schiffer?

COMMISSIONER SCHIFFER: I mean, I think the only problem with that is that puts the county and the

public side by side, and then the county, what, stands in the wings? And I'm not even sure how they would even know whether the public's interested or not.

So first of all, if we're going to go with just the six months, the county should be notified, and if you want four-and-a-half months in, that a sale is not -- it appears a public sale isn't going to happen -- because otherwise, how would the -- I mean, what is the county going to do, just try to buy it and then just wait and see?

So I mean, the other system that they don't want actually works because that -- they give them six months to sell to the public, if that doesn't work, the county has a 45-day period to buy it themselves, and then it hits the free market.

COMMISSIONER MURRAY: That's not my recollection.

CHAIRMAN STRAIN: Go ahead, Mr. Murray?

COMMISSIONER MURRAY: Yeah. That's not my recollection. I was the one that put up -- internally put up a very long period, two years initially, just to start a conversation. And if I'm not mistaken, Commissioner Schiffer had suggested in a motion that it be six months, and I said, fine, I can live with that. And that was my understanding, straight six months.

And I recall the chairman making a comment, something to the effect, that we have some pretty good people in the county who I'm sure will be watching out for it.

So that was my recollection. I didn't see any need to put additional time on it at this point.

CHAIRMAN STRAIN: Brad's -- I don't think Brad's looking for additional time. He's looking for additional notification.

Bruce, as a way to get there, why couldn't there be a stipulation added into here that -- and four-and-a-half months is an awkward period of time. Why don't we just say, four months after CO the applicant will notify the appropriate county staff that there is no buyer pending for a particular unit and that we have 60 -- 30 -- yeah, 60 days from that point in order to finish the transaction, something to that effect? Is that --

MR. ANDERSON: That's fine.

COMMISSIONER SCHIFFER: I like that.

MR. ANDERSON: That's reasonable.

COMMISSIONER MURRAY: Yeah, that's fine.

CHAIRMAN STRAIN: Okay. Now, Heidi, this is consent, so how do we get that kind of language done and in the right format for us to review it, or is it something that can be done by email and then have any input prior to going to the board? Or how do you see the cleanup of this paragraph?

MS. ASHTON: I'd suggest that Bruce and I meet on the break, and we'll finalize the language and have you approve it at the end of the agenda, if that's acceptable.

CHAIRMAN STRAIN: Does that work for you, Bruce?

MR. ANDERSON: Yes, that'd be fine.

CHAIRMAN STRAIN: Okay. Then we'll defer --

MS. ASHTON: And there is one typo on what he has on the overhead, which is the sixth word in. It would be offered for sale instead of referred for sale.

CHAIRMAN STRAIN: Yeah. Actually our documents have offered that --

MS. ASHTON: Yeah. It's just a typo on what he has on the overhead.

CHAIRMAN STRAIN: Okay. Then what we'll do is continue PUD-2008-AR-1335 -- -3375 on consent 'til later in the day, sometime after the break.

COMMISSIONER SCHIFFER: Mark --

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: -- one more comment.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Go ahead? You know, this is the first time we see actually a turnaround being drawn in the right-of-way, and the concern I have is -- and I guess, Heidi, something -- you might have to research this, but back when they consolidated this piece of land by vacating the public roads, I'm sure there was a requirement that a turnaround be put in. I just wonder if the intent back then was to put the turnaround on the property, because this turnaround is much smaller than essentially what the fire department would require.

MR. HANCOCK: For the record, Tim Hancock with Davidson Engineering.

Commissioner Schiffer, no, sir. The intent was never to place it on the subject property. As you know, currently there is no turnaround. It's just a dead-end. This was viewed as clearly an improvement to the existing conditions and to be done at the developer's expense. But no, sir, it was never intended to be on the subject property. It was always intended to be within the existing remaining right-of-way subsequent to the vacation.

COMMISSIONER SCHIFFER: Okay. Even back when they vacated the roads to create this property -- because back prior to that, that Stevies Avenue did have the ability to pull through.

So back when they consolidated this land and they said that they would put a turnaround there, they never meant that the turnaround would be a legitimate turnaround on the property itself?

MR. HANCOCK: My recollection of the vacation record, as I reviewed it, was that the turnaround was not addressed at the time of vacation. It was actually addressed at the time rezone when this project came in in 1996.

COMMISSIONER SCHIFFER: Then I'm done. Thank you.

MR. HANCOCK: 2006.

CHAIRMAN STRAIN: Actually, if I recall, the document signed by the commission at the time stipulated it shall be between lot 6 and 26. It actually labeled the lots and where that turnaround should occur. And I'm assuming you matched that up to what's on this document; is that --

MR. HANCOCK: That sounds correct, yes, sir.

CHAIRMAN STRAIN: Okay. Then we'll just come back after break and try to finish this up.

MR. ANDERSON: Thank you.

CHAIRMAN STRAIN: Next item on consent is PUDZ-A-PL2009, 2031 Rock Creek Holdings, LLC, Meridian Village, M- -- well, wait a minute. That's the one we just got done with. Sorry. That's the one that's continued 'til after break.

Okay. We'll move into the regular hearing.

Item #9A

PETITION: BD-PL2009-1157, ROTKVICH BOAT DOCK

CHAIRMAN STRAIN: First advertised public hearing is a continued item from a prior meeting. It's boat dock PL2009-1157, Michael and Debra Rotkvich, and it's Lot 43 on South Port on the Bay, Unit 2.

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

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

CHAIRMAN STRAIN: Okay. And disclosures on the part of the Planning Commission? Anybody?

(No response.)

CHAIRMAN STRAIN: None. Okay. Sir, it's all yours.

MR. KELLY: My name is Mike Kelly, again. I'm with Paradise Docks. I will be the builder for Mike and Debbie Rotkvich for their dock.

The first slide that I have up here is the Old Hickory Bay area, and all this slide shows is the location of the selected property where the dock's going to go with a dock drawn on this overhead.

It also shows the numbers that you see going around on the street or the distances of protrusion for each of the docks around the area. And the reason I wanted to show you this particular slide here is because it is rather shallow in that area, and there is a lot of other docks that have to go out far enough to get a particular boat on there, on their slip. They have to go out at least that far.

The other issue that we had that was of interest to you last time is there was no drip line on the survey. The particular surveyor, when I questioned him concerning the old survey, he just drew something on there indicating that there was mangroves. He didn't realize that I needed a drip line. So he went back, and this is a revision to that survey, and it shows a drip line.

The distance out from the mean high tide to where the bow of the boat will be is approximately -- well, it is 15 foot to his -- to the drip line that he has drawn on his survey. And I'll show you how that would show on the actual overlay here.

As you can see, the 15 foot is to the bow -- or towards the bow of the boat from the mean high water, and that's where his drip line was indicated on his survey.

From the boat that I have drawn on here, that would give us about three-and-a-half feet to the actual canopy or drip line of the mangroves.

The other issue that we had run into, that there was a little bit of a disparity with the depths going out, and so all the depths were coordinated with the depth chart that the surveyor provided, which I had on the previous slide.

And as you can see, the smaller lift, the three foot required for our lift, is actually in the middle of the lift. DEP questioned me on that initially, and I said, well, I'm going to have to go before Planning Commission, and we don't -- we don't want to go out any further than we have to, but they would like for the entire lift to be within that three foot, but they went ahead and waived that. And they said, well, if they've got enough depth to run that lift up and down -- and I assured them they did, because this is a smaller lift for the flats boat or the jet ski, whichever Mr. Rotkovich decides to purchase. The other boat is fine. The depths are fine on that.

The bow. Like I said, to move this in any further would mean that the bow of that boat would be dangerously close to hitting the mangroves and could either damage the boat or damage the mangroves, and we didn't want either one of those situations.

CHAIRMAN STRAIN: Okay. Any questions? Melissa?

COMMISSIONER AHERN: On the -- on the chart where you show the measurements in relation to the depth, it looks like you have 35 feet on there twice?

MR. KELLY: On the survey, ma'am, or which --

COMMISSIONER AHERN: The cross-section.

COMMISSIONER SCHIFFER: Attachment B.

MR. KELLY: Oh.

COMMISSIONER AHERN: It appears to be in 5-foot increments, so it probably just needs to be clarified to
30.

MR. KELLY: That was -- yeah.

CHAIRMAN STRAIN: You've got to use the microphone, sir, when you speak, so --

MR. KELLY: Excuse me. That's correct. That first 35 should be 30. That is --

CHAIRMAN STRAIN: Brad?

MR. KELLY: -- because it is in 5-foot increments. Thank you. That's something I missed.

COMMISSIONER SCHIFFER: Ray, can you go back to the plan, the prior --

MR. BELLOWS: Do you have the prior?

MR. KELLY: Yes.

COMMISSIONER SCHIFFER: One of the things we try to do is avoid excessive docks. On the smaller lift, why didn't you pull it out? Last time I asked you why you didn't pull the top in. But this time, why didn't you move that smaller lift further out and, thus, not create such a large dock area?

MR. KELLY: Well, the smaller lift does not require much depth to float either a flats boat or a jet ski. And a lift of that size has real small cradles and bunks. So you don't need as much depth as you would with a larger lift, such as the one on the right.

COMMISSIONER SCHIFFER: Right.

MR. KELLY: You just don't need that kind of depth to float a jet ski or a flats boat.

COMMISSIONER SCHIFFER: Well, my concern is, you don't really need that large dock area just to access a boat. I mean, these -- what we're supposed to do is allow you to do that, but you're not -- we're not supposed to allow you to put areas where you could have chairs and tables and make it a retreat, so --

MR. KELLY: Yes, sir, and I understand that concern. And they don't have any intentions of putting chairs, tables, benches, or anything like that. They do have family that comes down and visits them, and they would like to fish off of that area if, you know -- but they don't have any intentions to store anything in that area.

COMMISSIONER SCHIFFER: Okay, thanks.

CHAIRMAN STRAIN: Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Sir, the boat that you have, the big boat, it shows it's 28 feet; is that correct?

MR. KELLY: That is correct yes, sir.

CHAIRMAN STRAIN: The little boat is how long? I think -- because it goes almost -- it goes longer than the 12 foot, two inches called out on this plan, because the bow goes all the way over to the walkway. So what is that,

around 15 feet?

MR. KELLY: No -- well, yes, sir. You could put up to a 12- to 15-foot vessel on that lift, yes, sir.

CHAIRMAN STRAIN: Okay. And the lift, by the diagram you show here, is made for two. So that's, let's say, 30 feet on top of the 28; you're at 58 feet, and you're only allowed to have up to 45.

Now, I know you're going to say, but that other slip can be used for a skiffs boat or some light backwater boat, but you'd have to have a square boat to fit into an 11-by-12 foot square area, and I don't think there's many square boats like that.

MR. KELLY: Well, most of the -- most of the flats boats --

CHAIRMAN STRAIN: Uh-huh.

MR. KELLY: -- that would -- that's the purpose of this lift is to restrict the size of the vessel. He doesn't want anything but maybe a jet ski or a flats boat. He hasn't decided. He doesn't even own a particular boat at this point in time.

CHAIRMAN STRAIN: But the way this is shown, he, in essence, is going to have -- could have two jet skis there, which would exceed the amount of boat length used -- allowed on that particular lot.

MR. KELLY: It would, and it would also exceed the requirements by DEP and Army Corps, which allows us to have two vessels.

CHAIRMAN STRAIN: Well, why don't you run this other boat and this other slip on the opposite side of the 28-foot boat in the same direction? If it's shorter, which you've -- which it has to be in order to fit on the property, you wouldn't need to come in from the side, you could come straight in, and you wouldn't need that big deck that Brad's concerned about.

The reason I'm saying that is because it looks like a setup. It looks like you're going to have two jet skis there. And you know how -- it's real difficult to monitor that stuff out there in the middle of nowhere. And I'm just wondering why you just don't make it simpler; have two along side. You don't even need that giant 8-by-12-foot deck. It just disappears, and you've got two side-by-side slips; one for each boat. And it's wider; be easier for you to get in and out of.

MR. KELLY: The purpose of -- the reason it's set up like that and the reason it's -- it is a double -- or it is not a double slip. It is a slip that's wide enough for two boats; however -- if you were going to put two jet skis.

The reason we didn't go with a single davit style of jet ski, because they're very difficult to operate and they deteriorate because they're in -- either in the water or they put undue stress on the pilings.

This is a setup that we have set up, and we have put dual jet skis on a particular lift just like this. It's the easiest way for a person to get on. But I have informed Mr. Rotkovich that he's only allowed to have two vessels out there. That's what DEP and Army Corps and the county government, both in Lee and Collier; allow only two vessels.

CHAIRMAN STRAIN: Well, I -- and I understand they do, but unfortunately when rules -- when it's set up so that rules could be easily broken, sometimes they are broken.

MR. KELLY: Yeah.

CHAIRMAN STRAIN: And, you know, whether your applicant may be -- have no intention of doing that, say he sells the house. Realtor's going to say, look at that, you can hold two -- put two jet skis here, plus a main boat, and all of a sudden it becomes a common acceptance style instead of one that is restricted by the way it's designed, and I think we're safer by restricting it by design.

Well, anyway, that's my thoughts on it, and I understand your position. So --

MR. KELLY: Yes, sir.

CHAIRMAN STRAIN: -- we'll have to go from there. Before we hear from the staff, is there any other questions or comments?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you, sir.

Staff report.

MS. GUNDLACH: Good morning, Commissioners. I'm Nancy Gundlach, Principal Planner with the Department of Land Development Services.

And staff is recommending approval of the Rotkovich boat dock this morning, and it would be my pleasure to answer any questions you might have.

CHAIRMAN STRAIN: Anybody have any questions of staff?

Okay. Brad, Ms. Caron.

COMMISSIONER SCHIFFER: I'll ask one. And, Nancy, are you okay with the dock? I mean, we really don't want to have dock area that's not necessary for accessing the boat. We've been through this before in some other applications. Do you think this dock area is larger than it need be?

MS. GUNDLACH: Well, this is my first dock application.

COMMISSIONER SCHIFFER: Okay.

MS. GUNDLACH: So it looks fine to me.

COMMISSIONER SCHIFFER: You can ask Ray.

MR. BELLOWS: For the record, Ray Bellows. I worked on this project with Ashley Caserta, who was our most experienced boat dock extension planner. It technically meets the code requirements, but I agree with you, the concerns are there about how the design is, and especially in lieu of the two-boat minimum and space for three.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Anybody else? Ms. Caron, did you have some follow-up?

COMMISSIONER CARON: Well, I was just going to follow up on that issue. I don't know why we would be approving a boat dock extension that clearly shows that three boats of some size can be on the plan and just take on good faith that somebody's not going to utilize what they're allowed to build. I'm not sure that that's a really good policy on the part of the county.

CHAIRMAN STRAIN: I would have no problem if the applicant wanted to come in with two docks straight in side by side and so it clearly shows you're only building something that could hold two boats. But when you show that something could be for three boats and, in fact, you go out of your way as far as access goes to even make it more difficult for the other two, it just doesn't make sense. But -- I mean, I'm not very comfortable with that.

Nick, you had something you wanted to add?

MR. CASALANGUIDA: Being creative, if he put the boat dock, as Commissioner Schiffer had noted, still nothing's stopping him from buying two jet skis and putting it on a boat ramp that would hold two jet skis. I mean, if I'm an owner, if you turn that 90 degrees, just the design alone wouldn't restrict that, is my point. If he turned that 90 degrees and faced it the same way the other boat was, he could buy a lift that could accommodate two jet skis as well. I mean, so --

CHAIRMAN STRAIN: Okay. Two things. Number one, you would turn it in the opposite direction, which means you'd eliminate the excessive deck because you wouldn't have to -- you'd only put one deck there.

So if they wanted to get to that outside jet ski, they'd have to jump over the other one. So it's more impractical for them than to have the outside jet ski. With this design, they've got docks around both jet ski accesses, which could be the intention.

Plus, if you didn't have the jet skis going in that direction, but from the other front, this whole facility could be moved back several feet closer to the mangroves. You wouldn't need the extension of the dock that's being asked for here today, which is in violation of another primary and secondary criteria. So anyway, that counters your argument as far as --

MR. CASALANGUIDA: It's not argument. It's just a statement.

CHAIRMAN STRAIN: I didn't mean it as argumentative. I just meant that's your position.

Yes, sir?

MR. KELLY: Now, one thing I just wanted to point out, the cradle on that particular lift is 11-foot. That's the smallest cradle system I could get. Generally speaking, when we set it up for a double jet ski for a customer that wants that, we will get the 12- to 12-and-a-half foot cradle, because that just doesn't give you enough room.

If you put two jet skis, the current jet skis that are made today, you're talking about four-and-a-half, five foot wide. If you lose a foot of that cradle because it rides up and down the middle of each of the outside pilings -- so you subtract a foot, that's 10 foot. You get two four-and-a-half-foot to five-foot jet skis; they won't fit on this lift very well.

CHAIRMAN STRAIN: Sir --

COMMISSIONER SCHIFFER: Well --

CHAIRMAN STRAIN: -- the depth of the lift that you're talking about is no greater than 15 feet. You don't have the dimension on here. The depth of that long side slip, if you were to turn this whole thing 90 degrees, come in straight off the bay, you'd have -- according to this chart, you'd have 20 foot of depth, which is more than you need.

So there's no reason you couldn't turn this in the other direction and avoid that excessive deck that Brad keeps mentioning and not provide that access way to a slip that you potentially are claiming you'll never use.

So what's wrong with coming in straight in? Much easier off the bay and not having to go through the effort you've got here? And then we avoid that unnecessary deck.

COMMISSIONER SCHIFFER: While he's thinking, Mark, I mean, a comment is, we really do have to design these so that the next person is the one. I mean, for example, there was a sign that said I had to drive 45 miles an hour down Goodlette today, and I'm not so sure I was as good about that as they intended.

So the next people that buy it, they could have picnic tables down on the dock, two jet skis, and a nice big boat sitting there.

MR. KELLY: Well, initially when I went to design this for the Rotkviches -- DEP allows us to have a terminal area out there of 160 square feet, and that's basically the design of that, which gives you room to walk around. And I guess you could stick some benches out there and some umbrellas, the next person coming along, but that's going to crowd that area. It's only 8 feet -- almost 8-4 wide. You start putting benches or any kind -- anything out there, and it's going to crowd that area. It would make it very difficult.

This is kind of meant for egress and getting in and out of the boat, just pulling it up alongside there.

And the way that the jet ski or the flats boat's set up, it's -- that's for shallow water area, jet skis and -- or primarily the flats boat, and they have flat front ends, and they aren't very large. So it's set up for a smaller vessel.

And I did choose the smallest lift that I could get as far as the cradle in order to set that up. I'd have to order a special lift.

But if we took that and moved it out, then we've got -- I mean, we would have ample depth. I think we've got ample depth where it is. But if this is contingent on moving it, I could go to Mr. Rotkvich and tell him that's what we had to do, but --

CHAIRMAN STRAIN: Well, I mean, we can take a poll before we vote, and if you want to continue it again, come back with a more acceptable design that puts it for two slips and not makes it appear as though three, and move this whole thing around, I don't have a problem with that. I think you have a right to put a dock there, and you have a right for a boat or two, up to what the code says. But I think this will lead 25 excessiveness that goes beyond the code, and I'm not sure why we need to open the door. But without voting, what's the thoughts on the board?

Melissa, we'll start with you.

COMMISSIONER AHERN: I'm comfortable with it as it.

CHAIRMAN STRAIN: Okay. Brad?

COMMISSIONER SCHIFFER: I don't think it's there yet.

CHAIRMAN STRAIN: Donna?

COMMISSIONER CARON: I brought up the issue the last time around. I don't think it's there yet.

CHAIRMAN STRAIN: I don't either.

Bob?

COMMISSIONER MURRAY: Yeah. It needs to be resized.

CHAIRMAN STRAIN: Karen?

COMMISSIONER HOMIAK: I think if it's acceptable to the owners, maybe it should be revised. Either

way.

CHAIRMAN STRAIN: Okay. We've got about five -- most likely five no votes if we go forward. And I think you've been back here twice, and I'm sorry. It doesn't seem to be coming out right this time. Maybe the third time it will work. Do you want to give it a shot and ask for a continuance?

MR. KELLY: Yes, sir.

CHAIRMAN STRAIN: Okay. Is there a motion to accept their continuance?

COMMISSIONER SCHIFFER: So moved.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Second by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.
COMMISSIONER CARON: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER MURRAY: Aye.
COMMISSIONER HOMIAK: Aye.
CHAIRMAN STRAIN: Motion carries, 6-0.

Item #9B

PETITION: BD-PL2010-544, JOHNSON BOAT DOCK

CHAIRMAN STRAIN: Next advertised public hearing is boat dock PL2010-544, Erik Johnson, and it's at 25 Pelican Street East.

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

CHAIRMAN STRAIN: Any disclosures on the part of the Planning Commission?
(No response.)

CHAIRMAN STRAIN: I think -- boy, last week -- or the last couple of weeks have been busy, but I believe I called Turrell's office to ask a question. I don't even remember what the question was. Rocky?

MR. SCOFIELD: We didn't talk.

CHAIRMAN STRAIN: No, it wasn't you. And -- a girl on the phone, and something was missing and -- but anyway. Just being safe, I thought I'd just mention that.

MR. SCOFIELD: Okay.

CHAIRMAN STRAIN: Okay. Go ahead, sir.

MR. SCOFIELD: For the record, Rocky Scofield, representing Erik Johnson, the owner and applicant.

This -- the overhead is -- shows you the location that's on East Pelican Street in Isles of Capri. Where you see it says county aerial, that's the Marco River, is on the back side in Snook Bay.

This shows the lot with the proposed dock on it. If -- just -- to refresh your memory, this is a -- I'll put it up here in just a second.

The dock just to the east, as you're looking right there to the right of the blue dock, the proposed dock, that's an existing dock. I was here in February and we got a BDE for Mrs. Lehman (phonetic), which is next door. The old dock straddled the property line, and that dock is being -- is coming out as we speak.

That shows you a little bit better how the old dock -- it's got a boathouse on the end, then it's got an L dock coming off on Mrs. Lehman's property. That's being ripped out now. Mrs. Lehman's dock is going in right now. This is very similar, so -- to what we did back then.

Zoom out on that, Ray.

Okay. This shows, in the white, that's Mrs. Lehman's dock that you approved in February. The dock in the middle on the property line, all of that's coming out, and to the left there, on the west side, is the Erik Johnson dock.

We're asking for a 60-foot extension, for a total of 80 feet out. You can see the sandbar, the shoaling in that area. It's aquatic preserve, so the end of dock is at minus four mean low water, which is required by the state.

He's putting in two boats; they meet the setbacks. It's -- all the docks in this area go out anywhere from 50 to 130 feet.

And that's just the overhead showing and -- with the distances out of all the docks in the area.

The only other thing that Mr. Johnson did -- and a lot of people on this street in this area, they had land that was ecreeded (phonetic) out in front of their property line. So he had to go and get the certificate from the board of trustees, the Internal Improvement Trust Fund at the state, where they give the certificate for lands filled prior to 1975.

The state -- it's kind of like a quitclaim deed -- I've told you this before -- but it's not. It's just, the state has no claim on it. So in the county records, now the property line is extended out to the mean high water line, and that's -- the measurements are measured from the mean high water line now, which is basically viewed as the applicant's property. And those are the distance we were showing you.

The proposed dock doesn't go out nearly as far as the existing dock that was on the -- straddling the property

line there.

So I'll answer any questions that you have.

CHAIRMAN STRAIN: Anybody have any questions?

COMMISSIONER MURRAY: Yep.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Rocky, Ms. Lehman's new dock, how far out will that one go?

MR. SCOFIELD: The dock that was approved?

COMMISSIONER MURRAY: Yes.

MR. SCOFIELD: I had it on one drawing here. Just a second. Okay. Here it is, okay. Excuse me.

COMMISSIONER MURRAY: Still going out.

MR. SCOFIELD: The Lehman's dock is 90 feet out.

COMMISSIONER MURRAY: And so why did you choose to -- because looking at what appears to be the undersoil there, why did you choose to come out only as far as you did relative to Ms. Lehman's?

MR. SCOFIELD: Well, the Lehman's dock, again, you're limited by the state to go out to minus 4 feet mean low water. On the Lehman dock, the front of that dock is at minus 4 feet, and then we're going out another 12 feet for the lift, which they allow. And Mr. Johnson wanted to bring his boats straight in and out. To do that -- so not to interfere with Lehman's boats coming in and out, and it just works out better this way.

COMMISSIONER MURRAY: Good. I'm satisfied. Thank you.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Yeah. And Rocky, to support that, I think you coordinated the two docks, because if you did go out further, you'd have -- start to cause trouble for her on the inside lift there, so this is working out perfect.

MR. SCOFIELD: Yep. Thank you.

CHAIRMAN STRAIN: Rocky, the Lehman docks, what is the length of the boats that we approved for those docks; do you remember?

MR. SCOFIELD: Yeah. It was a flats boat on the inside. I think it was like a 20 -- like a 28-foot boat on the outside and maybe an 18-foot boat on the inside, something like that.

CHAIRMAN STRAIN: What's -- what size lot width did they have there?

MR. SCOFIELD: Those lots are 60 feet.

CHAIRMAN STRAIN: Okay. So Lehman's received an approval with two boats greater than 50 percent of the width?

MR. SCOFIELD: That's correct.

CHAIRMAN STRAIN: Okay. Because I notice this one's got the same problem.

MR. SCOFIELD: Right.

CHAIRMAN STRAIN: You're looking at a -- 15 feet of boat.

MR. SCOFIELD: And that happens on most -- on most BDEs we come in front of you on these small lots. We have lots that are only, some of them, 30 feet or 40, 50 feet, and the boats usually exceed that, and that's a criteria not met.

CHAIRMAN STRAIN: Okay. Before I continue, does anybody else have any questions they wanted to ask? (No response.)

CHAIRMAN STRAIN: Okay. Then Rocky, in your secondary criteria it says, the criterion met, and it's talking about special conditions involving water depth related to the subject property, and your answer is, the proposed dock was designed to leave the existing mangroves along the shoreline undisturbed. I can't tell by that aerial. Are there -- where are the existing mangroves?

MR. SCOFIELD: Okay.

CHAIRMAN STRAIN: I mean, I think your reason is because you need --

MR. SCOFIELD: You're reading -- that's the staff report.

CHAIRMAN STRAIN: Right.

MR. SCOFIELD: Okay.

CHAIRMAN STRAIN: That's what we're supposed to be reading.

MR. SCOFIELD: Well, you guys get copies of our application?

CHAIRMAN STRAIN: Yes.

COMMISSIONER MURRAY: Yes.

MR. SCOFIELD: You do, okay.

CHAIRMAN STRAIN: But you can make anything up you want, so I'd rather read the staff reports.

MR. SCOFIELD: Well, the staff report's not always what you say.

CHAIRMAN STRAIN: I know.

MR. SCOFIELD: Okay.

CHAIRMAN STRAIN: That's the advantage.

MR. SCOFIELD: There are some mangroves on there. You know, the -- obviously -- I know what you're getting at and I knew this question would come up. There's -- the extensive shoaling is the main reason here.

CHAIRMAN STRAIN: Right.

MR. SCOFIELD: So that criteria, I know, is probably questionable. It's a natural shoreline. It's not some -- it's got a few -- riprap rock on it, and it's got mangroves. The mangroves are to the west of the dock. They're along the shoreline there.

CHAIRMAN STRAIN: Well, it shows the fringe, the mangrove fringe and where they lie, but I didn't see that as our secondary meeting -- I didn't see that as the reason why you met second criteria number one. I think your reason was because you had to get out that far for the depth that you're trying to achieve, not mangroves.

MR. SCOFIELD: That's exactly right.

CHAIRMAN STRAIN: Okay. Is there any way we can correlate the removal of the Lehman's old dock with the installation of this new one? I'm concerned that the Lehmans could leave theirs and --

MR. SCOFIELD: No, it's coming out now.

CHAIRMAN STRAIN: And you could have -- it is coming out now?

MR. SCOFIELD: That's what I said earlier.

CHAIRMAN STRAIN: I heard you say that, but I meant -- now means you might have gotten approval to take it out.

MR. SCOFIELD: They're building -- they're building Lehman's dock right now. The L dock there is obviously gone, and the boathouse and everything else is being torn out. The contractor is there on site.

CHAIRMAN STRAIN: Okay. That's the questions I have at this time. Thank you.

Get staff report.

MR. SAWYER: Good morning, Commissioners. For the record, Michael Sawyer, senior planner with Growth Management Zoning Section.

We are recommending approval of the Johnson boat dock this morning. If you have any questions, I'm here to answer what I can.

CHAIRMAN STRAIN: Anybody have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Okay. I don't hear any.

Thank you, Michael.

MR. SAYWER: Thank you.

CHAIRMAN STRAIN: Okay. Is there any further comments from the Planning Commission?

If not, is there any public speakers?

MR. BELLOWS: No speakers have registered.

CHAIRMAN STRAIN: Okay. Anybody in the public wish to comment?

(No response.)

CHAIRMAN STRAIN: We'll close the public hearing and entertain a motion from the Planning Commission.

COMMISSIONER SCHIFFER: I'll do it.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: I move we approve BD-PL2010- -- let me make sure I get the right one -- yeah, -544 the Johnson dock.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Motion made by Commissioner Schiffer, seconded by Commissioner Murray.

Discussion?

(No response.)

CHAIRMAN STRAIN: I'm certainly -- this is refining the dock length and width and deck area to the minimum. I don't have a problem with it. So I'm going to be in favor of the motion.

All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries, 6-0.

MR. SCOFIELD: Thank you.

CHAIRMAN STRAIN: Thank you.

Item #9C

PETITION: CU-PL2009-58, LARGAY PROPERTIES, LLC.

CHAIRMAN STRAIN: Next item up is CU-PL2009-58, Largay Properties, LLC. It's the collection and transfer site for the resource recovery in the east side of Pheasant Roost Trail south of Frangipani Avenue.

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

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

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

I think I had a conversation Wayne Arnold -- he was acting as the secretary for Rich Yovanovich, trying to find out if there was any concerns -- and I said my only concern was Richard couldn't pick up the phone and dial himself.

And with that, we'll continue.

Mr. Yovanovich?

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich. I didn't know I was employing Mr. Arnold, but I'm glad to see he did a good job of trying to get ahold of you.

CHAIRMAN STRAIN: He did, so.

MR. YOVANOVICH: Wayne is -- Wayne is here to help me with this petition, and so is Lou Sterachi, who is employed by the petitioner, if you have any questions regarding this particular petition.

I've put on the visualizer an overall aerial of -- basically to the north is Golden Gate Estates, and you can see in the yellow is the applicable property which is zoned agricultural, and it's within the receiving lands of the rural fringe mixed-use district.

We gain our access off Golden Gate Boulevard, which was on the visualizer to the north, come down 10th, 10th Street Southeast, and then we take -- you see that kind of dirt road, if you will, which is called Frangipani, which will then ultimately get you to Pheasant Roost, which is the private road that provides access to the property.

The current property owner has owned the property for about five years. It's a wholesale nursery. And in that five-year period, essentially the entire five-year period, they also have a recycling business where they go out and they collect oils and food parts that they bring to the site, they put in a tank, and then they -- someone comes and -- or their east coast operation comes over, empties the tank and takes everything for processing over on the east coast of Florida.

They've been doing that for, you know, about five years. There really haven't been any complaints. There's -- someone complained, I guess, to Code Enforcement, thinking it was actually a sewer septic operation, I guess, which pointed out that that -- you needed a conditional use to do this operation we're in to get the conditional use for this particular operation.

There's approximately five trips a day related to this. The current employees that work there, actually who run the nursery, will also run this operation. So it's not five additional employees. It's the five current employees that run this operation.

We had our neighborhood information meeting. There was nothing of note. Once people understood what we were doing and had been doing it for a while, I don't think there's any objections from the neighbors.

In a nutshell, that's what we're asking for, and we're here to hopefully rectify the Code Enforcement case that's pending on the property.

If you have any questions from me, Wayne, or Lou regarding this particular application, we'd be happy to answer them.

CHAIRMAN STRAIN: Any questions from the Planning Commission? Mr. Schiffer?

COMMISSIONER SCHIFFER: Rich, where are the customers for this pickup mostly?

MR. YOVANOVICH: They're in Collier County. I mean, various restaurants throughout Collier County, grocery stores.

COMMISSIONER SCHIFFER: Because the only problem I have with the thing is it seems inefficient to go out through the urban area, gather the stuff, and then bring it deep into the middle of the agricultural Estates area.

MR. YOVANOVICH: Well, they're an ongoing nursery. To then go and buy another piece of property in an industrial portion of town is, you know, economically --

COMMISSIONER SCHIFFER: No fun.

MR. YOVANOVICH: What's that?

COMMISSIONER SCHIFFER: No fun to do that.

MR. YOVANOVICH: It's not -- it's just not economically viable.

COMMISSIONER SCHIFFER: Right. But again, the only negative I have on the whole thing -- and it's not a fatal negative -- is that it seems like an inefficient location to put this, because it's gathering stuff in another area, bringing it in the middle of this, and then somebody has to come pull it out of another area and go into the middle of this area and bring it out. So that's all.

MR. YOVANOVICH: Okay.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Any other questions of the applicant?

Richard, I have one. Apparently there was -- and I really hate anonymous callers, but you had an anonymous call, a complaint on this to Code Enforcement about a sewer -- basically a sewer pumping business as being located in that location.

Did Code Enforcement find a sewer pumping business at that location?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Okay. Then why are we here today? If the complaint was about -- and, anonymous, for whatever that's worth -- was about a sewer pumping business and they went out and did not find one there, where is the public, health, satisfy, and welfare concern that we're here today about?

MR. YOVANOVICH: Well, technically, in order to do this operation on agricultural land, you have to get a conditional use. And when Code Enforcement came out and saw what we were doing, even though it was a different complaint, I guess they were not in a position to ignore what was going on, and we're addressing that situation and rectifying that situation.

Obviously my client didn't know that they needed to do that or else they would have done it ahead of time. But we are where we are, and we're trying to fix this and trying to do it as quickly and as inexpensively as we can to get --

CHAIRMAN STRAIN: What did it cost to get here today?

MR. YOVANOVICH: I don't want to ask Lou. I forget what the application -- Wayne, do you remember the application fee? You know, several thousand dollars.

CHAIRMAN STRAIN: Thank you.

MR. YOVANOVICH: I mean, every bit of ten, probably.

CHAIRMAN STRAIN: And this is a resource recovery that's probably a valuable thing for everybody involved, and for no complaint against this operation he paid probably \$10,000 to get through the process to be here today.

MR. YOVANOVICH: Right. And if it -- just as an aside, you know, as you're dealing with the Land Development Code and times -- maybe something out of a certain size should be a permitted use versus a conditional use.

CHAIRMAN STRAIN: We need to fix our code.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: I mean, that's a given. And if that's what it takes to get these kind of things to stop happening, it needs -- I mean, there can be criteria, but this just seems so innocuous, I don't even know why it's \$10,000 in damages. It's just phenomenal. But anyway.

Anybody else have any questions of staff -- I mean, of the applicant? If not, we'll hear staff report.

MS. GUNDLACH: Good morning, Commissioners. And for the record, Nancy Gundlach again, Principal Planning with the Department of Land Development Services.

And Commissioners, we -- staff is recommending approval of this Talimaster's (phonetic) conditional use station. It is consistent with the Growth Management Plan.

And it would be my pleasure to answer any questions you might have.

COMMISSIONER MURRAY: Question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Nancy, hi. Good morning again.

MS. GUNDLACH: Good morning.

COMMISSIONER MURRAY: Page 7 of 10 of your report on item number four -- and while you're getting there, I'll read it. The effect the conditional use would have on neighboring properties in relation to noise, glare, economic or odor effects. And I noted that while you referenced all the other particulars, you made no reference whatsoever to the odor issue.

Now, I don't know that there is an odor issue, but I was curious why you didn't even mention it or reference it as being part of it.

Is it our practice when we're going through to actually have somebody go to site and evaluate the criteria?

MS. GUNDLACH: It's not common practice to go out to site. I can tell you that I did attend the neighborhood information meeting, and I did hear some statements from the adjacent neighbors, and one of the neighbors did state that there is no odor from this facility.

COMMISSIONER MURRAY: I read that.

MS. GUNDLACH: Yeah.

COMMISSIONER MURRAY: Okay. But I was curious because you didn't include it in your comment, and that's very specific as to the four criteria that are there.

MS. GUNDLACH: Okay.

COMMISSIONER MURRAY: So I wanted to qualify that for the record, that there is no odor issue that has been made a point of. And so we can construe that this is a clean and effective operation. Thank you.

MS. GUNDLACH: That's true.

CHAIRMAN STRAIN: Anybody else have any questions of the staff?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you, Nancy.

MS. GUNDLACH: Very welcome.

CHAIRMAN STRAIN: Ray, do we have any public speakers?

MR. BELLOWS: No speakers have registered.

CHAIRMAN STRAIN: Any member of the public wish to speak on this item?

(No response.)

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

COMMISSIONER SCHIFFER: I'll make it.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: I move we forward CU-PL2009-58, Talimaster's Collection Station, with a recommendation of approval.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Motion made and seconded, made by Mr. Schiffer, seconded by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

Heidi, you need about 15 minutes with Bruce?

Item #8G (Continued from earlier in the meeting)

PETITION: PUDZ-A-PL2009-2031, ROCK CREEK HOLDINGS: MERIDIAN VILLAGE MPUD

MS. ASHTON: No. Bruce has some proposed language. Is he there? I can put it on the visualizer or he can do that.

CHAIRMAN STRAIN: Okay. Well, then -- we'll continue then the item that was on consent for PUDZ-A-PL2009-2031. It's Item 8G, Rock Creek Holdings, LLC. This is a consent item. This is just supposed to be a discussion of the meaning of the Planning Commission's previous motion.

MR. ANDERSON: That's the language that we came up with. We worked with Ms. Deselem and Ms. Ashton, and it's -- I think it's acceptable to all of us and believe it will reflect the discussion this morning.

CHAIRMAN STRAIN: Okay. Comments from the Planning Commission?

COMMISSIONER MURRAY: Looks fine.

COMMISSIONER SCHIFFER: Yeah. I just want to make sure -- I mean, you're going to be offering it for sale at the time of permit, according to this, correct? In other words, that is when you're -- the beginning of the date of the permit, you're going to start selling the thing, and then six months after the CO it hits the free market.

In other words, is there any way you would not put these up for sale prior to four months or anything? I mean, they will be -- does this thing guarantee they'll go to sale at the issuance of the building permit?

MR. ANDERSON: Well, I think it does.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Heidi, from a legal technical aspect, could they get a CO and just not put it up for sale and in four months notify the county that it doesn't sell?

MS. ASHTON: I don't believe so. It indicates after the building permit is issued they have to put it up for sale.

COMMISSIONER SCHIFFER: Okay. They shall be --

MS. ASHTON: And then it continues until six months after the Certificate of Occupancy. So there's a six-month period that it should be offered for sale.

MR. ANDERSON: Actually it will be more than six since we have to start when the building permit's issued.

CHAIRMAN STRAIN: And then just as a cleanup question, how do we know -- when we say they will offer it for sale, what signifies offering for sale?

COMMISSIONER SCHIFFER: Right.

CHAIRMAN STRAIN: Do we know?

MR. HANCOCK: For the record, Tim Hancock. In order for the units to qualify for affordable housing or gap housing, the county has to, in essence, through the Housing Department, sign off on that. They have to be notified in the process in order for the units to qualify as affordable housing.

So that process occurs as the building is coming out of the ground or even before the building permit is issued. If there are, for example, four units in the building that you wish to offer as affordable units in order to meet

your requirements, you have to notify the county ahead of time.

So there's a very close relationship when you're doing affordable housing units between the developer and the county Housing Department.

CHAIRMAN STRAIN: And Tim, I have -- since -- I just remembered something. I was at the Professional Bull Fighter's Rodeo not too long ago, and a lady came up, and her name is Donna Treadwell. She lives just a block or two down from that, and she has a concern over water management. They just bought a house there, and they want to make sure that the water management issues are addressed on your property. I assured her they were based on South Florida rules, and also knowing what you and your firm do.

Would you have any -- if I emailed you her address, would you have any objection to getting in touch with her and just reassure her before you go to the Board of County Commissioners --

MR. HANCOCK: We'd be happy to.

CHAIRMAN STRAIN: -- where that's at? Okay. I'll do that after the meeting then. Thank you.

Anybody else have any questions of the applicant?

COMMISSIONER SCHIFFER: Question on bull fighting, but we'll skip it.

CHAIRMAN STRAIN: Yeah. It was interesting. Three people got hurt that night. It wasn't a good night for the bull fighters.

COMMISSIONER MURRAY: I thought it was bull riding, not fighting.

CHAIRMAN STRAIN: Bull riding, I'm sorry.

COMMISSIONER MURRAY: I figured you'd do the bull fighting.

CHAIRMAN STRAIN: Yeah. Bull riding, you're right; not bull fighting. I got mixed up on that one. But it seemed like -- with everybody injured, it almost seemed like it was bull fighting. I've never seen so many people go down in one night.

Staff report? Oh, this is a consent agenda. You're not going to counter him. Nobody has anything against Bruce, huh?

Okay. With all that, is there a motion from the Planning Commission?

COMMISSIONER SCHIFFER: I'll do it. I move we forward PUDZ-A-PL-2009-2031, Rock Creek Holdings, with a recommendation of approval.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Motion made by Commissioner Schiffer, second by Commissioner Murray, and I'm assuming it's subject to the new language that we reviewed here on the screen?

COMMISSIONER MURRAY: Clearly.

CHAIRMAN STRAIN: Right. Nodded okay from both parties.

Discussion?

(No response.)

CHAIRMAN STRAIN: All -- losing my voice. All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motions carries, 6-0. Thank you all.

COMMISSIONER MURRAY: Got to be a record.

CHAIRMAN STRAIN: Yeah, for that many, we did pretty good here this morning.

Terri, we're going to have you short on hours.

Old business, there isn't anything listed. Anybody?

(No response.)

CHAIRMAN STRAIN: New business? Nothing's listed. Anybody?

(No response.)

CHAIRMAN STRAIN: Public comment? Anybody remaining in the public?
(No response.)

CHAIRMAN STRAIN: None.

Is there a motion to adjourn?

COMMISSIONER AHERN: Motion to adjourn.

CHAIRMAN STRAIN: Ms. Ahern. Seconded by?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Ms. -- oh, good. Ms. Homiak, both ends.

All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries, 6-0.

You know, there's a balance on this board. We've got two ladies on both ends and one in the middle to keep the peace. This is going to -- this is good. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 10:18 am.

COLLIER COUNTY PLANNING COMMISSIONERS


MARK STRAIN, Chairman

These minutes approved by the board on 9-2-10 as presented or as corrected

TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT REPORTING SERVICES, INC., BY TERRI LEWIS.