

February 18, 2010

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida
February 18, 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
Donna Reed-Caron
Karen Homiak
Tor Kolflat
Paul Midney
Bob Murray
Brad Schiffer
Robert Vigliotti
David J. Wolfley

ALSO PRESENT:

Jeffrey Klatzkow, County Attorney
Nick Casalanguida, Interim Administrator for CDES
Ray Bellows, Zoning Manager
Susan Istenes, LDC Manager
David Weeks, Comprehensive Planning Manager

CHAIRMAN STRAIN: Okay, good morning, everybody. If you'll all take your seats. We are starting a minute late. Kady asked for an extra minute. So Kady, I hope this extra minute for you worked.

With that, welcome to the February 18th meeting of the Collier County Planning Commission. If you'll all please rise for pledge of allegiance.

(Pledge of Allegiance was recited in unison.)

Item #2

ROLL CALL BY SECRETARY

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

COMMISSIONER VIGLIOTTI: Commissioner Kolflat?

COMMISSIONER KOLFLAT: Here.

COMMISSIONER VIGLIOTTI: Commissioner Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER VIGLIOTTI: Commissioner Midney is not here yet. I presume he will be.

Commissioner Caron?

COMMISSIONER CARON: Here.

COMMISSIONER VIGLIOTTI: Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER VIGLIOTTI: Commissioner Vigliotti is present.

Commissioner Murray?

COMMISSIONER MURRAY: Here.

COMMISSIONER VIGLIOTTI: Commissioner Wolfley?

COMMISSIONER WOLFLEY: Here.

COMMISSIONER VIGLIOTTI: Commissioner Homiak?

COMMISSIONER HOMIAK: Here.

CHAIRMAN STRAIN: Okay. Thank you.

Item #3

ADDENDA TO THE AGENDA

CHAIRMAN STRAIN: The agenda today. We have two consent items from our last regular meeting. And this is a regular meeting of the Planning Commission with a continuation of review of the Immokalee Area Master Plan that will start as soon as we finish our consent items.

Item #4

PLANNING COMMISSION ABSENCES

CHAIRMAN STRAIN: Planning Commission absences. Does anybody know if they're going to be not here on the 26th, which is next Friday? That's the Land Development Code date continuation.

(No response.)

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

Item #5

APPROVAL OF MINUTES – JANUARY 21, 2010

CHAIRMAN STRAIN: Approval of the minutes from January 21st, 2010. Is there a motion to approve or

correct?

COMMISSIONER VIGLIOTTI: So moved.

CHAIRMAN STRAIN: To approve?

COMMISSIONER VIGLIOTTI: Yes, sorry.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER CARON: Second.

CHAIRMAN STRAIN: Second by Ms. Caron, motion made by Mr. Vigliotti.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KOLFLAT: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER WOLFLEY: Aye.

COMMISSIONER VIGLIOTTI: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Item #7

CHAIRMAN'S REPORT

CHAIRMAN STRAIN: There are no recaps.

And chairman's report, I just have to kind of make a comment.

It's real important in our meetings that we have a good transcript of everything that's going on. And it's -- I guess it falls to the chairman to make sure that the meeting is held in enough orderly manner that the transcript can be adequately taken.

I have to ask everybody one more time, please wait to be recognized to speak. Because when we speak out and we're not recognized, it's easy to get tripped over with somebody else. And it's very hard to do the recording that's needed for an accurate transcript.

And Mr. Mulhere will do his absolute best not to speak until everybody finishes. As impatient as it is -- or as hard as it is sometimes to sit here knowing you've got something really important to say that may solve the problem that's being discussed, we've still got to wait till that person finishes before we're recognized and move on.

So with that courtesy in mind, I think we can have a much better potential transcript and a smoother day.

Item #8A

PETITION: BD-PL2009-1304, BARBARA KAREN LEHMANN

CHAIRMAN STRAIN: So with that, we'll move into the consent agenda items.

The first petition is BD-PL2009-1304, Barbara Karen Lehmann, Trustee for the Lehmann Declaration of Trust. It was for a dock extension at 27 East Pelican Street. This is a consent item.

Is there either a motion to approve or is there a motion to any corrections or changes?

COMMISSIONER VIGLIOTTI: So moved to approve.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER MURRAY: Yes, second.

CHAIRMAN STRAIN: Okay, motion's been made and seconded.

Is there any discussion?

COMMISSIONER SCHIFFER: Well, just --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: Just one point. And this is to you, Ray. Ray, we had some discussion at the meeting as to whether you measure to the center line of a pile or to the closest edge of a pile to the property line. These drawings still show to the center line. Testimony was that it would be to the edge. Will these drawings cause any confusion there?

MR. BELLOWS: For the record, Ray Bellows.

I don't believe they cause confusion. I think testimony was given during the public hearing that those are kind of conceptual drawings and they aren't used for the construction of the dock.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: Okay, with that, I'll call for the motion. All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KOLFLAT: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER WOLFLEY: Aye.

COMMISSIONER VIGLIOTTI: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Item #8B

PETITION: PUDZ-2007-AR-11320, MCMULLEN MPUD

CHAIRMAN STRAIN: The next consent item is Petition PUDZ-2007-AR-11320, the Sembler Family Partnership, No. 42. It's for the McMullen MPUD.

COMMISSIONER MURRAY: Move to approve.

COMMISSIONER VIGLIOTTI: (Indicating.)

CHAIRMAN STRAIN: Motion made to approve by Mr. Murray, seconded by Mr. Vigliotti.

Is there any discussion?

COMMISSIONER HOMIAK: Yeah, I have a question.

CHAIRMAN STRAIN: Go ahead, Ms. Homiak.

COMMISSIONER HOMIAK: On the Exhibit A on number 20, I still don't understand what -- or see where group housing facilities definition is. I see group care facility definition and group housing unit definition, but --

CHAIRMAN STRAIN: Where are you at in the document?

COMMISSIONER HOMIAK: Exhibit A of Page 1 of 12 it says on Exhibit A. That's what it says on the bottom.

CHAIRMAN STRAIN: Page 1 of 12, okay.

COMMISSIONER HOMIAK: It says on number 20. I don't know if -- it says care units only including group housing and group housing facilities.

CHAIRMAN STRAIN: Ray, is there a def -- I thought there were some definitions in the definition section of the Land Development Code. Do you know?

MR. BELLOWS: Yeah, for the record, Ray Bellows.

Yes, there is definitions for both care units and group housing in the LDC. So I don't recall that having to be placed in the document, though.

CHAIRMAN STRAIN: Well, it says homeless shelters are prohibited. Is that what your concern is?

COMMISSIONER HOMIAK: Well, I'm just -- there's no definition for group housing facilities in -- that I see. I'm just -- should it be group care facilities or group housing unit? So that there's a clear definition. I don't see it. Or it's just a different one that I'm not finding somewhere.

MR. BELLOWS: I think the Land Development Code provides both definitions, so I thought it would have been redundant to include the definitions again in the PUD document since they are basically spelled out in the LDC.

CHAIRMAN STRAIN: Yeah, we wouldn't normally do that. But I think the question is are they both in the LDC. I think that's --

MR. BELLOWS: Yes, they are.

CHAIRMAN STRAIN: -- the question.

They are?

MR. BELLOWS: They both are.

CHAIRMAN STRAIN: Okay. Well, if they're both in the LDC, then is that --

COMMISSIONER HOMIAK: I don't see it. I have it right here

CHAIRMAN STRAIN: Oh, you have it?

COMMISSIONER HOMIAK: -- and I don't see it.

CHAIRMAN STRAIN: Okay. Ray, can you -- one of us need to -- let me see if I can get it on the --

COMMISSIONER HOMIAK: It's just one word. It needs to be one or the other.

MS. ASHTON-CICKO: I believe it is under the definition section under group housing facilities. And you might have to look under housing, back slash group.

CHAIRMAN STRAIN: Do you have your code with you?

MS. ASHTON-CICKO: No, I don't, but I can pull it up.

CHAIRMAN STRAIN: Well, I'm pulling it up now too.

COMMISSIONER HOMIAK: Well, I have this page. It's here, here and here.

COMMISSIONER VIGLIOTTI: For the record, let the record show Commissioner Midney is here.

CHAIRMAN STRAIN: Computers are working very slow this morning, so I can't get the Muni. Code up yet. So if anybody can get to it before me, please try.

COMMISSIONER MIDNEY: Mark, you remember I said I would be late? You weren't worried, were you?

CHAIRMAN STRAIN: We knew you'd be here.

COMMISSIONER WOLFLEY: We were all worried.

COMMISSIONER VIGLIOTTI: Paul, actually, when I called the roll call, I said Commissioner Midney is not here, but I'm sure he'll be here momentarily.

CHAIRMAN STRAIN: Yes, he did.

Did you resolve it or not?

MR. BELLOWS: Well, there's a definition for group housing, but there isn't one for group housing facilities. I thought that group housing facility's just a structure within the group housing category.

CHAIRMAN STRAIN: Why don't you take the F on facilities and make it a small F, and then it's group housing and that takes care of it.

COMMISSIONER HOMIAK: So you have group housing group housing?

COMMISSIONER MURRAY: Small F, changing it to --

CHAIRMAN STRAIN: Well, I would strike out --

COMMISSIONER HOMIAK: I think that probably means group care facility, not group housing facility. Because there is a definition for that.

CHAIRMAN STRAIN: Then maybe that's what it should be.

Is the applicant here? Sir, would you mind --

MR. HOREAS: Tom Horeas, the Sembler Company.

CHAIRMAN STRAIN: You'll have to be sworn in first.

(Speaker was duly sworn.)

CHAIRMAN STRAIN: Would it meet with your application if that word in the second one was instead of group housing it was group care facilities?

MR. HOREAS: No, I think we specifically needed the group housing. But your suggestion for making the capital F, which is a defined term, to a lower case F makes good logical sense. Because it's not a defined -- the facilities isn't defined.

CHAIRMAN STRAIN: Okay, but is group housing defined, Ray?

MR. HOREAS: Last time --

MR. BELLOWS: Yes.

MR. HOREAS: -- I looked it up, I thought it was.

MR. BELLOWS: Yeah, group housing is defined. And it basically says, housing structures designed to meet a special need such as housing, health and socialization of certain segments of the population such as youth, the elderly or the developmentally disabled. Group housing refers to the following types of structures: Family care facilities, group care facilities, Category I and Category 2 care units and nursing homes.

CHAIRMAN STRAIN: Well, then why wouldn't we have this read care units only including group housing, group housing facilities, and go on from there with the facilities being a small F. And then we've covered both the group housing and those facilities that support group housing under that definition.

MR. BELLOWS: That works for me.

CHAIRMAN STRAIN: Okay. Karen, do you have any further objection if those changes get made?

COMMISSIONER HOMIAK: That's okay.

CHAIRMAN STRAIN: Are there any objections from the applicant?

COMMISSIONER HOMIAK: It just drives me crazy when --

MR. HOREAS: No, that's logical.

COMMISSIONER HOMIAK: -- I can't find the definition.

CHAIRMAN STRAIN: I would think, too, to clean it up, Ray, that the first reference to group housing, the H on the housing needs to be capitalized. And then again with the second reference, drop the capital F and make it a small F. Then we all fit with the definitions.

MR. BELLOWS: That works.

CHAIRMAN STRAIN: Ms. Homiak, thank you. That was a good catch.

MR. HOREAS: Thank you, everyone.

CHAIRMAN STRAIN: Thank you, sir.

Okay, with that change to the consent agenda item, is there -- and there's been a motion made and seconded. Any further discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KOLFLAT: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER WOLFLEY: Aye.

COMMISSIONER VIGLIOTTI: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0. Thank you.

Item #9A

PETITION: CP-2008-5, IMMOKALEE AREA MASTER PLAN AND IMMOKALEE AREA MASTER PLAN FLUE MAP

CHAIRMAN STRAIN: Okay, from this format we'll move into our GMP review of the Immokalee Area Master Plan that was continued from the 16th.

This is CP-2008-5. We left off by finishing up most of the policy statements, objectives and goals except for the environmental ones, which we wanted to start out with today.

Bob, you had one on the -- you've got one on the screen and it would -- oh, your numbering system is really going to be difficult.

MR. MULHERE: Everything is just one number off. Every goal is one number off. Instead of four, this is now five. When we get to five, it's six. When we get to six, it's seven.

CHAIRMAN STRAIN: Then today we will be on our Objective 4.1, Bob's new numbering, 5.1.

MR. MULHERE: Right.

CHAIRMAN STRAIN: So for those of you who went through and tried to decipher the hard to read sheets, that occurs on Page 19.

MR. MULHERE: And we have the changes on the screen. Hopefully you'll be able to see them just as easy, or the public can see them up there.

CHAIRMAN STRAIN: Okay, are there any questions on objective -- let's start with the very first paragraph, 4.1.

(No response.)

CHAIRMAN STRAIN: Bob, on the second line when it says, and connected wetlands systems and listed species habitat, including upland habitat, do you mean upland habitat used by listed species?

MR. MULHERE: Yes. You want that -- you think that should be added for clarification?

CHAIRMAN STRAIN: Well, I -- the way things happen sometimes in interpretations, it might be better to have it explicitly clear. You might put an "S" where that "X" is.

Any other questions on the first paragraph of Objective 4.1?

(No response.)

CHAIRMAN STRAIN: Okay. Move on to Policy 4.1.1. Now, there's several paragraphs here. We'll just work our way through the whole thing.

And Bob, I've got a couple different versions, so it's taking me a while to coordinate them all.

MR. MULHERE: It's been completely rewritten from what started through the EAC recommendation.

And just as a reminder, on the screen, the yellow highlight is what the EAC recommended in their first review. And the gray shows we went back to them, showed them how we made the changes and they had a couple of minor additional changes, and so that's what you see.

COMMISSIONER MIDNEY: So EAC has seen this twice.

MR. MULHERE: I think at least twice, yeah, but twice.

COMMISSIONER MIDNEY: Good. Since --

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: They've seen it once since January 6th.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Paul, you missed the beginning of the meeting. I know I'm -- Donna's going to help me make sure everybody's recognized. We had -- last time it was very hard to transcribe the meeting when we didn't get recognized individually. So in order to make sure the transcription goes as smooth as possible -- and that will slow us down a little bit too. And Donna's agreed to kick me every time I speak too fast. And my knees are already black and blue.

So with that in mind, first paragraph of this pol -- or any point of Policy 4.1.1, does anybody have any comments or questions?

(No response.)

CHAIRMAN STRAIN: The two years that you keep referring to, I mean, the first time you caught the subject of Policy 1.1.1 that's in the third paragraph. The second one you didn't insert Policy 1.1.1. Was there a reason for that, Bob?

MR. MULHERE: Yes, there was. The reason -- thank you, I'm glad you asked that, Mr. Chairman. The reason why I didn't put it in the second one was because again, we believe that we would have completed the land code amendment part of our assignment within that two-year period, so -- and it's funded. So we didn't think that we needed to put that there.

Though I think at your direction in a few locations on the 16th regarding land code amendments, we still put that caveat in there, because I think you said that there's no harm in having it in there, so I guess I just put it back -- put it in.

CHAIRMAN STRAIN: Okay. Well, I think also when we come back and do the review of your rewrite, now that we've got clean copies, but it would probably more after today, we may have to revisit some of those where

it either is missed or not in there and ask --

MR. MULHERE: We'll try to catch them.

CHAIRMAN STRAIN: -- take a look at them.

MR. MULHERE: I'm sorry.

CHAIRMAN STRAIN: Okay. Are there questions on the remainder of 4.1.1?

COMMISSIONER MIDNEY: Yes.

CHAIRMAN STRAIN: Go ahead, Mr. Midney.

COMMISSIONER MIDNEY: 4.1.1. Just to sort of clarify for me, would this policy imply that perhaps later on in the LDC we might look at -- when we're looking at cluster development, would that include possibly buffer zones?

MR. MULHERE: Tell me what you mean. Because I --

COMMISSIONER MIDNEY: Well, how close to the, you know, environmentally sensitive areas you would be allowed to, you know, develop.

MR. MULHERE: Well, there already are I think regulations that relate to how close to a natural reservation you can develop.

And again, you know, I'm not saying we wouldn't look at that, but if we're having a landowner acquire land in a natural reservation, I'm not sure then we need a significant buffer on top of what's being required. I mean, we need some buffer, and it already exists in the LDC. There is -- I don't know what it is, but there is a buffer. I think it's 20 feet from a natural reservation.

COMMISSIONER MIDNEY: Right, in I guess it's 6.2.5. No, I'm just -- if something like that would be within the realm of what's covered under this where it says innovative -- incentives and innovative land development regulations. So it could be possibly --

MR. MULHERE: Yeah, could it be. Yes, it could be, yes.

COMMISSIONER MIDNEY: Thank you.

CHAIRMAN STRAIN: And Bob, I haven't had time to pick up all this new language as well as I would have liked to, so I need to ask you, under your density and intensity blending provisions, you refer to some transfer of the RLSA stewardship credits or into the SRAs of the stewardship area. How does that play out in reaction to Policy 4.1.1 where it talks about transferable development rights, density bonuses and --

MR. MULHERE: Okay, those are two different programs completely. The density blending already exists in the plan, albeit we have amended it to -- as proposed. And in accordance with the EAC motion, we've amended it to allow for a density blending for lands in the Immokalee urban area within the Lake Trafford/Camp Keais Strand overlay that if you protected those lands you could transfer your development rights to lower sensitive environmental lands within the RLSA.

That's completely different from any proposed transferable development rights program. It's sort of like the rural fringe in the RLSA. Two completely separate programs.

This calls -- originally we had written it that we would create a transferable development rights program. It's been rewritten by EAC motion based on I think requests from The Conservancy that we would only explore the feasibility of it. And frankly, we concur with that. It may not make sense on a limited basis to expend the time and energy.

So we don't even know if there's going to be a TDR program, but if it does make sense, it has to come back through a comprehensive plan amendment process.

CHAIRMAN STRAIN: Okay. Well, could the lands that are being subject to Policy 4.1.1 utilize the RLSA process by --

MR. MULHERE: 4.1.1, meaning the tran --

CHAIRMAN STRAIN: The incentive, yes.

MR. MULHERE: No, there's no intent for this, no.

CHAIRMAN STRAIN: Okay. Because we're going to have a -- we'll probably have a lengthy discussion on the density and intensity blending provisions, because the RLSA -- well, we'll get into that when we get there.

MR. MULHERE: Just to be clear in response, the TDR program that's referred to here, if it's determined to be feasible and appropriate, is not intended to allow for a transfer anywhere but within the Immokalee urban area.

CHAIRMAN STRAIN: That's the key. Good, thank you.

Now, how do you see -- with the density bonuses and the density increases that are being proposed for the Immokalee urban area in this plan, how do you see the desire for anybody to want to come up with a TDR that would be for additional density when they've got so much given to them by the plan itself?

MR. MULHERE: Well, you've got to build the incentives in. There may be as part of that plan that you have -- I think, in fact, in having some discussions -- we've had some general discussions, and one of the discussions was perhaps in an urban infill bonus, which is a bonus that's available, in the urban area presently to get the urban infill bonus you have to buy at least one TDR.

CHAIRMAN STRAIN: Right.

MR. MULHERE: And I'm thinking in Immokalee, you know, you might do something similar. It might be that you have to buy a TDR or might be that if you buy a TDR you get a little bit of extra bonus. But there are opportunities to build in incentives that start at the base or the floor before you can get the bonuses you have to do, you know, if you have a TDR program.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And again, that's not even been determined that it's going to be feasible.

So I agree with you, that there may not be feasibility plus -- last comment related to that -- when we get to the density. You're going to find in our recommendation now is that we've limited the increases significantly so you don't have the same situation that you think you have. We have to wait till we get there.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Mr. Chairman? Over here.

CHAIRMAN STRAIN: David?

MR. WEEKS: I believe Bob misspoke. Bob, I understood you to say that for the residential infill you have to use a TDR credit.

MR. MULHERE: Presently?

MR. WEEKS: That's for the coastal urban area, not for Immokalee.

MR. MULHERE: That's what I meant. That's what I meant, for the coastal urban area.

MR. WEEKS: My fault.

CHAIRMAN STRAIN: Yeah. No, I understood that. Because he and I had discussed that point. And that's where we suggested maybe we ought to look at the same kind of incentivization for Immokalee, so --
Okay, Paul?

COMMISSIONER MIDNEY: Yeah, I think, you know, when we were discussing this at the EAC and with Bob and with Nicole from The Conservancy, what we were thinking of is that the RLSA density blending is a nice idea. Potentially it could take care of the whole problem, if there were enough new towns developed and enough new demand for those RLSA credits.

But the new towns that are not Collier owned may take many years to develop. And by then, you know, there may be a need for something like a TDR program. So it's kind of like a -- you have two possibilities for taking the density off of these lands and giving the landowners some compensation. The TDR would be one and the density blending would be another.

CHAIRMAN STRAIN: And I think that's a good idea. I haven't -- I don't have a problem with the proposal for a TDR program. I certainly have some concerns over the way the RLSA interactions (sic). And we'll discuss that when we get to that section of the code. So that's where my -- that's why I quizzed on this, because I wanted to make sure this was clean of any reference to the RLSA. Because if it wasn't, we'd be into that discussion now.

Okay, Bob?

MR. MULHERE: I'm sorry, I didn't want to prolong the conversation, I just wanted to make it clear for everybody that, you know, we haven't got to the density rating system, and that's where you'll see the density blending provision. So we haven't even looked at those yet, so I didn't want to confusion anybody. When we get to them, we can have that conversation.

As far as this goes, yeah, no relation, no intent to transfer or allow transfers outside of the urban area.

CHAIRMAN STRAIN: Okay. And what I think we'll do is finish up this objective before we go to any public discussion. I know Nicole had some comments that she wanted to make.

Why don't we move into Policy 4.1.2, Lake Trafford development. Are there any questions concerning that item?

(No response.)

CHAIRMAN STRAIN: Anybody have any items on four -- yeah, 4.1.2?

(No response.)

CHAIRMAN STRAIN: Okay, let's go to 4.1 .3. Any issues on 4.1.3?

(No response.)

CHAIRMAN STRAIN: And last one is 4.1.4, which because it's all been stricken takes my questions away.

MR. MULHERE: There's a little bit, if I --

CHAIRMAN STRAIN: On the bottom.

MR. MULHERE: Yeah. It's quite a bit less language.

CHAIRMAN STRAIN: Then 4.1.5 was added because --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- you moved the conservation designation to 4.1.6.

Anybody have anything on 4.1.5?

MR. MULHERE: Mr. Chairman, I have a comment on that, if I may.

CHAIRMAN STRAIN: I do too, so --

MR. MULHERE: Oh, okay. I'm sorry.

CHAIRMAN STRAIN: No, it doesn't matter. I mean, we can go either way. I just -- to me it puts a huge burden on Immokalee and I can't see the necessity for it. And why are we doing it for scrub jays? Why don't we do it for every species there is? And why are we doing it at a pre -- as a preemptive strike more or less as a county effort when it should be a private owner's effort when they come in? I'm a little puzzled by it all. I don't know why we've singled it out for this for Immokalee.

MR. MULHERE: Well, again, this was a recommendation of the EAC.

CHAIRMAN STRAIN: Doesn't matter. Question still applies.

MR. MULHERE: Well, and I just wanted to offer some thoughts on it. And Nicole and I have discussed this as well, at least in a sort of preliminary discussion.

There's already a policy in this plan that you've reviewed that calls for the county to look at areas that might be appropriate for either mitigation or acquisition. And one of the areas that we talked about was the panther Priority One area on the eastern part of the Immokalee urban area that we talked about on the 16th.

The other area is the Lake Trafford/Camp Keais Strand area that's identified as an area of higher value environmental. And we already talked about that applying to both wetlands and upland areas with listed species.

So there is already a general provision that would have the county look at areas that would be targeted for mitigation and acquisition.

The EAC's concern was that there is scrub jay habitat uniquely found out in Immokalee and that that required some special recognition, therefore this policy.

I think you could cover this, as you've already suggested, that we look at including as examples the areas that we know have potentially high listed species value or natural resource value, including the panther Priority One area on the eastern part, as well as the Lake Trafford/Camp Keais Strand overlay. And we could also say -- again reiterate uplands with listed species. It does -- it's a general provision that would focus folks in the future when they're looking at mapping to look at those areas, as well as the wetland areas or the panther priority areas.

So I don't know that we need this if we include a reference to uplands -- upland listed species habitat in the other provisions in the plan. That's just an observation on my part. I'm not -- I don't have any objection to it, just maybe Nicole will have a comment.

CHAIRMAN STRAIN: Well, my comment on all that is that the other plan that was referenced, the panther habitat plan, that plan was completed by six scientists at a cost to a private sector that the county could benefit from.

MR. MULHERE: Right.

CHAIRMAN STRAIN: This would require the county to pay, or Immokalee CRA or somebody, to fund a rather intense study for the entire urban area of Immokalee way before it may ever be needed and way before it might be subject to change as the birds move or migrate or change their habitat.

I really don't think this is something Immokalee should be paying for, nor do I think they should be under the gun for this type of item in this kind of a policy. I think the other policy where the language was just recently changed adequately covers it. And so that's --

MR. MULHERE: And that's purely voluntary.

CHAIRMAN STRAIN: -- where I was coming from in my discussion.

And Paul and Donna would be next.

COMMISSIONER MIDNEY: Yeah, I have some insight into the scrub jays. I've kind of taken that on as my project or an area of expertise in Immokalee.

It wouldn't be expensive to study them, because there are very few left. And they're very territorial; they don't move around hardly at all. It's rare for them to go even a mile away from where they are. And so it wouldn't be that hard. There's probably just a few families of them left.

I don't even know if it's maybe too late to save this population because it's becoming so isolated and so small. But I like, you know, the general statement development should be directed away from these areas and the possibility of providing incentives. But I don't think the study would be very costly or very involved.

CHAIRMAN STRAIN: Just out of curiosity, Paul, if we have the objective language in there that says the listed species habitat, including upland habitat for listed species, wouldn't that cover it without requiring the proactive position of the taxpayers to have to locate it and leave it up so that the landowners end up paying for the surveys that are needed to get it done? Because someone will have to pay for it and the CRA's got a limited amount of funds. And I've actually studied their funding process. I don't know how they're going to pay for all this stuff they're suggesting here, so I'm --

COMMISSIONER MIDNEY: Other people are studying it. I know the Fish & Wildlife is going to be doing a study with regard to the airport with regard to that thing that we recently did. And so their biologists are going to be around. I don't know, that might be enough to really study the whole thing, the population is so small. I don't know.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: But again, that would mean that Collier County would not have to do that. And that's the point I think the Chairman's trying to make, that the county and/or the CRA shouldn't have to undertake that study if other people are going to do it and/or if some private landowner comes forward with a project, they would have to do it as part of a management plan. So I think you're absolutely right that there's no need, you're covered in the first policy.

CHAIRMAN STRAIN: And I think there's plenty of environmental provisions to make sure endangered species or threatened species don't get buried in the process, so --

MR. MULHERE: If I could just add, there's lots of existing data on wetland and listed species. And there's already a provision that says the county within two years is going to map targeted areas for acquisition and mitigation. And that's -- we want that, because we want that to be an incentive in other aspects of the plan. And I don't know that you need a separate mapping process. That process should cover this, or could cover this, I guess is a better way to say it.

CHAIRMAN STRAIN: Okay. Well, I think the consensus says that that paragraph is unnecessary because it's covered in other policies. And certainly during the implementation of all the policies, if it needs to be further highlighted we can address it then and more effectively.

So with that --

COMMISSIONER MURRAY: Mr. Chairman?

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Just in my ignorance, scrub jays are a listed species?

COMMISSIONER MIDNEY: Yes.

CHAIRMAN STRAIN: Yes.

COMMISSIONER MURRAY: Just to be sure. Thank you.

COMMISSIONER MIDNEY: Mark?

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: There's actually very few listed species in Immokalee. The panther is the big one. We don't have red-cockaded woodpeckers. About the only other one besides gopher tortoises and, you know, those are well covered, is the scrub jays. That's about it.

CHAIRMAN STRAIN: Except for the panthers.

COMMISSIONER MIDNEY: Panthers is the big one.

CHAIRMAN STRAIN: Oh, you missed -- yeah, you were here Tuesday.

Okay. Let's move on to 4.1.6, 5.1.6 now. Any issues there?

(No response.)

CHAIRMAN STRAIN: Bob, you reference in the third line, where such lands were required primarily for the purposes of conservation.

How do you quantify or qualify the word primarily?

MR. MULHERE: Well, I think that modifier -- I don't know how to quantify it. The modifier was there because there are uses that are not directly related to conservation, such as passive recreation that are typically allowed in conservation lands purchased with public dollars so that the public can actually use those lands.

So I don't know that it's necessary. David, and maybe we can -- it doesn't really matter, because those uses are allowed in the conservation designation. So we probably don't need the primarily.

CHAIRMAN STRAIN: Well, if it's got a conservation designation, wouldn't that be the qualifier?

MR. MULHERE: Yeah. I mean, the passive recreation uses are permitted under that designation, so you probably don't need it. But as an abundance of caution, you know, for -- to be sure that there were other uses besides conservation uses that were allowed, I put that in there. We can take it out.

COMMISSIONER MIDNEY: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER MIDNEY: Some of these allow hunting too. I know the CREW lands do and I think the Pepper Ranch envisions some hunting.

CHAIRMAN STRAIN: And if we -- but if we drop the word primarily and just said acquired for the purposes of conservation, it still covers it, because all the conservation lands can be used for passive recreation; is that not right?

MR. MULHERE: They can.

CHAIRMAN STRAIN: So I'd rather -- I think it would be confusing to leave the word in there.

MR. MULHERE: And I think the only reason that -- also was that, you it's a small C. It doesn't -- that phrase doesn't reference the designation, it references the act of conserving. And primarily that's what they are acquired for, but they do allow other uses. So anyway, it's okay, I can take that out.

CHAIRMAN STRAIN: Okay, the second to the last -- oh, go ahead, David.

COMMISSIONER WOLFLEY: While we're crossing out, could we cross out one of those "for these"?

MR. MULHERE: Is there an extra one in there? God forbid, did I make a mistake?

COMMISSIONER WOLFLEY: Never.

CHAIRMAN STRAIN: Where is it?

COMMISSIONER WOLFLEY: Right after primarily.

CHAIRMAN STRAIN: For the for the.

COMMISSIONER WOLFLEY: For the for the.

MR. MULHERE: Gotcha.

COMMISSIONER MURRAY: Just stuttering, that's all.

CHAIRMAN STRAIN: Okay, the second to the last line, Bob, you start a sentence that says, such land shall be designated conservation, and of course it's lands. And shall be subject to provisions of conservation designation.

Now, is it the intent that those lands that are designated conservation be done so on the FLUE?

MR. MULHERE: After acquisition and at the next update of the plan, yes.

CHAIRMAN STRAIN: Okay. Do we need to say that here, that such lands shall be designated conservation lands on the Future Land Use Element and shall be subject to provisions of the -- to make sure that it does get on the FLUE?

MR. MULHERE: I think that's a good recommendation.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: I mean, that would be why you would be including mapping the lands, right, so that they could be put on the FLUE.

MR. MULHERE: No. That's part of the reason. The real reason we're mapping them is so they can be the target of acquisition or mitigation.

But after they're acquired -- if you think about south blocks of Golden Gate Estates, that was a long acquisition process, 20 years, maybe longer. The county didn't designate that area as conservation until after almost

all of it was acquired. Because they just waited until the acquisition was done.

So as piecemeal as these things are acquired and then the county is going through and updating the plan anyway, that's when they'll designate them as conservation.

CHAIRMAN STRAIN: Okay, are there any other questions on this entire objective before we ask for public comment?

MR. MULHERE: May I?

CHAIRMAN STRAIN: Go ahead, Bob, and then Dave.

MR. MULHERE: I'm sorry, I just read this and I realize there's a really unnecessary phrase at the end of that. Such lands shall be designated conservation on the Future Land Use Map, that should say, right?

CHAIRMAN STRAIN: Right.

MR. MULHERE: I mean, I think it should end there. We don't have to say that it's subject to the provisions of that designation.

CHAIRMAN STRAIN: Automatically is.

David?

MR. WEEKS: Covered it.

CHAIRMAN STRAIN: That was it? You took his thunder away there, Bob.

MR. MULHERE: You know, I had coffee this morning.

CHAIRMAN STRAIN: Okay, are there any public speakers on this item?

Nicole? Why did I figure you'd be speaking on this one today?

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

And The Conservancy did sit down and do a lot of work with Commissioner Midney and with Bob and Penny to really beef up these natural resources policies. So we appreciate all of the collaborative effort that went into that. The EAC was very responsive. So we think that we have a good goal, objective and policies here.

One comment on Policy 5.1.1. In looking at the TDR program, the incentives, we wanted to pull out the concept of a TDR program from other clustering incentive based provisions that could easily be put into the LDC, because the TDR program is really quite an expansive and in-depth, complicated program. And we didn't feel comfortable with the assumption that if a TDR program were appropriate it would simply be implemented in the LDC, we wanted that to come back, be part of the GMP amendment process and then be implemented. So that's why the TDR program -- one of the reasons the TDR program was separated out from the other incentives that can I think easily be put into the LDC.

And also the question of with all of the density and bonuses available, is there going to be a market for a TDR program, and is it worth the energy and effort to put one together. So that's why those were culled out.

On the provision for the upland habitats, 4.1.5, while there are a lot of agency review processes in place for wetlands and wetland dependent species, what we find is that if a wetlands permit isn't triggered, then some of these upland listed species don't get that same level of detailed review, because you don't have the agencies coming in as they normally do through a wetlands permitting process.

And the scrub jay is one of the species that sometimes falls through the cracks. And unlike a lot of the wetland species where if you map the large lands that are connected, the flow ways, some of these scrub jay parcels are very small. And so when you're doing mapping to look at specific parcels targeted for mitigation, the concern is that you may not pick up on some of these five, 10-acre parcels that are scrub jay habitat, may have scrub jays on them but may not be picked up in that initial overview of mapping.

So while I understand that pulling out the mapping and the surveying could be taken from this policy, put into the overall mitigation mapping, I like the idea of having that be kind of a master mitigation plan and a wish list for targeted acquisition. Scrub jay habitat, upland habitats for listed species, that could be part of it, but The Conservancy would still like to see a tie-in to policies that are really scrub jay based as far as incentives for directing development away from those scrub jay habitats. And I'm not sure that it's -- it isn't specified anywhere else and so we would like to see that policy remain in some form. Maybe not requiring the county to undertake a brand new survey to identify the lands. I agree, a lot of the data is out there and I think that can be done in a different manner.

But in specifying that development should be directed away from these areas made available for passive recreation and providing incentives, I think that's a good policy and should remain because we're dealing with a

species that is quite specialized and is on those upland habitats that often won't get that trigger for review because it doesn't have a wetland impact.

CHAIRMAN STRAIN: Well, Nicole, let me address that. Because in the objective statement where it talks about the protection of natural resources in Immokalee, including connected wetland system and listed species habitat including upland habitat for listed species, a scrub jay is a listed species. They would be covered under that language. That language will trigger implementation language in the LDC which I think will be a more appropriate place to decide how it becomes implemented, not in the GMP that becomes a do or die situation and it's so hard to change.

So I'm not against finding -- making sure we protect those listed species, but I think putting the burden in the GMP forever and locked in stone for the CRA basically to pay for is not the appropriate mechanism to do that. And I certainly think, just like we have considered all the protection mechanisms for wetlands and other species we have in the Land Development Code where we can lay out the implementation more precisely, that to me would be a better place to put this rather than dragging that detail into the GMP.

So I'm still going to stay with that statement on this for myself. I'm not -- well, I guess the rest of the commission will weigh in on it as we go along.

Paul?

COMMISSIONER MIDNEY: Yeah, these rules, Mark, that you speak about, have they been in existence continually? I mean, they aren't new. They've been over the last 20 years, right?

CHAIRMAN STRAIN: Well, we've got a lot of protection mechanisms in the LDC. I can't tell you if they're specifically written around every species. I just don't recall without looking it up, Paul. So maybe -- I don't know if David's that familiar with the Land Development Code, or Nicole, you might be.

MS. RYAN: I know the GMP does address some, but the LDCs -- the LDCs have good policies for gopher tortoises, but the rest of the species I'm not that familiar with.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: The reason why I ask is that just the record in Immokalee is very clear. Every time something goes in that's sort of like for societal benefits, like our clinic, that's where they put it, scrub jay habitat. The habitat stuff, that's where it goes. The Immokalee nonprofit housing.

And I think it's sort of an easier sell to get through the process if it's something that's like beneficial to society. And the result is that the scrub jays' habitat has been decimated in Immokalee over the last 20 years. They're not there anymore, all the places where they used to be.

CHAIRMAN STRAIN: Well, and Paul, I don't think anybody's disagreeing we don't need a solution for it. I just honestly don't think this is the right place or the right document to put it in. Especially for the fact that you may find you may want some flexibility for the community of Immokalee as time goes on. And if you put it here, you certainly are going to have a real hard time changing it. But I'm -- you know, that's just my thought.

MS. RYAN: And this may have also tied back to months ago there was the consideration of potentially doing a habitat conservation plan for the Immokalee urban area to look at those upland species, specifically scrub jays. So this may tie into the possibility of an HCP in the future. I'm not sure if that's what EAC intended with that, but that could have been part of it too.

CHAIRMAN STRAIN: Thank you.

MR. MULHERE: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. MULHERE: I just want to reiterate, again, there's nothing that would prohibit as part of that other mitigation and acquisition targeted lands mapping process that you couldn't have some scrub jay habitat also added there and put some incentives in for acquisition of it, or mitigation for it.

CHAIRMAN STRAIN: The other mapping process, that's a county-wide process?

MR. MULHERE: No, no, it's just for Immokalee. It's a -- the idea is to create some targeted lands for mitigation and acquisition and then create incentives for landowners to go to those lands and mitigate in those lands. In Immokalee. So impacts in Immokalee, mitigation in Immokalee.

CHAIRMAN STRAIN: Well, I do think putting it -- addressing it with the other existing policies is a much better method than putting the detail that's specified in this document -- in this paragraph or this policy here, so --

MR. MULHERE: And I'm sure that when that process occurs, then Nicole or The Conservancy and other, you know, stakeholders will be involved to make sure that it happens in that way, so --

CHAIRMAN STRAIN: I would bet my bottom dollar they'll be involved, so -- okay, with that, any other public speakers on the Objective 4.1?

(No response.)

CHAIRMAN STRAIN: Okay, let's move on to the next one. And Bob, I think that is under the --

MR. MULHERE: Land use.

CHAIRMAN STRAIN: Well, which means we ought to go back to the other section and work our way through the land use till we get to the density and intensity blending provisions that have been changed.

MR. MULHERE: Yeah, I agree.

CHAIRMAN STRAIN: Okay? That's the only other policy we didn't address. The rest are all land use discussions, right?

MR. MULHERE: Yeah, even the density blending is part of the land use designation portion of the plan.

CHAIRMAN STRAIN: Right. So now we're going to move to Page 42 of the original Immokalee Master Plan discussion.

We left off on Page 41 by finishing up through Policy 7.1.4. We stopped there on Tuesday. The format that we had worked through that date, we'll just move into now Page 42.

Okay, on Page 42, this is not broken down by policy, it's broken down by paragraphs. I guess we'll just go by page, that would seem to be the simplest way.

So does anybody have any questions on the very first page?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Go ahead.

MR. MULHERE: I was going to say, it might be helpful if I give you a little bit of an overview of the changes, because they might address your questions. And they're substantive.

CHAIRMAN STRAIN: Go right ahead, sir.

MR. MULHERE: So on the first paragraph if you look on the screen, or Page 29 of the handout, the strike-through of that second -- that last sentence, in discussions with staff and others, there was concern that this really would call for almost an entire new zoning reevaluation process, which was substantive. Those of you that were around when we adopted the comprehensive plan in 1989, that was a significant process, a very legal process.

There is really no need for that level of process here because we are not taking away anyone's development rights here. Where we've changed the designation -- and we'll get into the details of this -- we've actually probably created greater development rights for them.

There may be some nonconformities created through this process such as with mobile homes, existing mobile homes or mobile home parks that we discussed day before yesterday. But those are allowed to remain in place subject to the nonconforming provisions in the plan.

So based on those discussions, we felt that, you know, it was a bit of overkill, that we really do not need to burden the county with the process of rezoning land to make it consistent with the new land use designations. That burden should fall on the private property owner. And anything that's nonconforming can either remain in place or in the future be consistent with the plan.

Adequate explanation, David, or anything to add?

MR. WEEKS: For the record, David Weeks of the Comprehensive Planning Department.

I think that's pretty good. I would make one specific comment. You've stricken the last two sentences of that paragraph. And I would suggest that the first sentence not be stricken. That is a similar sentence as it appears in the Future Land Use Element. And it's not specifically related to that reevaluation process. And staff would recommend leaving that however sentence in place.

MR. MULHERE: Okay. I only struck through it because I thought it was obvious and redundant, but that's okay, in an abundance of caution.

MR. WEEKS: The other comment I would just like to I guess reserve the right of staff to go back and look at how this language stricken, which we support, but how this language compares to those policies that we discussed under I think it's goal five regarding mobile homes. As we discussed on Tuesday, the scenario where certain properties might be zoned VR they would allow a mobile home as a -- on an individual parcel-by-parcel basis, not part of a subdivision or mobile home park.

Just want to make sure all of that fits, that everything's covered, that we haven't left something out. And that reevaluation process would address anything that was missed. So by removing this language, we just need to make sure that we haven't left a situation uncovered.

MR. MULHERE: And I expect that we will have to spend some time. That we -- not have to, but will want to spend some time with staff. Assuming once we get through the Planning Commission's review, we'll get with staff and we'll rework some of these things so that they make sense. And this being one. By striking through this, we need to make sure there's no unintended consequences.

CHAIRMAN STRAIN: Can you scroll down a little bit? How far down does your change go? Because you used to have a number one low residential subdistrict LR.

MR. MULHERE: It goes for a ways. Let me explain this change to you then, if I could.

CHAIRMAN STRAIN: And obviously we cannot weigh in on this change --

MR. MULHERE: That's fine.

CHAIRMAN STRAIN: -- as much today as we will probably do --

MR. MULHERE: That's fine.

CHAIRMAN STRAIN: -- in the rewrite review.

MR. MULHERE: But let me just tell you what it is, because staff also -- in staff's comments, they have repeatedly made a comment that said that the -- that there should be a PUD designation in the Future Land Use Element. And we have said why. We don't need a PUD designation, that's a zoning action. It's a zoning district. And we've been back and forth.

And if you look at the Future Land Use Map, you don't see any designation that says PUD. It's only a written textual designation. So we stand by our position that a PUD designation is not necessary.

However, staff brings up a good issue as it relates to commercial uses within PUDs. What size, what restrictions, where should they be, so on and so forth. There were locational limitations contained in that PUD designation.

So what you see before you that's been added, if I remove this -- come on -- is a repeating, taking the existing language in the plan that already exists that deals with commercial development in PUDs and the limitations on commercial development in PUDs and adding it back to the plan.

We still don't think we need a PUD designation, we haven't added a PUD designation, we can meet with staff and talk about that, you know, as part of our discussions. But we have added the restrictions that already exist in the plan that go back to allowing commercial uses in PUDs. You can see there's three categories that's already existing in the plan. There's 80 plus acres, 160 plus acres, 300 plus acres.

The only additional change that I made to that language is under Category 2 under permitted zoning. It says C-2 through C-4. And presently the plan restricts that Category 2 sized PUD to only C-2 through C-3 uses, it does not allow C-4 uses. It does allow the C-4 in the larger category, but it does not allow it in that Category 2.

And I will tell you that my rationale -- our rationale for that was that we think in Immokalee 160-acre to a 300-acre PUD is pretty large and that maybe the C-4 uses are appropriate. It's not something we have to argue about. If staff feels strongly, we can just go back to the C-2, C-3.

CHAIRMAN STRAIN: Okay, are there any -- I'm certainly going to weigh in on this more when we have the rewrite, but --

MR. MULHERE: I understand. I just wanted to give you --

CHAIRMAN STRAIN: David, did you have any -- you had your hand up. Is there --

MR. WEEKS: Just a comment, that Bob and I chatted ever so briefly a moment ago. And the staff position is that we should retain that at the use intensity of C-2 and C-3 zoning districts. Our rationale is not just to the say, well, that's the way it is today but to say that a 10-acre size commercial tract fits within -- typically within a neighborhood center of commercial development. And the use intensity for neighborhood commercial has historically been in most instances C-3 or lower intensity.

And we fully support for the larger commercial being allowed to go up through C-4 intensity because that steps into the realm of a community shopping center. So larger and more intense development being allowed there.

Also, the existing Category 1 today actually is limited to C-2. They propose to add C-3 as well, and staff does not object to that.

CHAIRMAN STRAIN: In the second one that you spoke of, because there are some uses in C-4 that I know

from the processes that this board has reviewed many times are not as intense as they might all be for C-4, but they just happen to be classified there because of a piece of what they may be involved in.

What about a C-3 with conditional uses applicable to C-4 as compatible or as approved? If it's C-2 and C-3, you can't use anything out of a C-4, but what if you went to a C-4 for a conditional use?

MR. WEEKS: That is, allow uses that would typically -- of the C-4 district that are listed by right but here only allow them by conditional use?

MR. MULHERE: May I --

CHAIRMAN STRAIN: Yes, that's correct. In order to get their C-4 need covered, if it is -- if it's compatible and could and would fit with the neighborhood.

Bob?

MR. MULHERE: I'm sorry, I just wanted to -- the presumption here is that someone's going to have to go through -- there's two ways that this could be an issue, okay. One way is the presumption is that this is someone going through a rezone process. They're having a public hearing that's already been deemed that if you need a CU that's covered as part of the rezone process.

My suggestion is a footnote, Mr. Chairman, on that middle one that says certain C-4 uses may be deemed appropriate through the rezoning process and, you know, shall be approved based on compatibility, you know, just a few caveats in there.

CHAIRMAN STRAIN: The only reason I'm mentioning it is we have repeatedly found where some uses of C-4 in today's world don't need the intensity they were anticipated when they were originally classified as C-4. And maybe they'd work okay, especially if Immokalee seems to want some of that additional flexibility.

MR. MULHERE: I mean, I --

CHAIRMAN STRAIN: I'm trying to find a way to get there.

MR. MULHERE: I could think of some examples. Like a small movie theatre or I think bowling alley. I think those are all C-4, although bowling alley may have been changed. But there's some recreational uses that make sense to me that you might want.

CHAIRMAN STRAIN: Well, it'd be something to think about when you come back on the rewrite.

MR. MULHERE: I think --

CHAIRMAN STRAIN: David?

MR. WEEKS: I was going to comment, I agree with what -- although I'm not sure I fully agree with what Bob was saying, historically, and I believe it would be the same if this was added back, there's only one way to implement this, and that is through a rezoning action. There is no administrative process for this to occur, that if there's an existing PUD approved that falls within one of these categories --

MR. MULHERE: You're right.

MR. WEEKS: -- that we would not allow that. You'd have to go through a rezoning. And that would negate the need to require a conditional use.

CHAIRMAN STRAIN: Right, it would.

So based on that then, because it would go through a rezoning, which means the compatibility studies would be done, the buffers would be in place, do you still retain an objection to C-4 as inclusive?

MR. WEEKS: I do. I mean, I understand that it goes through the public vetting process, but it's just a matter of what is the appropriate intensity.

And historically and not just in the Immokalee Master Plan but Golden Gate Master Plan and in the FLUE, we have drawn that distinction between the neighborhood commercial intensities and size of development versus the more general of the community centers.

CHAIRMAN STRAIN: Maybe you and Bob before the rewrite would take a look at this footnote idea and see if we can develop something.

Anybody else have any questions?

Ms. Caron?

COMMISSIONER CARON: Well, it's not a question, just a comment.

If a project is coming through the PUD process in public hearings and wanted a very specific C-4 use, would that not come through as a requested action under a deviation or -- I mean, couldn't it come through --

MR. WEEKS: Not if it's -- not if the comprehensive plan says you're capped at C-3 intensity of use. Because

you cannot deviate from the plan.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir, Brad?

COMMISSIONER SCHIFFER: Bob, and this is really to the mixed use. So I just wanted to make sure I understand it right. Is it low residential, medium residential, high residential will not have commercial in it other than the home based?

MR. MULHERE: That's correct.

COMMISSIONER SCHIFFER: And whatever's listed here, obviously.

MR. MULHERE: That's correct.

COMMISSIONER SCHIFFER: Okay, until you get to the commercial mixed use district on your map.

MR. MULHERE: That's correct.

COMMISSIONER SCHIFFER: Okay. I'll -- the rest of the conversation is when we get to the map.

CHAIRMAN STRAIN: Okay. Well, on Page 42 we still have two other subsections we can discuss. It's number one, low residential, and then number two, medium residential. Are there any questions from the Planning Commission on those?

(No response.)

CHAIRMAN STRAIN: David?

MR. WEEKS: One more comment on the PUD commercial provision.

I understand that Bob's put the language back in the way it used to be with a couple noted exceptions. We may wish to consider either replacing the PUD size requirement or categories with number of dwelling units or add that as an additional component. Because the size of the PUD itself doesn't necessarily correlate with the number of dwelling units you have. And the general premises is that there would be some correlation between the amount of residential development and the amount of commercial development.

I would suggest that there's not a direct correlation; that is, the amount of commercial allowed may exceed what is required or would exceed the generated demand for commercial by the number of units in the project. So that it already would allow for more commercial than would be needed to meet the needs of the amount of residential units allowed.

But with acreage alone, particularly if you think of a project that might have a considerable amount of nonresidential uses within it, I mean, institutional uses, golf course, preserves areas, whatnot, you could end up at least in theory with a very small amount of residential development, a very small number of units.

CHAIRMAN STRAIN: Okay, Brad?

COMMISSIONER SCHIFFER: David, couldn't the commercial be on the perimeter of the PUD and essentially be accessed by the community?

MR. WEEKS: Yes.

MR. MULHERE: It usually is.

MR. WEEKS: And in fact, there is no use -- no locational restriction on where the commercial would go in this component as opposed to over in the Future Land Use Elements where it's exact opposite, where the commercial and at least some instances it's required to be internally located.

MR. MULHERE: But if I could, the limitation makes a lot of sense. We don't want to have every PUD have a commercial component, because we're detracting from the downtown or we're detracting from the areas where we want to go see people go and shop.

But by the same token, a large PUD with a limited commercial component does reduce traffic impacts and does make sense. And that's kind of what David's suggesting. The factor is really the number. So it should largely rely on the number of dwelling units within the PUD, assuming they're going to get some passerby trip traffic as well.

But that shouldn't be the generator. You know, it's really dependent upon how many units within the PUD will use that commercial, what size it should be.

So, I mean, I think we could very easily figure using those acreage thresholds a reasonable number of dwelling units and then come up with that.

CHAIRMAN STRAIN: Well, that will have to come back on the rewrite and after you guys have had time to

--

MR. MULHERE: Mr. Chair, I have to leave now. I'm going to turn it over to my able-bodied professional,

Pat Vanasse. He's going to come up and lead you through the density rating system.

I just want you to know that as a precursor to that, that we've pretty much gone back in all except for the CMU district to the original density, so this should make this discussion a little less painful. And I'd like you to take it easy on Pat.

CHAIRMAN STRAIN: Well, actually, this part of the document was the most troublesome. So how long before you come back and rescue Pat, just out of curiosity?

MR. MULHERE: If I come back smiling? Right after lunch.

CHAIRMAN STRAIN: Okay.

MR. VANASSE: For the record, Patrick Vanasse, Certified Planner with RWA.

CHAIRMAN STRAIN: You want us to start just where we left off?

MR. VANASSE: Well, you know, I appreciate that you will be taking it easy on me.

I just want to clarify something, is that a lot of the changes that have been made, Bob was the architect of those changes and was privy to most of the meetings where those changes occurred. So if I need to confer with Penny or with my colleague here on some of those issues, if you give me a little time I'll try to get you those answers.

CHAIRMAN STRAIN: Okay, we'll work our way through it.

And we left off -- we're still on the low residential subdistrict. Does anybody have any questions about that or the medium residential at this point?

COMMISSIONER SCHIFFER: Just one.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Just to understand, the term gross acreage means the area of the site, the area to the center line of the road, adjacent to the site? What does it mean?

MR. VANASSE: What is meant within this is the entire project. And I would assume for a planned development, for example, it would be based on your boundary survey, the entire area within that boundary survey.

So depending where your boundary ends. In some instances you may have a road easement on your property, in other instances the road stops and your property starts.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: I want to be sure that I have this right. The only way for commercial to happen in the low residential district is through a PUD?

MR. VANASSE: That's correct.

COMMISSIONER CARON: Okay. All right. So it can't be determined that it's a supporting ancillary use.

MR. VANASSE: I think we tried to keep it as it was, make it very clear that with an LR, MR and HR, you have to go through the PUD process and go through the zoning process and the hearing process.

CHAIRMAN STRAIN: Okay?

COMMISSIONER SCHIFFER: Another question.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Throughout this you're going to use the phrase less than or equal to. Is that really the best way as opposed to, you know, a base density of up to six dwelling units.

MR. VANASSE: I guess we can have a general discussion right now and address that. I know it was an issue that came up.

When it comes to base density, originally in our proposal, the packages that you were sent originally, we had increases to that base density within a lot of the categories. We have gone back and adjusted that back to what it was.

The clarification with the less or up to, whatever that base density is, to make it very clear that the base density is not an entitlement, that when you go through the public hearing process you may be granted less than what that base density is. So it was just a caveat in there to make it very clear to everybody that it's not an entitlement.

CHAIRMAN STRAIN: David?

MR. WEEKS: One of the staff recommendations would be to delete that less than or equal to. We need a concrete number to know what the base is when you go to apply density bonuses. Are you applying the bonus to the base of four or are you applying it to something less than? We need to know.

And this is the existing language from the Immokalee Master Plan. And I've commented before, generally there's a lot of areas about it that are poorly written, and this is one of those.

Staff would suggest take out less and/or equal to. Just give a flat, fixed number this is what the base density is. That would be consistent with how it's written in the Golden Gate Master Plan and the FLUE as well.

CHAIRMAN STRAIN: Any objection, Patrick?

MR. VANASSE: We don't have any objection.

MR. WEEKS: And if I might, Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. WEEKS: On Patrick's comment about the -- making it clear to the reader that there's not an entitlement, that is covered a little bit later under the density rating system. There's specific phrasing there that states that eligible density is just that, eligible but not an entitlement.

CHAIRMAN STRAIN: Any other questions on -- let's stay with one at this point.

Mr. Murray?

COMMISSIONER MURRAY: Just a comment.

I recognize you said it's in there and I recognize that, but wouldn't it make more sense just to put that kind of a comment right at the outset so that we don't -- because you think of the word base, you're thinking that's the base. But no, that's not the base, because it can be less than the base. So why don't we get it right out in front and let people know at the outset that this is what we generally might want to go after but it's possible you might not get that much. It just seems more reasonable to me, more logical.

CHAIRMAN STRAIN: David?

MR. WEEKS: We could do that. It is the very first sentence under density rating system of how it's applied. But no objection if you want to place it under each of the subdistricts so that the reader immediately sees that.

MR. VANASSE: If I may add, we -- the term base, we've inherited that from the existing document. And also it's used in the GMP.

We have some concerns over that terminology, and we'd be more than happy to sit with staff and look at maybe if they have suggestions of how to clean that up.

We have the same concern that you've brought up of what does that really mean. Well, it's a maximum base. And, you know, I think it could lead to some confusion. And having the ability to clean that up with staff would be welcomed.

COMMISSIONER MURRAY: I have myself been witness here, sometimes we'll get a developer from Miami or another location who is not aware of our transactions, and stands there in great defiance and frustration about that. And it just makes more sense to me.

CHAIRMAN STRAIN: Well, that's something that you all need to work on then before the write-up comes out. I would suggest, though, in taking Mr. Murray's suggestion, maybe in that first paragraph under land use designation description section, you add that non-entitlement clause that is further on so that it's in the beginning of each section like that, and that just kind of helps emphasize it. So as a suggestion.

I notice you're not typing as we talk, so --

MR. VANASSE: Taking handwritten notes.

CHAIRMAN STRAIN: Yeah, handwritten notes, okay.

MR. VANASSE: Chris is doing a good job. I'm a peck and search type of person so I don't want to hold you up.

CHAIRMAN STRAIN: I just didn't want nothing to get lost in the transaction, so I didn't know how your method was.

Okay, back to the low residential subdistrict. On the third line of that reference you have the word duplexes. And under medium residential you have duplexes. And there's a lot of similar corresponding duplication in both. And I -- so low residential really can have any mix of residential units, as long as it stays below the density threshold. You're not limiting it to any specific kind of product. It can be any product.

MR. VANASSE: That's correct. Well, the products that are identified here. But I think that the intent is to have a mix of uses, even in the low residential. I believe that's consistent with what was already in the --

CHAIRMAN STRAIN: No, I'm not objecting to it. I was just trying to make sure I understood it. And it says, the fourth line, provided they are within a planned unit development.

Now, that seems to wipe out the idea of going into straight zoning. We've had applications in here many times in here for straight zoning that wanted to abide by these standards and development standards for those straight

zoning districts. I didn't know we could demand only the PUD process, which is a rezoning process, on a piece of property. I thought we had to allow straight zoning as a basis if someone wanted to come in and abide by the straight zoning standards, instead of telling them they have to abide by a special zoning district. At least that's the intention I thought we had gotten instruction on in the past.

David, am I mistaken on that, or --

MR. WEEKS: Heidi will need to weigh in, but that's my recollection as well, that the county could not mandate PUD zoning. A developer willing to say yes, I'll acquiesce to that then we could, but the county cannot impose that requirement.

Patrick's already stated that is existing language in the Immokalee Master Plan, and I would recommend we take that out.

CHAIRMAN STRAIN: Okay, I think so too. And I would think that the flexibility for straight zoning would be a benefit to Immokalee --

COMMISSIONER MURRAY: Yeah.

CHAIRMAN STRAIN: -- especially with the standards that you all are trying to introduce. My God, you guys would be way ahead, I think.

MR. WEEKS: Well, this also would be one of those scenarios where we were discussing earlier in the context of mobile homes. If there's existing zoning within the LR subdistrict that allows multi-family dwelling units, how do we treat that. We've got a zoning district that says you can have multi-family use but we've got a plan designation that says no, you can't, unless you're a PUD.

CHAIRMAN STRAIN: Right. So this would take care of that. And I think it would bring us into a better format for Immokalee's flexibility that they could have in the future, so --

MR. VANASSE: We would welcome that. We were just trying to be consistent with what we had before.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Isn't what he's saying there, though, that you can only get multi-family and single-family attached via the PUD process?

MR. VANASSE: It was the multi-family that was really targeted with that PUD designation.

However, if the Commission and staff believe that straight zoning is appropriate, we would welcome that.

COMMISSIONER SCHIFFER: Well, would you then welcome multi-family being by right or only via the public hearing process?

MR. VANASSE: I think what is being suggested is by right.

COMMISSIONER SCHIFFER: Okay. Then I think that's a mistake in this district, so --

CHAIRMAN STRAIN: Okay, but where I was coming from, if you read this sentence, it says residential dwellings will be limited to single-family detached structures and duplexes, and then it says, and multi-family dwellings and single-family attached dwellings, provided they are within a planned unit development.

COMMISSIONER SCHIFFER: But the semicolon I think --

CHAIRMAN STRAIN: And so the way that you're intending this is that you're -- you could do straight zoning for single-family detached structures and duplexes, but if you wanted multi-family or single-family attached, they'd have to be in a PUD. Is that the way it was intended?

MR. VANASSE: Yes, that was the intent.

CHAIRMAN STRAIN: Okay, now back to David then. If that was the intent, how would we work straight zoning for multi-family in a low residential district? How would it be possible?

COMMISSIONER SCHIFFER: Public hearing.

CHAIRMAN STRAIN: Under a standard straight zoning.

MR. WEEKS: Well, for new development, for example, starting with agricultural zoning, of course it would require rezoning. But I missed part of your conversation. I hope I'm not amiss.

CHAIRMAN STRAIN: Well, no, I'm trying to figure out if we -- if someone comes in and wants a straight zoning subject to the standard development standards that we have in the LDC or that Immokalee would develop for Immokalee, when they come in for that straight zoning it's going to be a public process to be reviewed.

MR. WEEKS: Uh-huh.

CHAIRMAN STRAIN: And through that process they have to show us what they intend to do and how they

intend to do it. We could weigh in on that, compatibility, buffers and other elements that would be needed to protect the surrounding neighborhood, but it wouldn't have to be a planned unit development, they'd still get there with a multi-family if they kept the density.

MR. WEEKS: You do have lesser requirements for your conventional zoning. Remember the PUD requires a master plan and it does require showing more detail, requires showing the specific development standards and buffering requirements and so forth. Whereas the conventional zoning, to my knowledge, you're not required to submit any type of master plan at all. And the development standards would be simply those of the zoning district they're requesting.

CHAIRMAN STRAIN: Yes. But because you have to go through the public process, that seems to indicate to me it's not an entitlement.

MR. WEEKS: Absolutely. You're right.

CHAIRMAN STRAIN: Okay. So in order to get the entitlement, they're going to have to provide the compatibility that the process dictates at some point or other or they may not see that rezone happen. And it isn't required to happen without some kind of cooperation through the public process.

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I recognize the semicolon in there, and its intent to set up an additional factor. However, in totality, the paragraph suggests that it's okay to have single-family attached and multi-family dwellings and duplex. In other words, whether you have to go through the hoops of a PUD or not, you're welcoming that kind of thing in the low density -- in the low residential subdistrict.

So I don't know why you would need to have an additional planned unit development. When they go through -- and they wouldn't have a master plan, they wouldn't have the things you have in a PUD, but they still have to go through the site development process. Still have to verify and comport with all of the codes that are in place.

So in my mind, I recognize the set-out, I understand that, but I think the intent of this paragraph is to allow it. So I don't see why we should put them through hoops.

CHAIRMAN STRAIN: Well, and maybe the solution is that the applicant works with the County Attorney's Office and David to come up with the right approach on this.

My whole focus on this was the fact we were requiring a PUD. And I had been told in many years past that since we've been on this board you cannot require a PUD, you have to have -- they have to have some flexibility in what we can require of them. So I was trying to clean that up, to make sure we weren't requiring something we couldn't legally enforce.

MR. VANASSE: Just to clarify something, you know, this allows for multi-family; however, your zoning districts is really what implements things. So if you have a zoning district that allows a higher density, I think that decision has been made at some point by the county that it is deemed appropriate to have multi-family in that zoning district.

In some areas where it is agriculturally zoned, you will have to go through a hearing process to get the additional density, hence that oversight at that point.

CHAIRMAN STRAIN: And just -- and Brad, just before you speak, let me say one thing.

If -- the way I looked at this is Immokalee wants a lot more density, a lot more multi-family where they can have it. I would think that if we have areas where the multi-family has to be of a lower density, you're going to have a better quality multi-family, which would give the opportunity for the tax base to improve and for people to move up from an extremely high density to more of a moderate density and even to a lower density. Whether it be in the multi-family townhouse like we see in the common developments around here or even some small single-families. But that's how I picture this LR within the urban area. And if they wanted to get into estates zoning and big wide lots, I would assume that would be more appropriate outside the urban area, even though it could be done here. It may not be cost effective.

And with that, Brad?

COMMISSIONER SCHIFFER: Yeah. I think could you clean it up just by -- if you put a period instead of a semicolon, capital and, and then say, and multi-family dwellings and single-family attached dwellings are allowed, add those words, provided they are within a planned unit development. Wouldn't that make it crystal clear?

MR. VANASSE: I think it makes it clear. However, we would welcome the opportunity to remove the

requirement for a PUD.

COMMISSIONER SCHIFFER: Well, but I -- the problem is I would welcome that too, but not in this district. You have another district coming up where multi-family would be more appropriate by right.

MR. VANASSE: I understand.

COMMISSIONER SCHIFFER: So I think if you want to put multi-family in a lower density district, I think that should be allowed by public hearing.

CHAIRMAN STRAIN: Okay. But David, if you have a low residential district that by the GMP allows a density that can be -- and multi-family product, can we then legally restrict them to zoning at only as PUDs? That goes back to the original question that started this whole discussion.

And I guess Heidi, that's going to fall on your shoulders.

MS. ASHTON-CICKO: I think you can. Because you're allowing just a very low density product. But if they want to go higher, you're still allowing them to do it but it has to be through a PUD. But I think what I heard earlier is whether or not the Board of County Commissioners on its own could do a -- you know, under the Land Development Code allow multi-family. And I think you would have -- my personal opinion is that you would have an inconsistency with the Land Development Code.

So if you want to allow the board the opportunity to do a Land Development Code amendment, you know, to allow it, then you've got to provide it here as --

COMMISSIONER SCHIFFER: Why is this any different than -- you know, we're allowing commercial if it's done via PUD, isn't that the same thing?

MR. VANASSE: And this is language that already exists.

COMMISSIONER SCHIFFER: Right. Here's the problem; here's where we can get in trouble: If we allow it by right, somebody could take a good size piece of land, create a lot of density, let's say there's a lot of wetland, there's a lot of good reason that they don't want to totally use their land, and they could shove in the corner of this in public view a pretty dense multi-family project by right.

So I think if they're going down that trail, that has to be done with the consent of the public.

CHAIRMAN STRAIN: If the land's not zoned but they have to rezone it, wouldn't they have to come back through the public process?

COMMISSIONER MURRAY: It's a public process.

COMMISSIONER SCHIFFER: So essentially everything in this plan is going to come back through the public process?

CHAIRMAN STRAIN: Absolutely.

David?

MR. WEEKS: There's two scenarios. There's one, and I took a look, there is an exhibit Map 5-3 in the support document that shows the existing zoning for Immokalee. And we've located at least one area that is designated LR but is zoned RMF-6, which allows multi-family development.

And that's one example of what I was referring to earlier, that we have existing zoning that then is in conflict with what this subdistrict states.

But yes, as far as properties that are zoned agricultural or any other lower density zoning district, it would have to go through a rezoning process to get up to the base or anything higher.

This limitation on allowing multi-family is different than commercial that you asked about, Mr. Schiffer, because the PUD requirement there is not for commercial only, it's for a mixed use development. It's residential PUD with commercial.

And I wanted to mention something to Heidi specifically that this provision, as it reads now, is not a requirement for PUD zoning to achieve higher density, it's to achieve a different type of residential development. That is, the LR district -- subdistrict would allow four units per acre as the base, single-family being allowed through conventional zoning, but multi-family still at four units per acre only being allowed through PUD zoning.

CHAIRMAN STRAIN: I would like to suggest -- we need to take a break. I would like it if the County Attorney's Office could work with David and come back with what we can do in requirements under this language, whether it has to be the PUD as a way to -- we can legally require that.

I'm concerned about that based on the past. And hearing the information that David now is trying to clarify to you, Heidi, if you guys could talk on break a little bit, I'd appreciate it and we'll come back at ten after 10:00 and

resume this discussion. Because I think it's an important one as a basis. So with that, thank you.

(Recess.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from the break. We need to resume the meeting, if everybody will please take their seats.

And we left off on a discussion under the low residential subdistrict concerning the requirement of a planned unit development. And let me read again what the two sentences -- well, it will be two sentences now, or even one, depending on how it comes out.

In the issues in the middle it says, residential dwellings will be limited to single-family detached structures or duplexes.

The proposal is to put a period there and that's for the low residential subdistrict. But then there will be a second sentence that says, multi-family dwellings and single-family attached dwellings will be allowed, provided they are within a planned unit development.

Now, density in that area is four dwelling units per acre. And the discussion began because the planned unit development reference seems to dictate that if you use a certain type of product, you're required to go through a zon -- on a zoning process for a PUD. Many times in the past this board has been told you cannot dictate a zoning process.

So during break the County Attorney's Office and hopefully staff and maybe the applicant conferred on this matter and now have a solution or a recommendation to us.

And Heidi, I guess I'll look to you.

MS. ASHTON-CICKO: Okay. Well, the proposal is to change the sentences so that it would allow residential dwelling units. The first sentence would be combined with the second sentence and we would delete the planned unit development language.

And as the -- Mr. Vanasse had previously said, that was a carryover from the prior Growth Management Plan language. However, we've met and discussed the deletion of that language because it no longer seems to serve a purpose.

COMMISSIONER MURRAY: Good.

CHAIRMAN STRAIN: Okay. And I'm going to pretend I'm the devil's advocate here and make sure we're understanding what's going on.

If we -- currently in the GMP, and it's been there I guess then forever since the Immokalee Master Plan existed, there is a reference to a PUD as a requirement. Because it's there, it is accepted. It's not something now subject to a Burt Harris claim on a prior property owner saying their property got forced into a process that they shouldn't have been forced into because it's always been in the plan from day one and it's not been challenged for all these years; is that a fair statement?

MS. ASHTON-CICKO: Correct.

CHAIRMAN STRAIN: Okay. Now, if we take it out, it means that the low residential area could either go with a PUD, depending on the property owner's wishes, or come through the public process and do a straight rezone based on the standards in the Land Development Code. Which standards could be modified through the public process because the rezone isn't entitled and that modification could entail more issues of compatibility, including recommendations to minimize or change some of the development standards that are particular to that particular rezone request.

So hearing all that, I just want to make sure we understand where the -- I guess the concern is if we go to this straight rezone as an option and take out the reference to a planned unit development.

And I'm not sure there's a negative downside to that, but I want to make sure we've vetted that out. Because that is a -- once we take the planned unit development out of this, we go to both, straight rezone and planned unit development, and find out oops, we should have left PUD in, then we've got a problem putting it back in from a Burt Harris claim, whereas now we don't have.

And Heidi, is that a --

MS. ASHTON-CICKO: Well, I think the planned unit development limitation -- I mean, I see it as more of a limitation as opposed to allowing them to do what pretty much anyone on the coast can do. Because most of the property in Immokalee is -- you don't have RSF-3 and RSF -- you know, you don't have those zoning districts which would allow you to just come in and develop without having to go through a rezone. So I think since most of it is ag. with some kind of overlay, they have to go through at least a rezone or a PUD.

CHAIRMAN STRAIN: Okay. And this is basically then a -- by leaving the PUD reference in here, they are actually under a more stringent zoning requirement than the coastal area, which has --

MS. ASHTON-CICKO: Correct.

CHAIRMAN STRAIN: -- always been the most safest area in the county for zoning or the most I guess highly profiled in the county. Which seems odd.

But anyway, let's make sure we vet all this out.

David, do you have -- your department have any concerns either way?

MR. WEEKS: Our preference remains to take the language out. Heidi touched on one of my comments and that's over here in the coastal area we've never had the requirement to have a PUD. If you want PUD zoning, then you ask for it. If you want conventional zoning, you ask for it. And I don't know that we've had any particular problems with compatibility or otherwise through the conventional zoning process.

I realize in the coastal area the vast majority of the time PUD zoning is requested. But of course there's a benefit to the landowner for doing the PUD zoning. It's a give and take process. The county gets something from it, the developer gets something from it; it being again the PUD process.

But we've had some conventional rezoning requests over here. It does add usually more time to the process, it adds additional expense to the process to pursue PUD zoning.

Mr. Schiffer mentioned as an example of what might happen if someone had a large piece of property and a large portion of it had environmentally sensitive lands that could not be developed. And if it were developed as a PUD then the -- excuse me, I'm not sure of a specific PUD, but if it was developed under multi-family zoning, whether PUD or conventional, the density could be shoved into one corner and the net density be relatively high.

And the staff's position is, what's wrong with that? That's good planning. That's good, efficient use of the land. If the landowner was restricted to single-family detached units, they would get far fewer dwelling units on that property. And that's not necessarily a good thing.

CHAIRMAN STRAIN: And if that happened, couldn't we build in compatibility through the public process, even for straight zoning?

MR. WEEKS: I would suggest it's already there. I mean, compatibility is one of the criteria under rezoning factors in the Land Development Code.

CHAIRMAN STRAIN: This is an important issue, and I want to make sure we've vetted all of our discussion.

Brad?

COMMISSIONER SCHIFFER: And Dave, here's the problem that could happen. I'm the guy across the street who moved out here to be in the middle of nowhere. Next thing you know I've got an apartment building in front of me. So that's the problem.

So let's go -- in the conventional process -- the PUD process we obviously outline where we're going to put -- we outline product, we are much more transparent as to what's going to happen.

In a conventional zoning, wouldn't I just say I want -- would I be changing this to like RMF-6 or something? Or what would happen in that conventional zoning that would make me tip my card that I wanted to cluster all my development in one corner?

MR. WEEKS: First let me make sure we're clear on this. The designation on the Future Land Use Map just identifies what uses are allowed and what densities, not the mechanism to get there. Whether a PUD zoning is pursued or conventional zoning, it must go through rezoning process. So there's going to be a public vetting, there's going to be public notice provided.

Whether you get a notice that says there's a PUD proposed across the street from me at "X" units per acre or conventional zoning, the same notice provisions would apply.

There is a difference, certainly, because the PUD does require more specificity in their planning documents. There's a PUD master plan, and you would be more able to tell right across the street from me is going to be a residential pod, whereas in the conventional zoning without a site plan required by the LDC you wouldn't necessarily know where that development would be located on the property. Whether it's close to you or far away, you would not know necessarily.

Now, in the case of environmentally sensitive lands you might know, because the documents submitted with the rezone, it shows well, here's a wetland here and that has to be protected, so you might get some sense. But

certainly there's more information available through the PUD process than conventional zoning.

MS. VALERA: And if I may add, I think the key difference is that in a PUD you can request deviations, and that's why you will require more specificity of what, you know, those deviations may cause to the adjacent lands.

In a rezone petition, a straight rezoning, you already have your set guidelines. I mean, they are already -- they have been approved. So I think that's key between the two processes.

COMMISSIONER SCHIFFER: But my concern was is maybe the reason these guys wanted to have multi-family and rezone is so that that transparency would exist in that transaction.

If a developer came in and got conventional zoning and then sold the property, nobody knows where the units are going to go. So, I mean, you know, the point is they're going to look back.

Would they have the right to build multi-family or would it depend on what district they're rezoning to? In other words, if I come in and I'm looking for RMF-6, is that's what's going to happen? And then you're going to know, well, this guy's looking for multi-family? Or if I go to single-family district, what's going to protect the guy across the street from somebody building an apartment building in the middle of a rural area?

MR. WEEKS: It's exactly that scenario, the landowner has to pursue a rezoning. And if they choose to ask for RMF-6, RMF-12, RMF-16, any of those zoning districts that allow multi-family use, they would have that right to pursue it. The right to request it. They still go through the rezoning process, there's still the public notice provided.

But again, no, the landowner next door would not know where on that piece of property the development is going to occur through the conventional zoning because there's not the requirement for the master plan that shows that detail.

COMMISSIONER SCHIFFER: Okay. So he couldn't take a low single-family, have it rezoned to that classification and then cluster everything in one corner of it and build a multi-family building? He would have to meet the platting, the lots and everything of that district?

MR. WEEKS: Yes, but for multi-family you don't necessarily have to go through a platting process. If you're, for example, doing an apartment complex or for that matter doing condominium plats that are not reviewed locally, that could still occur. Because we're looking at gross acreage, gross densities, even under conventional zoning you could still end up with a high net density, you know, a small portion of the site developed with a high number of dwelling units.

COMMISSIONER SCHIFFER: Based upon -- let me keep the floor a second.

CHAIRMAN STRAIN: Yeah, that's fine.

COMMISSIONER SCHIFFER: Based upon the actual setbacks and classifications and limitations of that district.

So if I call it a low -- a residential single-family district, then I'm locked to that product.

MR. VANASSE: Exactly. And that's what I wanted to clarify. If you have an existing residential single-family district, someone could not come in and just by right build multi-family. There are restrictions in that zoning district that limits that. So someone would have to come in, do a rezone, ask for a multi-family district, and then the public would be notified and would have the opportunity to comment.

MR. WEEKS: And the --

COMMISSIONER SCHIFFER: Go ahead, Dave. I mean, I do have the floor, so go ahead, Dave.

MR. WEEKS: Okay. And remember, we're talking about the low residential subdistrict. The base density is four units per acre. The only way that can be exceeded is through the affordable housing density bonus being applied. So if the multi-family development occurs, it's going to be at four units per acre gross unless they achieve the bonus.

COMMISSIONER SCHIFFER: But again, in a wetlands kind of a site we can clear it up.

But I think that if we're in the rezone process and we're clarifying what district we're in and that would limit the geometry of the product, I think that -- I'm comfortable that that would protect it.

Thank you.

CHAIRMAN STRAIN: Mr. Murray, then Mr. Midney.

COMMISSIONER MURRAY: I just wanted to mention that even if we were to keep the PUD process in there, there's nothing to guarantee that a petitioner coming forward who planned to put multi-family in an area across from that person you were referring to, that they wouldn't succeed. They could easily succeed. And that person would not have any more protections under that scenario than they would any other.

So I'm not inclined to see it as a true additional qualifier or a stepping stone to help the people out there. I

think in place we have what we need, based on the statements made.

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: Are we still talking about that semi colon between duplexes and multi-family dwellings?

CHAIRMAN STRAIN: Yes, that sentence, yes.

COMMISSIONER MIDNEY: Okay. I think that in a low residential district, I'd like to have, you know, protection. But if Mr. Schiffer thinks that, you know, we don't need it, then that's fine with me.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: I trust these guys.

CHAIRMAN STRAIN: I won't comment on it.

COMMISSIONER SCHIFFER: But Paul, when it happens, you know who to come to and I'll join you in your --

CHAIRMAN STRAIN: Go right to Paul.

Before we go further on this, I would like to ask Penny if she wouldn't mind weighing in on this as the CRA.

MS. PHILLIPPI: Good morning. Penny Phillippi, for the record. I'm the Director of the Immokalee CRA.

And as you know, this is an existing policy that was before our time, and we're -- Fred doesn't even remember the history of this particular policy.

But what I would like to say is that based on the comment, that what would trigger multi-family would be the affordable housing density. As you know, we feel like we have an adequate supply of affordable housing.

In an ideal situation, if someone wants to come in and do multi-family housing in a low residential area, we would like to have a partnership wherein it would become a mixed income development as opposed to only an affordable housing development.

I mean, right now, honestly, I moved into a house on 20 acres and behind me they're building 196 single-family -- I mean, multi-family farmworker housing. This happens every day because of this affordable housing allowance. Which is strange for me to say, because I am a housing professional, you know, for the last 30 years, so it sounds odd for me to say that.

But in Immokalee, everything is backwards. We have a glut of affordable housing and we need more decent affordable housing, but we also need that mixed income housing to start being developed. How this comes out of this, I have no idea.

CHAIRMAN STRAIN: No, and I don't think David said it could only happen with affordable housing. Because you're allowed to do multi-family dwellings in this zoning district by right stated right here in the GMP. So I think what he was saying is you could have more intensity if they added more affordable housing bonus provisions.

But what we're trying -- I think the whole issue is if you as a community feel the planned unit development is best for the community, you have an opportunity to leave it in with no threat of a Burt Harris claim. If we take it out and provide the flexibility of going straight zoning like all the rest of Collier County is plus the planned unit development, it gives you more diversity in how someone can get their property zoned and completed. They still go through the public process. One is a little simpler than the other. There still are accommodations made in each case by the review boards that it goes through in case someone feels they're trying to get out of hand.

I didn't know if you wanted that flexibility or not. But I point it out only because it doesn't happen elsewhere in the county because we were told a long time ago it couldn't. But yet it's happening in Immokalee.

So it seems like since it's been there for so long, you can legally continue it. Although it may not be what you want. And I don't know how -- if you've ever had this discussion with your board or if you all considered this in the process of review of this GMP, but it certainly would have been one of the ones that I would think you'd want to review.

MS. PHILLIPPI: Can we let -- hear from Fred?

CHAIRMAN STRAIN: Sure.

Fred?

COMMISSIONER WOLFLEY: Can I ask a question?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER WOLFLEY: I just want to know how you felt about that, multi units going in or the housing going in abutting --

MS. PHILLIPPI: Oh, well, I'm an affordable housing advocate. I was fine with it. I mean, I don't have all those nimbi issues that a lot of people do.

COMMISSIONER WOLFLEY: Oh, okay --

MS. PHILLIPPI: But I was surprised. It was a surprise.

COMMISSIONER WOLFLEY: Were you involved in the process?

MS. PHILLIPPI: No, not really.

COMMISSIONER WOLFLEY: Okay, thank you.

CHAIRMAN STRAIN: Fred?

MR. THOMAS: For the record, my name is Fred Thomas. And the hat I have on now is chairman of the CRA advisory board.

You've got to understand, we are a different kind of community. I live on 1.6 acres of land. And some of you have been to my house. And I petitioned several years ago because we had a commercial district going down 29, which is maybe 300, 400 feet from my house. And the commercial was only allowed to come halfway, 200 yards -- 200 feet in. And I said it didn't make sense, it needed to go to the property line, which would put it right at my property line, the commercial. It would have no effect on me. We don't have the same kind of feelings. We like to see residential with commercial. I like the idea of being able to walk to the drug store and the grocery store.

I mean, we haven't got the kind of neighborhoods and communities in Immokalee that want to isolate themselves from the rest of the world. It's just not like that out there.

So if somebody wants to put an apartment in, just like she has a community coming up behind her. If she had children living with her she would see it as a benefit because that means it would bring a playground near her house at the same time for her kids. You understand?

We just have a different kind of a feel. We're a small community. I'm from New York City, but this is a small, friendly community. Thank you.

CHAIRMAN STRAIN: Fred, do you have any concern if we remove the reference to the planned unit development?

MR. THOMAS: I think it's a good idea to take it out.

CHAIRMAN STRAIN: Thank you.

MS. PHILLIPPI: I think simple logic dictates, if it's already in place, it makes life easier, let's get rid of it.

COMMISSIONER SCHIFFER: Well, can I say something?

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Penny, it was described to you as easier, but David, answer this question. Which would be more transparent? And by the meaning transparent, which would give the public a better idea as to how a piece of property is going to be developed? Conventional zoning or a PUD?

MR. WEEKS: PUD.

COMMISSIONER SCHIFFER: That's what you're losing, Penny, is that transparency as to what's probably going to happen on the site.

MR. VANASSE: I don't want to belabor the point, because I think we might be in agreement to remove it. However, let me give you a scenario.

As Penny has identified, there is a mix of market rate housing. Town homes are a way for a developer to come in and give a real high quality product at a lower price than single-family homes. And you can have some great product.

Right now the attached multi-family such as a townhome would have to go through a planned unit development. Without having to go through that and going through straight zoning, they can shave some costs. The margins in Immokalee are smaller for a developer in that the prices for land are still relatively high for that area. And the -- what they can ask for a unit is lower than they can in the coastal Collier County.

So not having to go through the PUD is providing more flexibility to that developer and I think is beneficial to them and beneficial to the community in that we may see some diversity and product from that.

CHAIRMAN STRAIN: Well, David go next, Fred, and then you.

MR. WEEKS: I want to qualify my answer.

CHAIRMAN STRAIN: Good, because I was going to ask you in a minute about that.

MR. WEEKS: PUD provides more information because the PUD master plan typically identifies the

development pods where the development is going to be.

On the other hand, your typical PUD for residential uses includes the whole gamut of single-family, duplex, attached, mul -- you know, every type of dwelling unit there is they typically allow it. So in that sense I don't see any difference between that and a conventional zoning. You don't know what's going to actually be built there until it starts getting built. Or at least until the site plan or plat is approved.

MR. THOMAS: Brad?

CHAIRMAN STRAIN: Brad, and then --

MR. THOMAS: Brad Schiffer, let me explain something. You have to have a large piece of land with low residential development that you can cluster something that would be objectionable to a person across the street, you understand? We haven't got those large sections of land that you'll find, you know, around.

In fact, the golden triangle of Immokalee is surrounded by 29, Lake Trafford and 29A, New Market Road, where most of your high-end houses are in the urban core of Immokalee, you understand? That's where they are located.

And you got Arrowhead is already developed. You haven't got that many large parcels of land where you have to worry about the low residential development that they cluster everything on one corner.

COMMISSIONER SCHIFFER: Okay. I'll -- I mean, if the CRA wants it, I certainly will fold. I'll stay out of it.

CHAIRMAN STRAIN: Okay, well then it looks like, Patrick, that that will make those changes to that section when you do the rewrite, so -- let's move on to number two, the medium residential subdistrict. Are there any questions on that?

(No response.)

CHAIRMAN STRAIN: Okay, we'll -- high residential subdistrict, number three?

(No response.)

CHAIRMAN STRAIN: And just so you know, my questions went away when you guys started adjusting the densities, so I'm not going to --

MR. VANASSE: And just to reiterate on all those, if staff prefers that we remove the less or equal to, we have no problem with that.

CHAIRMAN STRAIN: I think that goes as a -- on a base reference, yes, I think that's what they indicated. How about the commercial mixed use subdistrict CMU; anybody have any questions there?

COMMISSIONER SCHIFFER: Well, just --

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Let's explain, how will density work? I'm going to do a building, I'm going to combine uses in a building. How will the densities -- in other words, this is not like a PUD where I can -- I'll have a commercial area where I can isolate that. So I would get on the gross area of the site the maximum density that I negotiate in the public hearing. And the commercial, how would that happen?

MR. VANASSE: That is correct. Just to clarify a few things: We want to allow both the opportunity in a single building to have a mix of uses; for example, commercial, on-the-ground level, residential on top or offices on top.

We also foresee that someone could develop a parcel purely with commercial development and the one next door to it could be a mixture of residential and commercial.

So the way it is now, the density, the maximum density that's allowed, is based on the gross acreage. And again, it's up to 16. You would have to request it, and it would have to be approved as part of the hearing process.

COMMISSIONER SCHIFFER: So -- all right. So what you would do then, in a building like that, you would -- I guess maybe Dave, explain how -- let's say I'm a developer, I own a piece of land. I'm not sure what my conventional zoning would be. Most of this stuff is in an area of town that does have conventional zoning. How would I get these rights? I would --

MR. WEEKS: If you already had the zoning in place, for example, C-4 zoning, the first thing that's going to have to occur is an amendment to the Land Development Code to allow for that. Because right now only C-1, 2 and 3 zoning districts allow residential uses. And they're specially limited through a conditional use process and there's strict regulations as to how that can occur.

So to implement this through conventional zoning there would have to be amendments to the Land

Development Code. Outside of that, if someone comes in with a PUD, that's how they would be able to allow commercial and residential.

This would be very similar to the mixed use activity center concept over here in the coastal urban area which also allows, besides a variety of commercial uses, allows residential uses.

If I may comment further, in the activity center there is no density bonus. It's not subject to the density rating system. It's just a flat you get -- you're eligible for 16 units per acre. Through the rezoning process, whatever the board awards you, so be it.

This particular case, this is structured to allow for a base density but then allow density bonuses to apply as well.

So my comment about that would be the same as for the three residential subdistricts. Remove the phrase less than or equal to as far as base density goes. So you're eligible for 16 as a base, and then on top of that if you qualify for additional bonuses, then you could go up to the cap of 20.

COMMISSIONER SCHIFFER: Okay. Let me ask the same kind of question again. I'm looking at the Future Land Use Map and I'm looking at the existing zoning map that we have. Some of these are single-family districts that are now going to be under the CMU standards. And they're small lots so they're not going to be much of a PUD.

So what happens? What does the guy do? He comes in, buys a piece of property, it's zoned let's say single-family three, which some of these are. What happens if he wants to build a building with apartments on the top and commercial on the bottom? What does he do?

MR. VANASSE: We would have to come in through a -- to go through the rezone process and ask for -- either go through a PUD process or a C-1 through C-3.

And obviously the C-4 issue that David brought up, if we want to allow a mix of uses and allow some residential, that would be -- we would have to change that as part of the Land Development Code amendments.

Maybe just something that would clarify also what you're asking. When we turn to the density rating system, it's made clear in there also that for the CMU district that you calculate your density on the gross, you do not exclude the commercial component to it. Whereas in every other district you would exclude the commercial component. So that's just something to understand.

COMMISSIONER SCHIFFER: But is there a -- I mean, in the urban mixed use district to get commercial the PUDs are -- I mean, is there the ability to do on just the plat? And what zoning would I ask for, Dave? I mean, if I want to have residential on top of mixed use zoning, would I be --

MR. WEEKS: Under the present LDC it would have to be C-1, C-2 or C-3 with a conditional use.

COMMISSIONER SCHIFFER: Okay.

MR. WEEKS: And I presume that part of their subsequent Land Development Code amendments, they may change those provisions for the Immokalee community, possibly to allow for the C-4 to have residential, but also to change the regulations as to how you achieve that and the limitations on locations of the units and so forth.

MR. VANASSE: I think the intent is to provide more flexibility in that district. And one of the things that we would look at when we do the LDC amendments is in the C-1 through C-3 districts, this issue of a conditional use, I think you might be able to draft some language to give some parameters that if you meet those conditions then you're not required to have a conditional use. But that's something that we have to look at and we obviously have to discuss with staff.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: David?

MR. WEEKS: Yeah, let me just make a comment again about this subdistrict. This is the closest designation in Immokalee Master Plan to the mixed use activity centers over here in the coastal area that we're all more familiar with.

You have the ability to have a commercial only project from C-1 through C-4 intensity. You have the ability to develop a residential project, residential only at up to 16 units per acre, or if you qualify for bonuses 20 units per acre, or you can do a mixed use development, a mixture of commercial and residential.

And the mixture could occur as residential over commercial in one structure or it could be two different separate tracts within a single project, here's my commercial component, here's my residential or combination of those two. I mean, this allows that full array of flexibility of development similar to the activity centers, except that it caps

you at C-4 intensity rather than C-5.

CHAIRMAN STRAIN: Anybody else on the commercial mixed use?

Ms. Caron?

COMMISSIONER CARON: Yeah, I just had a question.

What was the vision? What's not -- what were you looking to include by adding C-4 in here, as opposed to leaving it the way it is currently?

MR. VANASSE: C-4 was an existing category of uses within the mixed use district that was -- that that is currently in the Immokalee Master Plan.

MR. WEEKS: I'd just comment that presently there are three commercial designations. There's the commerce center mixed use, which does allow commercial through the C-4 intensity. There's the -- I think it's something called commercial district. And maybe breaks down to the State Road 29 and I think maybe New Market Road commercial strips. They also allow C-1 through C-4.

The third is the neighborhood center. All three of those are replaced with this commercial mixed use. And the chief difference I would say is that the neighborhood center was capped at C-3 intensity.

And that's one of the concerns that staff has identified is that by converting all of the neighborhood center to commercial mixed use, we've increased the intensity up to C-4. And the locations of those neighborhood centers are in some cases -- within them are elementary schools and/or low density residential.

COMMISSIONER CARON: Right. And their goal is to get rid of those neighborhood centers now.

And I'm not sure that because of what's already out there, for example, elementary schools, whether that's really -- if that was really the intent. Or what were you trying to achieve by converting everything to the ability of C-4?

MR. VANASSE: The intent was to simplify the different categories and combine it into one more comprehensive category.

Also, the intent was to create a mixed use corridor where clustering and more intensity could happen to create a walkable community.

When we're discussing specific uses that are allowed within C-4, I think the conversation you had with Bob earlier of what is intended, I think maybe that the same limitations that we discussed earlier could apply to this where some of them are allowed, maybe not all of them. Obviously a bowling alley or such use, if we had to go through a conditional use, we don't think it's appropriate. We -- I think the Immokalee community would like more opportunities for recreation and those types of uses right in its downtown. So I think C-4 allows that.

Maybe we could discuss, just like the other one, how we limit that and how we put some caveats as to what kind of uses.

COMMISSIONER CARON: Yeah, I think that's really important. Because you're not going to be the one bringing forward the development, it's going to be somebody else looking to make money. And if it's left wide open, the community could suffer some circumstances that they're not anticipating because they have a vision.

That's why I keep going back and asking you what you really want out of this, because I'm not sure you want all of the issues that would crop up on C-4 next to your elementary school.

MR. VANASSE: I completely agree. And if we put the right language in there, the developer would have to go through a rezone process where those uses could be looked at. So I think we could incorporate that in it.

COMMISSIONER CARON: Okay.

Now, my second question was, as David has explained, this would allow -- this designation would allow it to be an all commercial project, an all residential project or a combination of the two. As opposed to what -- and we've had this discussion before, every time we see a commercial mixed use situation, we want to see a combination of uses.

Does the CRA really want to see a combination of uses or do they not care that every single one of these developments could be all commercial?

MR. VANASSE: I think the intent is to really have a lot of buildings that would be mixed use within the building. However, you know, a lot of downtowns have, you know, condo buildings right adjacent to, you know, mixed use building. And I think that's perfectly acceptable to the community. And I think the flexibility is there to allow that.

And again, as you go through the rezone process, you address those uses that you would put in that building and the compatibility issues with the adjacent properties.

COMMISSIONER CARON: Okay. My only point is that there's a vision that you all may have, but you're not the ones that are going to be bringing this forward. So unless you're specific about where you want things and where they're going to go and what's going to be allowed to go there, you may not get your vision.

MR. VANASSE: And Mr. Thomas addressed this. You know, it's been discussed as part of a -- their advisory board. And I think the point he makes about the type of community out there and their willingness to have this mixture of uses is completely true. You know, we don't see a ton of gated communities in Immokalee, and I think that the community's desires are different than what we have in coastal Collier County.

COMMISSIONER CARON: But that's not what I'm saying. Because I understand that you don't want a series of gated communities.

MR. VANASSE: But the willingness of people to have more intense uses in their downtown and be close to that where they can walk to the CVS or the Walgreen's rather than have to get in their car, I think that understanding is completely there, that this could happen through that process.

COMMISSIONER CARON: But the simple fact of the matter is everything in this district that you're going to create could get developed as all residential. Lord knows, if the residential market comes back and developers think they can make money, you won't get any commercial to walk to, it will all be residential. Or just the opposite. If it's allowed to go through as either/or.

MR. VANASSE: The mixed use district allows you the opportunity. Again, you have to go through the rezone process. And there's oversight at that point. And, you know, market conditions obviously are going to have a significant impact as to what gets developed. But I think there is that clear understanding that it will be mixed in nature.

MS. VALERA: If I may, I don't know if this helps or not, but at least the current -- and I'm looking at the LDC right now on the screen. The current LDC allows -- mixed use is allowed in commercial property zoning districts. It says that in no instance shall the residential uses exceed 50 percent of the gross floor area of the building.

So there are some restrictions in the Land Development Code, which I don't know if RWA is proposing to change them or to -- or leave them as they are, but just --

COMMISSIONER CARON: Carolina, that's sort of the opposite of what I'm trying to say.

MS. VALERA: Understood.

COMMISSIONER CARON: I want to make sure that there's residential and there's commercial, not that the whole corridor gets development --

MS. VALERA: As just commercial.

COMMISSIONER CARON: -- either as all residential or all commercial. And that is the way our code is written and the way this is written.

CHAIRMAN STRAIN: Let me bring an example. We had not too long ago a project that came forward on the corner of County Barn Road and Davis. They went -- had gone through the GMP process and they promised to do a mixed use district.

They came forward to us and they had very little commercial and a lot of residential. And there was a lot of discussion from the neighborhood and from this board, it doesn't seem like what we all thought you were going to do from a mixed use viewpoint.

They're going to come back. I'm not sure what they're going to come back with.

But this kind of smacks of something that could go into a situation like that.

If I was a developer coming into Immokalee and I wanted to do a high residential district, I would look at your HR and say well, 10 units per gross acre unless I go through some convoluted process to get a density bonus to get me up to what I really want. And I really want 16. But heck, I could go to this commercial area that may not be as desirable, but I could put my 16 units there, probably do a cheaper product, being in a more -- say a blighted area of town or an area of town that is not so high end or positive for residential and get away with it without any density bonuses needed, therefore not any kind of benefit that would be added by getting your density bonuses.

So the idea that this commercial can be all residential really makes it no different than another high residential area. And you may see that come out of it, whereas, from what I've been hearing, Immokalee wants to develop with a lot of mixed use, a lot of diversity. I'm not sure you're get as much commercial out of this as you will a higher density residential with an easier way of getting it because of the base that you have here with no incentive to combine it with commercial.

And maybe Patrick, you need to comment on that. Because it's another one of those issues that could go bad for you.

MR. VANASSE: I think it's a valid point, and it's something that we definitely need to look at when we look at the land development regulations. And maybe we have certain restrictions and certain minimum requirements to make sure that there is a mix of uses.

However, I would also like to point out that the configuration of the lots that we have in that corridor doesn't allow for what we've seen in coastal Collier County with large plots of land and large green fields. We're really looking on the infill and redevelopment scenario in most of that corridor. Therefore, someone coming in with 40 acres or so and asking for a mix of uses through the PUD process and basically having the unintended consequences that you discuss, I think it's very limited in this scenario because the lots are a lot smaller, because you'll have some existing uses. And those vacant lots that do exist today tend to be very much infill type of opportunities.

Could someone amass, you know, multiple lots and do something on a larger scale? I believe that they could. But a lot of downtowns, a lot of denser urban areas have that same scenario that we have here where it's smaller lots and the market hasn't dictated where people come in and pretty much tear down a city block and make it, you know, pretty much just all residential or just commercial.

So I think there are limitations to that because of the fiscal constraints today. But definitely a concern that we need to look at.

CHAIRMAN STRAIN: In your process of looking at this, maybe you ought to consider that the base density would be "X" if all residential, but you give an incentive to go to a higher base density for the residential if it's a mixed use. And that way it differentiates you from the higher residential subdistricts, it encourages you to have a mixed use commercial component, which I think the town could really benefit from.

MR. VANASSE: I think that's a really good suggestion.

I would just add that whatever that base is, we need to make sure that it's consistent with what people have today so we don't diminish those rights. But as long as we keep that caveat in there, I think that's a really good suggestion.

CHAIRMAN STRAIN: Okay. Ms. Caron?

COMMISSIONER CARON: Yeah, because in all of this conversation, Patrick, what I'm hearing from you is about the downtown. So you're kind of looking at this area on Main Street only.

Well, when I look at your proposed map, there are larger areas or potentially could be put into larger areas that are on this proposed map. So --

MR. VANASSE: There are some. But however, if you look at those lots that are improved or unimproved, a lot of them are already improved. So there is an existing use there. So it would truly be a redevelopment scenario.

COMMISSIONER CARON: Right.

MR. VANASSE: So -- and, you know, in the curb where we do have a larger lot, well, you know, there are some restrictions, if you're familiar with those properties, as to what the ownership is and then what the use is currently. You know, we've got the ranch there. And I think obviously what's going to happen there is somewhat unknown. But I think again, it's -- that's about the largest lot you have along that corridor.

CHAIRMAN STRAIN: Okay. Well, I'd like you to look at that suggestion.

And then has anybody else got anything on the commercial mixed use?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Yeah. And Patrick, you hit on it. Because I'm suspicious of your description of commercial mixed use.

What is that square that is southeast -- or southwest of the curve? Why would you imagine --

CHAIRMAN STRAIN: I think he needs to hit his mouse, David.

CHAIRMAN STRAIN: Sorry, Brad.

COMMISSIONER SCHIFFER: No, that's okay.

Why would you imagine that to meet the description of commercial mixed use district? And Fred may --

MR. THOMAS: You're talking about Shuman's (phonetic) curve that's just south of Pepper Ranch, right?

CHAIRMAN STRAIN: Fred Thomas for the record.

MR. THOMAS: For the record, Fred Thomas.

You're talking about Shuman's curve, the southwest corner around there, right?

COMMISSIONER SCHIFFER: Yeah.

MR. THOMAS: Okay. Main Street, if it didn't go around the curve and went straight ahead --

COMMISSIONER SCHIFFER: Yeah, that's it there.

MR. VANASSE: Yeah, I believe that's -- is that --

MR. THOMAS: Actually we're talking about --

CHAIRMAN STRAIN: Fred, you've got to use the microphone. I know you want to point, but don't talk, because she can't get your voice.

MR. THOMAS: Okay. I'm sorry.

If you blow that up a little further -- can you blow it up further? Now, move the pencil up a little further north. A little further north. Come on, up a little. That, right there. Right there to the right a little bit. Right there. Right there. That triangle right there.

That's the area you're talking -- I'm sorry, how's this?

CHAIRMAN STRAIN: That's better.

MR. THOMAS: This area right here is what you're talking about. This is the south part of the Pepper Ranch. The Pepper Ranch is up here where the museum is. And this property here is owned mostly by the Blockers. This is the property you're talking about right here, right?

COMMISSIONER SCHIFFER: No, it's not. It's just to the left of the pencil point.

MR. THOMAS: Right down here?

COMMISSIONER SCHIFFER: Yeah, that square. What is that -- why is that CME? That's my question.

MR. VANASSE: I'll let Fred address that. That was a parcel that the landowner came before the IAMP and had a concept for that. And it was vetted through the IAMP. So I'll let Fred address that.

MR. THOMAS: We're not sure what's going to happen with that. It's probably going to go to high-end ecotourism. Because that's back there back in the farm area behind the churches that we're talking. We'll probably see some high-end tourism back there with some lodges and things like that.

Because all this land is pristine. In fact, if I take you out there this morning, you might have seen wild turkeys out there.

COMMISSIONER SCHIFFER: And hence I think the concern people have, though, is that, you know, does that meet the pedestrian-scale, high-density, residential mixed use development providing employment? You know, I mean, is that within the -- and the only reason I bring it up, and we don't -- we're going to probably go through the land use map is that there is suspicion -- that the concern would be is that you just went into these areas and put in-used it as a way to get high density --

MR. VANASSE: Actually, that specific parcel was added after the initial draft of this map.

A -- the landowner and I think some of his partners came before the IAMP and provided a concept for a mixed use development that was be ecotourism based but would also be some kind of a small campus where they would have a mix of uses where they could have an outfitter there and have some transient lodging. And they were looking at different types of uses, and that was really the category that fit that best.

So it was described what the intent was for that area. And the request was to make it commercial mixed use. And the IAMP suggested that we change our map based on that.

COMMISSIONER SCHIFFER: Okay. But what you described is essentially residential tourist, which would give them high density tourist lodging and --

MR. VANASSE: Probably with more commercial opportunities.

COMMISSIONER SCHIFFER: But to end here, I mean, the point is that we really do want mixed use. And when you start pulling pieces of land out that would make excellent residential, maybe it shouldn't be CMU, maybe it should be a high residential.

Thank you, I'm done.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: I would echo the same thing, that looks more like an RT than a CMU.

CHAIRMAN STRAIN: And I would like to ask, why would you ever believe what a landowner told you during a planning process in which he's getting his entitlements increase so he could sell it down the road? I mean, why would anybody do that?

MR. VANASSE: I'm not saying we necessarily believe that. It came before the IAMP, and I am not a member of that board. The IAMP requested that we make that change.

CHAIRMAN STRAIN: Fred, you know how things change. When a landowner gets an entitlement, he sees millions of dollars of increase in value, he flips the property and walks away.

Why would you not want yourself better protected on this piece of property?

MR. THOMAS: We're hoping that we can get -- Fred -- did I do something wrong?

CHAIRMAN STRAIN: No.

MR. THOMAS: I thought Donna was indicating I did something wrong.

We're hoping that -- you remember where this is. This corridor is the end of our tourist zone that begins right here, comes up Main Street and goes around, okay?

Let me describe this tourist zone for you. Because we're the number one tourist destination in the world right now, okay?

Four of you guys are from Montana, you're high-end bass fishermen. I mean staunch bass fishermen.

CHAIRMAN STRAIN: You're not going to do the concierge story again, are you?

MR. THOMAS: Yes, I am.

CHAIRMAN STRAIN: We already heard it, Fred. We're not --

COMMISSIONER MURRAY: Too much detail.

MR. THOMAS: That's another location that supports that whole concept.

CHAIRMAN STRAIN: Okay. We understand the concept. Honestly, we do.

MR. THOMAS: Nobody else is going to do anything else other than that in that area, trust me on that.

CHAIRMAN STRAIN: But I think what we're trying to tell you is by the designation you're making, and Brad very well pointed that out, by the language here, you are not going to even closely guarantee that's what happens to that property. In fact, the values that will now be put on that property may make it not worth happening and you'll find something totally different than what you're expecting, so --

MR. THOMAS: For example?

CHAIRMAN STRAIN: Well, let's see. Shopping center, office, transient lodging facilities, government institutions, schools, restaurants and other entertainment uses. That's what it could go if it stays the way it is now.

What we're suggesting is you take a -- if you really want the RT type of operation, then why don't you label it as an RT?

MR. THOMAS: If we have the RT and we want to have an outfitter that's just going to just provide canoes or an outfitter that's just going to provide hunting equipment and that kind of stuff, can we do that --

COMMISSIONER SCHIFFER: Yes.

MR. THOMAS: -- in the RT?

COMMISSIONER SCHIFFER: It's marina.

CHAIRMAN STRAIN: I don't see -- David, I'm sure that when you get into your LDRs you can write into the RT practical applications for that district.

MR. THOMAS: If we have that flexibility, fine.

CHAIRMAN STRAIN: But if you give them this, Burt Harris-wise they're never going to let you go.

MR. VANASSE: Just to clarify, currently that area is zoned RMF-6. RT limits density to four. Therefore, we have an inconsistency with what's allowed through zoning versus what would be allowed with RT.

I understand the concern about, you know, there's a difference between six and 16. However, RT may not be appropriate either.

CHAIRMAN STRAIN: Numerous cases in the Land Development Code or in our current planning, we have zoned something and then had an overlay on it with an RMF-6 application. We -- you can see that if you look at our zoning maps.

Brad?

COMMISSIONER SCHIFFER: Well, it's RMF-4. So it's actually perfectly tuned. I'm looking at your map five-three.

Anyway, that's a small point of what we're talking about. But it is -- it looks to me like it's RMF-4, which --

MR. VANASSE: I think it's both. RMF-4 is closer to the curb, and as you go further it's RMF-6, but there's both in there.

COMMISSIONER SCHIFFER: But -- you know, but Mark brought up a very good point. If you over -- you know, give this thing a higher density than it needs or a higher zone, that's exactly what's going to happen is that the temptation or the pressure of what that use could be, you may ruin a beautiful piece of tourist property and turn it into big multi-family really dense multi-family, you know, by your actions. I mean, you're not doing anybody a favor. You're certainly not doing the community a favor giving it a higher designation than it needs or that is intended. Because you'll lose it.

CHAIRMAN STRAIN: What I would suggest, you guys take a look at readdressing that square on this map. And then when we come back for the rewrite, I think that's the time you need to readdress it.

MR. VANASSE: And I think maybe through the land development regulations there may be some ways where we can address that where we can put some limitations and --

CHAIRMAN STRAIN: Not if you leave it CMU, Patrick. I don't see how you're going to do that if you leave it CMU. Unless you limit the whole CMU district, which I don't think you want to do.

Do you know why an RT would be so -- take a look and --

MR. VANASSE: And I think maybe your suggestion where there's an overlay if we have RMF-6 where we allow at least that density as, you know, permanent within RT for those specific areas, that might be appropriate.

And again, we'll have that discussion with staff and we'll have that discussion with our client, because we have made that change based on their direction.

So we'll go back and talk to them and obviously talk with staff and look at some limitation based on that.

CHAIRMAN STRAIN: Okay. Well, the commercial mixed use subdistrict was a lot of fun.

I suggest then, if everybody's finished, we'll move on to the RT district. We need to bring the other map up on the -- or the other page up on the overhead, so -- we're working off of whatever you currently have.

Someone hit a button.

MR. WEEKS: We're trying. I think the machine's smarter than I am.

CHAIRMAN STRAIN: Or stubborn. I'm not sure which.

MR. WEEKS: It may not be saying a lot.

CHAIRMAN STRAIN: Sometimes it might go into stagnant mode if you don't touch the mouse or something.

Do you have -- does Patrick need to do anything from his?

MR. VANASSE: Yeah, I do have it on my screen here. And I have no clue how to use this mechanism here.

CHAIRMAN STRAIN: There you go. Okay.

Okay, does anybody have any questions on the RT district?

(No response.)

CHAIRMAN STRAIN: Patrick, weren't you going to add a base to this district?

MR. VANASSE: We had that comment. And I think the change wasn't made on the copy that Bob provided. But we had internal discussions about the maximum density being their base density also. So it would be just a question of clarifying that and using the same format that's been used for the other districts, but definitely adding the base, that being four.

CHAIRMAN STRAIN: Okay. Anybody have any questions or comments about the RT district?

MR. WEEKS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. WEEKS: On Page 21 of your staff report, staff has identified a couple of issues. One has to do with the density, as was just discussed, and if residential remains a use of density they're proposing, we would suggest that that simply be identified as the base density of four units per acre and no bonuses allowed. Because that seems to be what is being proposed.

The staff concern is about the residential being allowed at four units per acre.

And first let me acknowledge that's allowed right now. The present RT designation and the Immokalee Master Plan allows four units per acre. But if you look at the purpose and intent of the district and the types of uses allowed there, it doesn't seem fit to allow residential development at four units per acre. That would allow someone, similar to a conversation a few moments ago, about another property, the CMU. Someone could come in and simply develop this at four dwelling units per acre, a pure residential project. And that simply does not seem to fit with the intent of this subdistrict.

Our suggestion would be to limit the density to what is presently allowed by the zoning, which is agriculture. And that's the one dwelling unit per five acres.

Again, the purpose here is for protection of natural resources, allowing for ecotourism, transient lodging and RV campgrounds are allowed so that you can accommodate the tourists coming to the site to visit their natural resources, or go from there, say, out on Lake Trafford, for example.

But allowing a four-unit per acre residential project just strikes us as inappropriate.

MR. VANASSE: I'd like to point out that currently that area that's not RT that we've expanded the RT district a little bit is low residential. Low residential allows up to four units per acre. You have to go through the rezone process and request that.

However, I think if we went the route that David is suggesting, it could be seen as a diminishment of property rights. And the idea was to keep it consistent with what the low residential allows right now.

CHAIRMAN STRAIN: Okay. And I think that's a good point. And that's where I was going to go with it.

But David, do you have a follow-up to that?

MR. WEEKS: I guess a rebuttal.

I acknowledge that it's presently LR and allows four units per acre. But the request is to change that, to change it to RT. To change what the purpose and intent of the subdistrict is for that added property.

And again, I just don't think residential development at four units per acre is appropriate, and I don't think it fits with the stated intent.

CHAIRMAN STRAIN: I'm not in disagreement with you, I just want to make sure from a Burt Harris or any other claim viewpoint we don't run into a problem of not at least salvaging out what the rights are that they already have, versus taking away and saying here are your new rights. Even -- and someone may argue that their old rights were worth more. And I want to make sure that point isn't something we're going to run into.

MR. WEEKS: I'll certainly let Heidi or Jeff weigh in, but my understanding is that the only entitlement they have is what their zoning is. And that's agricultural, one unit per five acres. They're eligible to ask for a density increase, but there's no guarantee. And as we state in the density rating system, even your base density is not an entitlement.

MR. VANASSE: Again, the RT district that currently exists allows four. So that's our concern also, in that currently you have four in the RT, you currently have four in the low residential. Our intent is certainly not to go back.

And legalities, I would leave that up to Heidi. However, I think it does open you up for the opportunity for someone to say that you've diminished their property rights. If they would prevail, I have no clue, but --

CHAIRMAN STRAIN: But from a planning perspective, then from you and your applicant, would you have an objection if there was a way to leave it pure RT without the base of four?

MR. VANASSE: Well, I think part of the RT district, if someone wanted to do a mix -- let's say some kind of a lodge concept where there are large condos for sale. And I don't think this community would object to that. I think they would see it as a positive. It would bring value to that area. And I think it would be -- you know, the idea of having to go through the rezone and demonstrate what you want to do, I think if it's done well, having a condo project that incorporates a lodge or some kind of ecotourism type of concept at four units per acre for a small condo project, I don't think that's inconsistent and I don't think the community would object to that.

CHAIRMAN STRAIN: Okay. Well, then what you're saying is the transient lodging provision of the RT in your mind doesn't mean it has to be all transient lodging. You think, or your client or you agree, want to open it up to permanent housing such as a condo, which then takes away the RT value of it. I'm wondering -- again, we're back to one of these things that it doesn't -- I'm wondering why you want to go there.

MR. VANASSE: I'm not sure exactly what that project would be. Could be some kind of a timeshare product or just purely residential. I'm not exactly sure. But I think in discussing that district, I think the community, what they were envisioning for that area would lend itself to some residential component like that.

CHAIRMAN STRAIN: Okay. But I think just like we talked about a few moments ago, this has got to be looked at under the absolute worst nightmare. Because that's what a developer will give you.

MR. VANASSE: And again, it's currently allowed within the RT district today. So changing that, changing those uses would also, you know, affect what we have out there currently.

CHAIRMAN STRAIN: Heidi? And let's get the legal department to weigh in on this possibility of how it

could or could not go.

MR. KLATZKOW: Well, any time we take away somebody's property rights, I am concerned. You know, I'm going to hold off weighing in until I see the entire final version of this, because I've seen so many drafts of this that, you know, it's really hard.

But any time we start taking away people's existing property rights, that's a problem.

CHAIRMAN STRAIN: Okay. But as I think staff was trying to say, the existing property right here is one that was not a locked in. It was an entitlement that had to be requested and could be denied, is that --

MR. KLATZKOW: I understand that. But if I've got a right that's been typically something I've got to request and it's always been granted, okay, that leads to an expectation.

But again, I'm not sure why we're taking away property rights here. I thought the idea was to enhance Immokalee's economic base.

But, you know, we'll take a look at the whole thing at the end of the day and I'll have private discussions off the record with staff on this. But as a general rule, any time we take away people's existing property rights, it's a concern.

CHAIRMAN STRAIN: Okay. Mr. Midney?

COMMISSIONER MIDNEY: Yeah, I wouldn't be in favor of taking away property rights. But I went down to the seafood festival a few weeks ago, and the change in Everglades City, which they've put up a lot of three-story -- I guess they're -- I don't know if they're timeshares or they're condominiums, they're year round. I'm envisioning something like that happening.

They put them in Everglades City right along the Barron River. And if something like that were to come up right near to the lake and they were calling that RT district, that to me would be a degradation of what we have now.

CHAIRMAN STRAIN: Well, and I think based on what the option could be by leaving the density in there, you could end up with that. I think that's what's being said here. And I guess now it's a matter of staff and legal getting together at some point before their next rewrite and determining what we can do that's defensible and not going to cause trouble. Probably that's the best we could hope for out of this.

But I think the intention is that if the four can come out and it can be more what it was intended to be for residential tourist transient, that's probably where it needs to stay.

MR. VANASSE: I think we may be able to incorporate some incentives to get what we'd like to see out there. However, again, you know, our concern is really to not diminish what people currently have. And currently right now it's -- you know, they're allowed to ask for four units per acre. And we'd like to honor that.

CHAIRMAN STRAIN: Okay. Well, I think it needs some work, and we'll be looking forward to the rewrite on it.

And while we're at it, is there any other language here that needs to be --

COMMISSIONER SCHIFFER: Just a question.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Yeah. And Dave, what would happen if there's -- and I think we could have a case where there would be a lot of workers that would stay out on -- if there is an ecotourist (sic). Would those units for the workers be considered dwelling units, or would they be considered transient units or -- because I think we'd want to make sure we would accommodate people living on-site.

MR. WEEKS: If they're workers associated with one of the permitted uses. I'll use an example of a state or national park or even private like Audubon's Corkscrew Swamp Sanctuary where they have staff housing. I mean, those are people that maintain the property, the boardwalk, the facilities, provide educational opportunities, et cetera. Those aren't counted as residential units, those are viewed as accessory units to the project as a whole.

COMMISSIONER SCHIFFER: So they don't enter into this conversation.

MR. WEEKS: No. When we're talking about residential densities, no.

COMMISSIONER SCHIFFER: Okay, good. Thank you.

CHAIRMAN STRAIN: Okay, any other questions on the RT?

(No response.)

CHAIRMAN STRAIN: I have. The last sentence of that big paragraph, within two years of the effective date of this master plan, areas adjacent to the wetlands connected to Lake Trafford/Camp Keais Strand system will be analyzed for suitability to ecotourist activities and possible expansion of the RT district.

Two questions. The normal caveat for the costs, I don't see that here. Policy 1.1.1. And I think it should be. And the second one is, by possible expansion of the RT district, David, would that mean a GMP change?

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Patrick, for five years -- I know you haven't been involved in all that time, but for five years this process has been going on. And now you think it could be done in two years to have the analysis done. Wouldn't -- you guys hadn't come up with a more definitive basis for your RT subdistrict in all that time?

And the reason that's a concern is you've got to go through a GMP change. You're talking more money and a lot more effort. And I'm just wondering, do you really want to try to do that all over again?

MR. VANASSE: And I agree with you, I think the two-year stipulation there is overly ambitious. I think the idea would be it could be done maybe as part of the next EAR. But within -- before that time period really assess if there's a need to expand the RT for ecotourism opportunities.

And that came up as part of the discussions with the advisory board. And some people came forward saying well, if that's the type of use that we want to promote in Immokalee, we want to allow, shouldn't it be expanded a little bit? And that Camp Keais Strand overlay has some great habitat. And is it therefore an area that we -- in proximity to that area should we even allow RT type uses?

And obviously at that point we felt like, well, that needs careful assessment and scrutiny. And the idea wasn't to expand it any further but to really look at it. And maybe if we take away that two years, include the Policy 1.1.1, and maybe say prior to the next EAR.

CHAIRMAN STRAIN: Well, let me make a suggestion to you. We've got a pretty bad year ahead of us economically, and maybe the year after that, and who knows how long after that. Immokalee like the rest of the county is going to have quite a surplus. You have a whole pile of land that's going to be more or less opened up to different kinds of development through this GMP process.

I don't see you knowing how much of that land or how much of these uses are the most viable in Immokalee in the next five years, maybe not even the next seven years. You might just see moderate growth.

Why don't you just drop the entire last sentence and whenever the CRA decides that you know what, we ought to amend our GMP to put in some more RT land, they just do it. Why do you need to say that you're going to put a time table on it or analyze it? Why don't you just wait? I mean, you could always come in with a GMP amendment anytime you want.

MR. VANASSE: We could certainly do that.

CHAIRMAN STRAIN: That might be more beneficial.

MR. VANASSE: Yeah, we don't have a problem.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MIDNEY: I like that idea.

CHAIRMAN STRAIN: Okay, that kind of gets us past the RT. And we're into the density rating system.

First paragraph of that -- we need to slide our picture down here a little bit.

Okay, are there -- Ms. Caron, we'll start with the very first paragraph.

COMMISSIONER CARON: I just wanted to know if you actually wanted to start into this now or break earlier and come back.

CHAIRMAN STRAIN: My program organizer has called her assistant to come in at 12:45, and if we leave earlier, she'll be late.

COMMISSIONER CARON: Okay. Understood.

CHAIRMAN STRAIN: And I thank you, Cherie', for keeping us on course all the time.

So let's go back to the density rating system and try to discuss at least that first paragraph to start with.

Any questions on the first paragraph?

(No response.)

CHAIRMAN STRAIN: It starts out, it says, the density rating system is applicable to areas designated urban mixed use district.

Does that mean everything but the industrial?

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Okay. Just so I understood.

The density by right provision. Density achieved by right shall not be combined with density achieved

through rezone public rehearing process.

What's that clarification? Because that -- okay, so what that means is if you have a base and you use the by right provision where it is allowed, your bases increase to "X" plus "X", and that's all you get.

But if you go through the density provision -- density bonus provisions you don't get the by right increase, you just get the base plus whatever you get in your density bonus provisions. Is that the way to read that?

MR. WEEKS: That's correct. This is the same language as appears in the future land use element and -- whoops, sorry, the existing Immokalee Master Plan.

The reason for this is to ensure that someone doesn't, say, come into the County Commission and get approval through the rezoning process for a density of bonus of let's just say a 12 unit per acre project, and then come over to staff and say I want an additional "X" number of units administratively and be able to build that on top.

Or vice versa. Keep the two process separately. So administratively you're going to be capped at no more than eight units per acre, period.

CHAIRMAN STRAIN: Okay. I understand.

Any other questions on that first paragraph? If not, we'll go to number one, the density rating system is applied in the following manner. And that's several paragraphs.

Are there any questions on that section?

(No response.)

CHAIRMAN STRAIN: In your second sentence it says, the base level of density may be adjusted, depending upon the location and characteristics of the project.

And I was trying to understand by the words may be adjusted. Is that -- by who, by whom, by what process? It seems -- I'm just wondering, do we need a qualifier in there? And David, does that language cause any concern?

MR. VANASSE: That's existing language.

CHAIRMAN STRAIN: Well, there's a lot of existing language we're correcting here today, so --

MR. VANASSE: I think maybe clarifying would be a good thing. But I don't know if there's been issues with that previously.

CHAIRMAN STRAIN: But see, if we have a base density and it's up to that base density, why is that sentence necessary? Because I'm just wondering what it's getting at.

MR. WEEKS: This is a general recognition of the density bonuses. Because the density bonuses that follow are based upon specific characteristics of a project and/or its location.

CHAIRMAN STRAIN: So could we say may be adjusted by the density bonus provisions, depending on the location and characteristics of the project?

MR. WEEKS: Sure.

CHAIRMAN STRAIN: Okay. Any problem with that, Patrick?

MR. VANASSE: Not a problem. To be honest with you, we've always found that section somewhat confusing. As mentioned before, the terminology that the use of base has always been a bit of an issue with us. But we figured let's not touch it, that's the way it is. And we thought that would be the simplest way to approach it.

But if staff makes a recommendation that would clarify that, we're more than happy to agree with them and put that in there.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Question, Mark?

CHAIRMAN STRAIN: Yes, sir, Mr. Schiffer.

COMMISSIONER SCHIFFER: We have a base density and then we have bonus density. So when we increase something by the bonus density, we're not increasing the base, we're adding to it via the bonus plan.

So do you think the intent of this was to point out that the base could be reduced? Remember, we removed the up to or less than. So now that we're fixing the base, maybe we should just use this to note that the base could be reduced because of these items, or what would -- does reduce the base?

CHAIRMAN STRAIN: I'm not sure we're fixing the base, though.

MR. WEEKS: I would say yeah, to the contrary we want the base to be a fixed number. Not an entitlement. But when someone comes and asks for a rezoning --

COMMISSIONER MURRAY: Baseline.

MR. WEEKS: -- we have to have a baseline where you start from. And that would be your base. And if the

board chooses to award density on top of that, then so be it. But you have a baseline to start from. If we go back to that base density of up to a certain amount, then that begs the question where are you beginning from.

And think of the example of the affordable work force housing bonus. If you started the base of four and then add to that, it's only those bonus units that are subject to the regulations as far as the density bonus agreement and all the different requirements of those types of units. If you don't award the full base, for example, say well, we'll give you a base of two and then your bonus starts above that, then that means more units within that total project are subject to the affordable housing regulations.

COMMISSIONER SCHIFFER: My point kind of was is when we use the bonus system, we don't really adjust the base, we add it to the base. So that's kind of the semantic of what I was questioning.

MR. WEEKS: Oh, good point.

CHAIRMAN STRAIN: So I think what Brad's correcting then is the base level of the density may be added through density bonus provisions, depending upon the location and characteristics of the project.

COMMISSIONER SCHIFFER: Or maybe just kill the word base. The level of density.

CHAIRMAN STRAIN: David, does that give you any heartburn?

MR. WEEKS: No. And actually, it's probably good to be crystal clear of how the bonuses are applied, and that is that they are added to the base. And we don't have to deal with any reductions to the Immokalee Master Plan.

I think that adjustment terminology came from the Future Land Use Element. And in the Future Land Use Element we do have one density reduction factor. So your adjustment actually could go down. You start at a base of four, if you're in a traffic congestion area you go down to three. But because that's not applicable here, just straight reading that you get a base and you add bonus to that makes perfect sense.

CHAIRMAN STRAIN: Okay?

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Good.

MR. VANASSE: So David, just to clarify, could you tell us what that change would be to that sentence so we can note that?

MR. WEEKS: No, but I'll come up with something.

CHAIRMAN STRAIN: Well, David, I think we're -- so far where we were, the level of density may be added through bonus provisions, depending on the location and characteristics of this project. That's pretty close to where I think you're going.

So anybody else have any questions on -- that was paragraph 1-A. How about 1-B?

(No response.)

CHAIRMAN STRAIN: Actually you took out everything I had a problem with, so that kind of clears it up for me.

Oh, I have -- David, I've got one follow-up on 1-B. The density rating system is not applicable to accessory dwelling or accessory structures that are not intended and/or not designed for permanent occupancy.

What would happen in a guesthouse?

MR. WEEKS: The guesthouse would be an example of a unit not intended for permanent occupancy. And in fact by zoning not allowed.

CHAIRMAN STRAIN: Okay. That's what I wanted to make sure.

And what would happen with the -- Brad's previous question about, say like a caretaker's residence in an RT district where the person would actually be adding a unit to live on the site. Now, the unit may be allowed because of as an accessory to the transient lodging facility, but does that unit count as a unit count towards level of service density and all the rest of the elements?

MR. WEEKS: It would not.

CHAIRMAN STRAIN: Why not?

MR. WEEKS: Because it's not viewed as a residential use. It is an accessory use. It is accessory to the principal use of the property. Just like the guesthouse is an accessory to the single-family dwelling, not designed for permanent occupancy or intended for that.

In the case of the -- my example earlier, the national park, the chief purpose or principal purpose of that land is conservation or preservation. A component of that use is that you have staff housing for the people that -- go ahead.

CHAIRMAN STRAIN: In the case of a transient lodging facility, if you have a -- say you have a 50-unit

semi hotel, whatever they -- a lodge, and you've got several people who are employed there and they've been employed there for years, they live on-site, they do have a level of service impact because they use water, sewer, electricity, roads and they have a permanent base there. And they are more or less permanently occupying those facilities. You're saying they're never counted?

MR. WEEKS: From comprehensive planning standpoint we have not counted those towards the allowable density under the density rating system, no.

CHAIRMAN STRAIN: So there's a lot of -- there could be -- I mean, this could occur in a lot of different ways throughout the county.

MR. WEEKS: A different example would be a commercial development, an office building or retail, whatever it might be, you're allowed to have a -- under the zoning regulations, you're allowed to have a caretaker's unit. This would be another example of where the comprehensive plan would say no, that doesn't count towards any density allowances. It's an accessory use to the commercial use that is the principal use on the property.

CHAIRMAN STRAIN: But see, it says not designed for permanent occupy. These facilities would be. When you're housing employees that have been an employee for years, it's like an on-site manager, they're there permanently.

MR. WEEKS: You've got a good point. We do say not intended or not designed, but you're right, in the case of the caretaker's unit it is both intended and designed for permanent occupancy.

CHAIRMAN STRAIN: We just might have found the reason why Nick has a problem with the roads being congested in Collier County. And he's not even here to realize it.

MR. WEEKS: I do think we need to tweak that language or probably add to it and maybe give an example.

CHAIRMAN STRAIN: Okay, if you would do that.

Brad, did you have something?

COMMISSIONER SCHIFFER: And David, that's only to commercial property, right? If you had a high-rise with caretakers and grounds crew living on it, what are they? If I built a maid's house for my place and a chauffeur's cottage for my -- this is a false illusion, by the way.

CHAIRMAN STRAIN: Boy, Brad, these architects get paid a lot, don't they?

COMMISSIONER SCHIFFER: And a chauffeur's cottage, would that count?

MR. WEEKS: My inclination is to say no, that it would again be viewed as accessory. But I don't think I've ever had to answer that one.

CHAIRMAN STRAIN: Well, I know there are places that had that application. It would be interesting. I guess maybe regular zoning staff or planning staff may know, instead of comprehensive planning.

Well, let's move on on to 1.C. Does anybody have any -- you need to scroll up on the screen here, if you could. Any issues on 1.C and 1.D?

(No response.)

CHAIRMAN STRAIN: Okay, on 1.D, it's referred to where applicable, areas of the urban mixed use district, all property zoned A, and it lists a whole series of zoning.

Are you going to come back in and assign these zoning districts to whether it's an LR, HR, MR designation? Is that the next step in the process?

MR. VANASSE: I think the thought is to go back and take a look at your zoning districts that fall within that. But these are the existing zoning districts that are highlighted in the current language. And our thought was to leave it the same.

CHAIRMAN STRAIN: Okay.

MR. VANASSE: Because we're not proposing to go in and change the zoning map as part of our LDC amendments. Private entities would come in and do that on their own.

CHAIRMAN STRAIN: Okay. David, did staff look at this paragraph?

MR. WEEKS: Yes, sir.

CHAIRMAN STRAIN: Did you have any concerns with it?

MR. WEEKS: We're on paragraph D?

CHAIRMAN STRAIN: Paragraph D.

MR. WEEKS: Thank you.

Yes, we did. This is the same language as exists in the Immokalee Master Plan presently.

CHAIRMAN STRAIN: And you had problems with it?

MR. WEEKS: Do not.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Clarify. We don't object to the way it reads. Staff maintains its position as we had when this was first added that we do not support this provision, this density bonus by right.

We under -- brief history. I think it was around 2005 or so, it was a handful of years ago and of course it was during different economic times and when the need for affordable housing was recognized as being a pronounced need. County Commission held a couple different workshops. One was an affordable housing workshop; another was a gap housing workshop.

And out of those workshops came direction to staff to pursue certain concepts to try to address the affordable housing need. And one of those was to allow affordable housing by right.

And the concern through the public hearing process to achieve additional density for affordable housing is, number one, it takes additional time, additional cost, and there is no certainty of the outcome. You may spend that time and money only to have the County Commissioners deny your rezone request.

So the opposite is true then of having it by right. Less time, less cost, certainty of outcome.

And it was proposed, as I recall, at countywide level. And that was vehemently objected to. But for the Immokalee area it was decided that that was something that could be supported.

As I recall, Paul Midney was asked and he was in favor of it, thought it was something that the community would support. And I also recall that Fred Thomas was in attendance and he also spoke for the community saying yes, that's something we want.

But the staff concern is that you don't have a public hearing process. There's no opportunity for the public to say we do or do not support this project. And I know again we have the nimbi argument, but sometimes there's a valid reason for neighborhood concerns. And the staff's position is we think it's appropriate if you're going to be increasing the density, if you're going to be changing the unit type that is allowed, that you should have a public hearing process so that it could be fully vetted and considered by all the hearing bodies.

CHAIRMAN STRAIN: Well, if you look at this 1.D, it seems to say one thing, and 2.C I think seems to be addressing the same issue. But they have two different outcomes. Maybe they're two different things, I'm not sure. And I need to sure have that cleared up.

COMMISSIONER SCHIFFER: Question, Mark?

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: David, on C, when this happens, again, this is my poor guy on a country road, has a 10-acre parcel across from him. Next thing you know they're building 40 affordable housing units right in front of him. And nobody had any idea. But what it says here is a rezone public hearing shall not be required.

But this doesn't cause rezoning, does it? In other words, if I have an agricultural piece of property, when it says a rezone hearing's not required, it doesn't change the zoning. I'm still agricultural, but somehow in the records it shows that I took advantage of this clause. What happens?

MR. WEEKS: That's part of -- actually, it raises another concern of staff's is without a public hearing process, how is there a public record kept?

If someone were to come down to the county and look at the zoning maps, they're going to see that property next door zoned, for example, agricultural. Yet what they're seeing developed may be an eight-unit per acre multi-family project.

The details of this would have to be placed in the Land Development Code. I mean, there's a lot of other issues that come to mind. One example being if you had a piece of property zoned agricultural, they're allowed to have by zoning farm animals, barbed wire fences and so forth. And that clearly is, we don't think, appropriate or compatible with a residence development.

Land Development Code would need to address that to say if you're doing this density bonus by right, here's what the new rules are for your project.

MR. VANASSE: We understand the compatibility issues that could emerge from this. As David mentioned, maybe the best way to address that is through land development regulations.

Our concern is that this is already in the code -- in the GMP, and it went through a pretty significant vetting process, from what I hear.

And, you know, we had that discussion internally. I think Bob gave me a recap also of those discussions. And we have numerous affordable housing stakeholders in Immokalee, and I think if that were to change in any way, they may have some strong objections.

And, you know, obviously we weren't proposing to make a change to that, to leave it as it is. And I think if there was any consideration of maybe making a change to it, those parties may want the opportunity to comment on this issue.

CHAIRMAN STRAIN: So we -- at some point this was provided, even though there was concerns over it. And now that it's there, you're arguing -- and I'm not saying you're wrong, your argument can't be taken away. I want to pursue that argument a bit more.

But first of all, my question from previously, before we answer the other question, I asked you what the difference is between 1.D and 2.C. Did you happen to take a look at that? They both seem to be by right provisions. One is 50 percent and the other is four.

MR. VANASSE: And just a cursory look through it, C seems to kind of let everybody that by right you can get to the four, which is the maximum base. And then the other one allows --

CHAIRMAN STRAIN: No.

MR. VANASSE: -- you to get bonuses above four.

CHAIRMAN STRAIN: No, C seems to indicate you get 50 percent of the permitted density.

Go ahead, David.

MR. WEEKS: Excuse the interruption. But if you'll look at their revised language, they've replaced that 2.C.

CHAIRMAN STRAIN: Oh.

MR. WEEKS: Replaced it with the language that presently exists in the master plan.

CHAIRMAN STRAIN: Okay. Well, we haven't got down to 2.C in the screen yet, so I didn't see that. All I -- and I don't have the revised language in front of me except in the handout that got handed to us today. So I certainly haven't had time to review it. Okay.

MR. VANASSE: I think I may have misspoken. I actually meant D brings you to four and the other provision deals with bonuses above four.

MR. WEEKS: If I can comment. What 1.D provides for is where the -- this by right bonus is allowed, what zoning districts it may occur in. And I believe provides that you get a base density of four units per acre.

And then 2.C provides for the bonus itself. Provides that you're going to get the base of four as part of the by right process. And then you can have a maximum of four bonus units.

So in what I'll call the worst case or most advantageous scenario, you would have a piece of property zoned agricultural, which by right is only allowed .2 units per acre, one per five. Through this administrative process they could achieve eight units per acre. They would be entitled to the four unit per acre base and then four unit per acre bonus.

CHAIRMAN STRAIN: Under C it says, can achieve a density bonus of 50 percent of the permitted density currently allowed. A public hearing will not be required to achieve this bonus. So that's a by right.

So that means they get 50 percent of four, which is -- so they've got a total of six.

On the one that we're on, which is 1.D, it looks like they're adding four to whatever base there is, which would be eight. And that's where my concern is. They seem to be not saying the same thing. I don't know --

MR. WEEKS: Were you reading from 2.C again?

CHAIRMAN STRAIN: I started reading from 2.C and it says 50 percent.

COMMISSIONER CARON: It doesn't in the new language.

CHAIRMAN STRAIN: Oh, okay, let's go down to the new language.

Oh, it's all gone.

MR. WEEKS: Yeah, staff had raised concerns about that. And in the staff report we basically just say we've discussed it with the agent and they've agreed to remove it and that's what they've done.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Here.

CHAIRMAN STRAIN: Okay, well, let's go back to 1.D. I won't bring up 2.C again until we get to it.

Boy, I love the rewrites on the fly.

Now, the by right provision is only applicable to the agricultural, the Estates and the RSF-1, 2 and 3. Is that

reading correctly? Is that what it says?

MR. WEEKS: Yes.

MR. VANASSE: Rural ag., Estates, 1, 2 and 3. Yeah.

CHAIRMAN STRAIN: Okay. So you've taken the by right provision and applied it without a public hearing to your most highly valued, low intensity land.

Now, again, I keep coming back to my concern for Immokalee's long-range future with their tax base. Why would anybody want to go by in a neighborhood that is supposed to have lower density as a base and then unbeknownst to them a higher density gets thrown in next door? It really discourages the land values from climbing so that people want who want to buy up, they may be looking to other towns to buy up in: Ave Maria, Sanona (phonetic) and all the rest of them around there. Because this is really problematic for those people. And you've got such high densities now going into your MR district and your HR district, as well as your CMU. I don't know why you need this by right. I don't know why you'd want to subject your potentially valuable future properties to that kind of language when you've got so much available to you everywhere else. I don't know what you're gaining by it.

MR. VANASSE: Understood. And again, I haven't been privy to this entire history and kind of the debates that went on when this was incorporated. Obviously at some point someone deemed -- the county deemed it appropriate. Again, we left it as it was. And again, the concern is to change it at this time, what kind of repercussions is that.

CHAIRMAN STRAIN: Well, we need to take a break for lunch for one hour, and during lunch and when we get back, I'd like to resume the conversation with legal staff telling us what they think we can and cannot do in regards to this by right provision, having been recently put in and possibly maybe even being amended at this point.

So with that, we'll take a break, we'll come back here in one hour at 12:45.

(Luncheon recess.)

CHAIRMAN STRAIN: Terri, we all set?

THE COURT REPORTER: Yes.

CHAIRMAN STRAIN: Okay. I had to make sure the organizer was organized.

With that, we will resume the meeting from our lunch break. We had left off on a discussion of the density rating system. In particular, the density by right.

Before we went to lunch, in that discussion an issue was raised about how much of the density by right, because it was put in place not too long ago, is going to be problematic if it were to be modified now.

And County Attorney's Office was going to take a look at it. I don't see Heidi here. Jeff, should I wait for her to get back?

MR. KLATZKOW: Oh, no.

CHAIRMAN STRAIN: I didn't know which one of you guys looked at it. What do you --

MR. KLATZKOW: I don't have to look at it. It's -- if I buy a piece of property and under the existing usages it's worth a million dollars, all right, and then through an act of government that value has now been diminished, all right, I have been injured and I have a cause of action, all right, for that difference.

Now, if I buy a piece of property, sometime later the government changes the zoning, benefits me, and then a year later changes it again, if I'm still in my original position when I purchased in, I'm okay.

Now, can I tell you parcel for parcel, lot for lot which somebody acquired a piece of property? No. But that's going to be the analysis. So, if we put something in fairly recently, your number of claims will be relatively low, okay. If you -- something's longstanding, your number of claims will be relatively high. And that's pretty much the analysis.

How have I been hurt? When I purchased my land, what was my investment-based expectation for it and what have you done to me?

CHAIRMAN STRAIN: Okay. Well, that doesn't make me feel too good.

Go ahead, David.

MR. WEEKS: Just to narrow it down some. This was -- this density-by-right provision was added as part of the EAR-based amendments that were adopted in January of 2007 and went into effect a few months later, so it's been a little bit less than three years.

CHAIRMAN STRAIN: If someone were to challenge this and you were able to show by deed that they purchased it in that three-year period, then that challenge could be dealt with in a different manner than if they hadn't

purchased it in the three-year period?

MR. KLATZKOW: That is correct.

CHAIRMAN STRAIN: Okay. Brad?

COMMISSIONER SCHIFFER: And isn't this through the Bert Harris Act that this would occur, claim? And isn't there a time frame that somebody has to make a claim by?

MR. KLATZKOW: Yes, and there are defenses and there are procedural matters and there's everything else. But at the end of the day, okay, that's a case-by-case basis. As a general rule, if you're dealing with a large number of parcels, okay, with a relatively old regulation that you're changing, you will have a lot of claims, okay.

Okay. The shorter the provision's been in, the fewer landowners that are there, the less amount of property. I don't know. But I'm going to tell you, if you make changes, you will have claims.

CHAIRMAN STRAIN: Okay. But this has been a short duration. Let's assume there's a fewer amount of landowners because of the economic conditions as well. It came in after the peak, and we've been going downhill since.

If those people came in with a claim, they'd have to prove they purchased it within that time frame. They have to go through all the other processes of Bert Harris, and there's plenty of time frames in there for mitigating the issue or for solving the issue through a compromise.

MR. KLATZKOW: That's correct. As part of the solution, the Board of County Commissioners could say, okay, well, you're exempt from this now. You'll be able to do what you could do before.

CHAIRMAN STRAIN: Okay. Well, let's consider then that we have an option here based on those conditions. Then is it really beneficial for Immokalee, especially its long-term future and its future tax base potential, with all the density that's being put into this place on this plan, you go -- you've got a lot of high-density area now -- is it really beneficial to inflict upon those handful of areas where you can actual get into a more, let's say, valued product, one that is a higher tax base and creates more revenue for the CRA as well? Is it beneficial to do that with this by-right provision?

And I don't know why it's so needed at this point. I didn't see why it was needed before, but I especially don't see why it is needed now. And Paul, we certainly would like your input on this.

COMMISSIONER MIDNEY: I know you would. I kind of feel like a little bit on the spot, almost on the defensive, but let me just sort of defend what I said before, and that is that historically, even before the land prices were -- became so overvalued, affordable housing, farmworker housing, worker housing, was very poorly represented. It's usually not as profitable as other types of housing, and because of the character of Immokalee as a farmworker town, as a working-class town, and because so many people lose their houses as they gradually deteriorate and become devalued, we thought that it would be -- and I still think that it's beneficial to have something that makes it a little bit easier to put that kind of housing in, which is for the low-wage person; because right now, there's plenty of it, but in the long run, I don't know if that will always be the case.

CHAIRMAN STRAIN: And I don't disagree with you, but that's why the by-right provision doesn't need to be there because they can also come in and ask for it if it's compatible and useful in the neighborhood through the standard provisions of our code. And that goes back to the same argument we probably had three years ago, Paul. Not an argument.

COMMISSIONER MIDNEY: No.

CHAIRMAN STRAIN: I mean, you are here as the representative of Immokalee. I wish that Penny was here because I would have liked to get it right from the horse's mouth as to what the CRA's position is on this and see if it's changed over time. Maybe when she comes back we'll revisit that when she comes in for the meeting.

And -- uh-oh.

MR. VANASSE: We're going to have Bob take over, but I'll leave you -- just my personal thoughts on this is that we had affordable housing stakeholders show up at our meetings and state their point, and I think any affordable housing provision that is currently in the Growth Management Plan, I think they feel strongly about those provisions. I'm not going to speak for them as to how they feel about them, but I do know they have strong opinions.

And I would tend to respect what's already in there just because it has been vetted, and those stakeholder groups probably had a significant part in crafting that language. Just an assumption, but obviously, you know, I would -- I would like the opportunity to maybe be have those groups speak on this issue.

CHAIRMAN STRAIN: Well, I mean, they -- they've had a lot of opportunity to develop this -- they had five

years of effort to develop this plan, and they have basically chosen to leave it in.

But I do want to ask Penny when she shows up what she knows from the CRA's perspective on it, so --

MR. VANASSE: Okay. Well, I'm going to turn it over to Bob. And thank you very much for taking it pretty easy on me.

CHAIRMAN STRAIN: Okay. Bob, if you might notice he's lost a lot of hair since you left earlier.

MR. MULHERE: We both have.

MR. VANASSE: That's my wife's fault.

CHAIRMAN STRAIN: Okay. David, then Ms. Caron, then Mr. Murray.

MR. WEEKS: Just a point of information of reference. Before map 5-3 in the support document shows the zoning for the Immokalee community. And you can see this blue color which represents the agricultural zoning district is a significant portion of the land within Immokalee. And then you can see there are various single-family zoning districts as well.

My point is that there is a significant amount of land within Immokalee, I would say well over 50 percent that will be eligible for this by-right provision.

Now on the other hand, I would remind you that this is -- this density provision is for a single purpose, and that is for affordable/workforce housing, that's what the density bonus is about, so that's what we're speaking to.

So from the standpoint of any person laying a claim, I would assume that part of their burden to meet would be to show that they had intended to utilize this provision. That's how they were harmed. If they did not intend to develop affordable/workforce housing, how are they harmed?

CHAIRMAN STRAIN: I have Ms. Caron, then I have a comment as well.

COMMISSIONER CARON: And I would certainly agree with that, David.

And my comment goes back to what Penny said on day one, which were the priorities that the community has now and those priorities were, number one, economic related and jobs. Secondly, infrastructure needs. Three were safety bikes and paths and sidewalks for safety reasons, and fourth was housing. And what she said specifically about that housing was that it needed to be housing that people could move up into, not stay at the affordable level forever, because they did have plenty of affordable housing.

Now, if we go back to the years -- three years ago when we had that discussion, I also was not in favor and voted against any by-right provisions anywhere in the county, including Immokalee. So I mean, I'd be very -- I think the community overall would be better off without this provision, but that's my opinion.

CHAIRMAN STRAIN: David, how many -- let me answer (sic) one thing then get to you. David, how many multifamily high density -- how many non- -- I'm sorry. I'm trying to think how to word this. How much -- how many units are currently constructed in Immokalee, residential dwelling units; do you know, approximately?

MR. WEEKS: I don't know. I believe it's in the support data, but I --

COMMISSIONER MIDNEY: About 5,000, I would guess.

CHAIRMAN STRAIN: Well, the current provisions in this code, if it's passed, the way we're talking about it today, in the mixed residential to high residential in the mixed-use district that we've been talking about, there's a total of 74,000 units available. Now, I'm not sure how much multifamily affordable housing or whatever Immokalee needs, but 74,000 units, which is how many times more -- 15 times more, practically, than what they've got now. I don't think you'll see that in one or two generations.

But what I'm getting at is, if this turns out to be the right thing to do, there's plenty of other times to put it in if needed to provide other facilities. I think the last thing you want to do is taint what possible upper-level tax base you could have to benefit the community when with the CRA, because of the tax increment financing and all the other things, they need it -- they will need it to continue financing the other plans that they have to improve Immokalee, and they won't be able to do it if they don't have an increased tax base because that is the whole basis for tax increment financing. They get the benefit of the increase in the tax base, and you won't see it if they don't have a benefit.

So I'm going to stay pretty strong against this density-by-right provision. We might have a difference on that on the board by the time it finally comes out, so I'm not sure -- you may have to leave it both ways, Bob, or at least explain both ways. But right now, I, like Ms. Caron, I think it's the wrong thing for Immokalee's long-term future.

MR. MULHERE: I think -- if I could, I think what we would do is take your recommendation, as we have all along, so whatever your recommendation is, that's the way we would carry it forward. I think if there was a -- unless -- you know, unless we had a -- I don't see -- Penny's not here -- but unless we had a discrepancy where the client that

I'm representing, which is the CRA, felt strongly enough, then we'd just have to carry that message forward.

CHAIRMAN STRAIN: I mean, I was waiting for Penny to come back. Whenever she does come back, before we weigh in on this as a whole, we'll probably ask her for her thoughts on it first.

So Mr. Schiffer, and then Mr. Murray. You told me you didn't want to talk after all. You do want to now?

COMMISSIONER MURRAY: Well, yeah, but you motivated me.

CHAIRMAN STRAIN: After Brad, okay?

COMMISSIONER MURRAY: That's fine.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: David, in the process, this -- I know it's -- 10 acres is a big-size piece of property, but if -- somebody would just show up with a site plan and you really have no control over how they develop that. I know it's going to go through an SDP process. But, again, my concern is not so much for this property but the adjoining properties.

Is there any control in this process to keep someone from pushing everything over, let's say, to one side, next to Paul's house? And -- I mean, what controls the development of this land with this?

MR. WEEKS: Generally I would say we don't know yet because the Land Development Code will have to contain all the details. This is very sketchy what's in the plan. It just opens the door. The Land Development Code will have to have all the development standards, setbacks, heights, separation between structures, landscaping, open space, all of that.

COMMISSIONER SCHIFFER: So -- but this has been in effect for a while, so no one's obviously used it then?

MR. WEEKS: No. We, in fact, had, in a prior LDC amendment cycle, first drafted the language to implement this, and I'll just say that we got partway through the process and realized, wow, we missed a lot. And so we pulled the amendment, and it's not gone forward since.

COMMISSIONER SCHIFFER: So it's not even available today?

MR. WEEKS: That is correct.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yeah, just -- if I'm not mistaken -- and the Growth Management Plan has a clause someplace in there about the concentration for housing for low income. And so I wonder, is that sufficient on its own to potentially minimize and overbuilding? I mean, with 74,000 units --

CHAIRMAN STRAIN: Unfortunately that is -- you're right. There is a provision in there, and it's in the housing element. That provision was changed at the same time this went through the discussion of the density by right occurred back in '07.

Well, what happened is, we were all focused on the density by right, and we missed the little tweaking of that one sentence in the housing plan. And that one sentence completely changed the way affordable housing is -- can be looked at as just being dispersed in Collier County.

And David may have it there. I see he's looking it up. I have both the old language and the new, and there was -- one word was changed in which -- in the old language it was read as a requirement. In the new language it was read as, I think, we strive or we will try to.

So to take it as a -- instead of a positive affirmative action, it now took it as, well, do the best you can. And if you don't do it, there's no -- there's no recourse basically the way it's written now, where before it was very positive. It said you had to do this. And there is a big difference in the two languages. And I have both of them. I don't have them with me today, but I do have them.

Bob?

MR. MULHERE: I just -- I'm not sure if you already said this. I apologize, since I had to go to another meeting for a couple hours. But as it relates to this Paragraph D, which is part of the by-right provisions, there are two by-right provisions. I don't know if you, you know --

CHAIRMAN STRAIN: We had that conversation. You basically fixed the other one.

MR. MULHERE: I went back to what was there before, yes. But the question that you're having is, should there be any by-right provision. And I just wanted to mention that this one that we're looking at here, D, does limit the density to what is the base density in the GMP.

So the GPM -- the Future Land Use Element for the Immokalee Area Master Plan allows four units per acre in the low residential as a base density.

CHAIRMAN STRAIN: Right.

MR. MULHERE: And that's what this limitation is, to four units per acre. I just want to make sure that everybody under- -- that was the basis for the four units per acre. That's why it was limited to that in this provision here, because it was deemed that that would be compatible, in response to Mr. Schiffer's question and other questions.

Since the Comp. Plan allows four units per acre, somebody could come in and rezone to that and reasonably expect success. But I mean, you know, if you go through the rezoning process, there is at least an opportunity for provisions to be put on the property that would ensure compatibility. This would rely on the development standards that are in effect in the zoning because --

CHAIRMAN STRAIN: Well, wait a minute now.

MR. MULHERE: Because you don't have to go through a rezone.

CHAIRMAN STRAIN: You already have a base density spelled out in your LR, MR, and HR district.

MR. MULHERE: Four units per acre in LR.

CHAIRMAN STRAIN: Right. And D gives you four more on top of that by right.

MR. MULHERE: Right. Within appropriate areas of the urban mixed-use district, all properties zone A. So if we think of just A, rural ag., okay, that's kind of -- which is, most of the low residential is zoned A rural ag., for which you have an affordable housing density bonus, the base density of four units per acre by -- you can get -- you can get the base density of four units per acre by right. So it's not giving you eight units. I just wanted to make that clear.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: Okay?

CHAIRMAN STRAIN: Okay.

MR. MULHERE: Okay. That's very important.

CHAIRMAN STRAIN: We've been trying to get to that question for the first half hour before lunch and now

--
MR. MULHERE: It's giving you -- you can get up to the base, that's why -- David, if I could. That's why you don't see RMF6 in there, because you've already exceeded the base density in RMF6.

CHAIRMAN STRAIN: Well, David, if this is so clear to Bob, how come it hasn't been so clear to anybody else for the last half hour of --

MR. MULHERE: It's not that clear. It took a long time to get to that.

CHAIRMAN STRAIN: Well -- but there's a problem with our language. Did you -- you didn't understand this the way Bob's now describing it based on your responses prior to lunch.

MR. WEEKS: I think I need to read it one more time. I thought I had it clear before.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: That's why I said there's two provisions. There is a provision that allows a bonus on top of the base by right, and we didn't --

CHAIRMAN STRAIN: Okay. So now the 2C provision is the bonus on top of --

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: -- the base density.

MR. MULHERE: So let's -- so if you get to that one, we put back in exactly what was in the code. And in that one you see the RMF6 in the residential -- the RMF6 and, I guess, residential multifamily are now back in there. And in that one you get a bonus of four residential units per gross acre added to the base of four residential units per acre, but the maximum density that may be achieved by right shall not exceed eight.

So even if you were in an RMF6 and you added four to that, that would be ten. You don't get ten. You get eight. So in this one you actually can go up to eight units per acre by right. In the other one, you can go up to four units per acre by right.

So, again, let me just give you another example. And if we went up to the previous one --

CHAIRMAN STRAIN: By the way, you've got to take it a little bit slower, remember?

MR. MULHERE: Yeah, I -- you know --

CHAIRMAN STRAIN: You're wound up.

MR. MULHERE: I just run up the stairs.

CHAIRMAN STRAIN: Yeah, okay.

MR. MULHERE: I'm going to go slower. If you look at this 1D -- am I right, 1D -- okay. Let's use the example of RSF3. If you had RSF3 zoning, this would allow you to get not three units per acre but four units per acre that's the base density in the FLUE, by right, so you would get a one-unit bonus in that scenario. Your zoning allows three. You can go up to four. You would get a one-unit bonus.

And David, I'm going to ask you to correct me if I'm wrong in that.

CHAIRMAN STRAIN: Now, is this already in the code?

MR. MULHERE: Yes, it is. So it is -- it is -- there are limitations. I just wanted to give you that sense. I'm not arguing in favor or against. I mean, it already is in the code.

CHAIRMAN STRAIN: What would have been the purpose in whoever's mind did this to zone something Estates, which is one to five --

MR. MULHERE: One to two-and-a-half.

CHAIRMAN STRAIN: Or RSF1 -- one to two-and-a-half, I'm sorry -- and then say, but you're guaranteed four per unit? Why would we have bothered -- why would we bother with zoning anything less than that?

MR. MULHERE: There was a policy debate on whether or not there should be by-right zoning, and it was said, no, in the coastal area we don't have it, but in Immokalee we need it more so. We're going to do it. And I recall the hearing, the Planning Commission hearing, where you asked the question several times, you did, are you sure this is what you want? And it got approved.

CHAIRMAN STRAIN: This is such a mess.

David, you were going to look up something. I'm going to get distracted here for a while before --

Brad, go ahead.

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: David first. You were going to respond to Bob. You had decided to read this thing again. Now with Bob's clarification, do you understand it better, or not?

MR. WEEKS: I'm wondering how I misstated it earlier.

MR. MULHERE: Because he always understood it. He's the one that helped me.

MR. WEEKS: I agree with what Bob said, you start by getting the base density. I think I'd used the example earlier that if you're zoned agricultural, your zoning only allows .2 units per acre, but through this process, you are awarded the -- density by right, you are awarded the base density of four units per acre, and then on top of that you can get an additional four units per acre. That additional falls under paragraph 2C.

CHAIRMAN STRAIN: So your Estates --

MR. WEEKS: So that's where you can get a total of eight units per acre though your zoning and the --

CHAIRMAN STRAIN: Use Estates.

MR. WEEKS: Yeah, could be Estates or agricultural.

CHAIRMAN STRAIN: So where you moved and you expected one unit per two-and-a-half acres, you got a little ranchette, you've moved up in life, you've gotten through the high density, you've worked your way forward and you've got a place you -- that's roomier and you're raising kids, right next door to you the guy could drop in with eight units per acre?

MR. WEEKS: Yes.

CHAIRMAN STRAIN: Oh, I don't see that working for any town.

MR. MULHERE: At one point we had proposed a change to these policies that would limit the bonus to no more than 50 percent increase of what the zoning allowed. That's what we had proposed. So that if you had ag., which allows .2 units per acre, you would only be able to get a bonus up to .3 units per acre, one-and-a-half units per acre. We thought that was a compatibility benefit. But somehow in the confusion of this language what we put in there didn't have the effect that we thought it had -- and you pointed that out to us at the workshop -- and so we said, look, let's just go back to what's in the code, and that's what we did.

CHAIRMAN STRAIN: Brad, did you have a --

COMMISSIONER SCHIFFER: Yeah. The point that Bob was making that it's just the four, it's what we have -- but that's the base. You're not guaranteed the base. And what's taken out of here, the most important thing to me is the hearing, that this is by right.

MR. MULHERE: I understand.

COMMISSIONER SCHIFFER: And you're increasing it in most -- in all of the zoning districts.

MR. MULHERE: It already has been increased. I have no dog in the fight. It's already been done. It exists.

CHAIRMAN STRAIN: I said earlier if -- when Penny gets back, if she could help us here. Penny, I'd like to ask you if the CRA has dwelled on this subject of density by right. And then there is one public speaker who asked to speak when we got back from lunch, but he wasn't here. So we're going to start up with him in just a few minutes.

MR. SOTER: Thank you very much.

MS. PHILLIPPI: Penny Phillippi, for the record. What is the question, again?

CHAIRMAN STRAIN: There are a couple provisions in this master plan that provides density by right, and it ends up being eight units per acre in areas that are zoned Estates RSF, which is residential single-family one, two, or three or the agriculture area. I, and other members, have expressed concern over that, other members have weighed in favor of it.

What -- has the CRA taken a position on this density by right in regards to this latest master plan? Because while you were gone, one of the things that was pointed out, there's a lot of new density being moved around Immokalee, and maybe the density by right is not as useful or needful as it was in the past, but --

MS. PHILLIPPI: And I think that's going to depend on what hat you're wearing. If you're an affordable housing provider, then you need that really badly because of the NIMBY issues and things like that. If you're a community developer and looking for market-rate housing, you're going to think, well, maybe that's not so cool for all the reasons you've just stated as far as an Estate.

Has the CRA Advisory Board sat down and talked about this particular issue? No, not to my knowledge -- not since I've been there for two years anyway.

CHAIRMAN STRAIN: Okay. Thank you, Penny.

Mr. Murray?

COMMISSIONER MURRAY: Penny? Right here.

MS. PHILLIPPI: Yes, sir.

COMMISSIONER MURRAY: I raised the concern and I do have a concern that we try to avoid -- that would be my suggestion -- try to avoid a concentration of such housing. I have no objection to the housing where needed. The problem is, sometime in an area where something is wide open, so to speak, it's cheaper to build quick to go, density bonuses, financing opportunities.

What would you -- have you considered what -- how you could minimize it or constrain it so that you do build a community that has all the elements rather than too many of one element?

MS. PHILLIPPI: Well, I think it's too late for that discussion. We have --

COMMISSIONER MURRAY: Too late?

MS. PHILLIPPI: -- heavy, heavy -- we're heavily weighted with affordable housing or very low income housing, which is affordable, I would say. Now, if you start to build your personal wealth, you're ready to move into your next house, a little bit better house, where do you go in Immokalee?

So in my mind, the incentive that we need is some kind of an incentive that we haven't found an answer for yet to incentivize market-rate housing like Arrowhead to come in there and start building. So it's like the chicken and the egg; we need the jobs and --

MR. MULHERE: Thank you.

MS. PHILLIPPI: -- then we need to tickle that market.

COMMISSIONER MURRAY: Before Bob wrestles the microphone away from you, what I guess -- you're reading me. That's really what I'm trying to focus on, but the affordable housing density bonus by right effectively allows for additional -- I don't want to call it low-income housing, but first -- how do I want to say it? Affordable housing.

MS. PHILLIPPI: That was the reason it was created, I'm sure.

COMMISSIONER MURRAY: And the opportunity for those other kinds of homes might get lopsided in the sense that developers may choose to build the other over that.

MS. PHILLIPPI: Well, there's another --

COMMISSIONER MURRAY: That's what we're talking about.

MS. PHILLIPPI: Sorry. There's another definition that we were trying to get at to say market-rate housing,

and I think the word is workforce housing. I think that's a legitimate definition; is it not?

MR. MULHERE: It is.

COMMISSIONER MURRAY: I thank you. He desperately wants to get that --

MS. PHILLIPPI: That's good.

COMMISSIONER MURRAY: -- microphone away from you.

MR. MULHERE: I just want to say, I think Penny hit the nail on the head. I mean, you're not going to increase the market demand for market rate, middle class, lower middle class, upper middle class unless there's jobs and income to support that. And the banks aren't going to give you a loan under today's circumstances if you don't have the income to support it.

So no one's going to build them today because they won't get a loan to build them. So -- so how do you get market-rate, middle-class, lower-middle-class, upper-middle-class housing? You find the jobs. That's what this is all about. You know, that's the most important priority here is jobs.

Having said that, as far as lower income and affordable housing goes, I think if you're -- if you're making an argument that this by-right provision is appropriate, you're making the argument based on concerns over compatibility, potential negative impacts that were unintended consequences on existing properties.

Another argument I think you can make, at least from my perspective, is a change in the economy, which has produced a significantly higher volume of affordable housing. Everything's dropped in value by 50 or 60 -- or 40 or 50 or 60 percent, and as a result, you perhaps don't need this incentive as much now as you did when market values were so incredibly high, even in Immokalee. And I mean, that's -- that might be a -- that might be an argument that would be -- that would be --

COMMISSIONER MURRAY: I see it as an argument. I don't see it as a convincing argument, and I realize you probably don't think of it as a convincing argument because it's the chicken-and-the-egg thing. If the jobs are what is necessary and needed to get the -- to stimulate the economy, then we have to get out and get those jobs.

MR. MULHERE: I understand.

COMMISSIONER MURRAY: And in the absence of that, and a community that's striving to try to develop, they may open themselves up to more and more opportunities for just the opposite of what you're intending to achieve by having this one density bonus type of thing by right as being too appealing.

MR. MULHERE: Yeah. I'm not arguing in favor or against it. I'm just saying if someone was making an argument against the fact that there's more affordable housing on the market right now than there was two or three years ago -- you know, no one's used the provision. As -- I asked, David. It's been in there three years, but the land code amendments to effectuate it haven't been adopted, so I don't know if that's a valid argument. We haven't created the land code amendments that would allow it to go forward.

But I think if I was interested in doing something in Immokalee and I wanted to take advantage of this provision and the Comp. Plan allowed it, I would be the one driving that as opposed to waiting for it to happen.

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: Yeah. If I could just sort of give a -- maybe a little bit different perspective. I think it sounds like there's a fear that at some point Immokalee could be flooded by affordable housing or workforce housing.

I think if you look at history, all the affordable housing that's been built in Immokalee has been either done by non-for-profits or government agencies, Farmworker Village or Habitat or organizations like that. And when we look at the affordable housing that's been built in the rest of the county, it's usually part of a mixture that the affordable housing is maybe 10 or 20 percent, which wouldn't be bad if that were replicated. And if the nonprofits do it, they usually do a very good job.

So -- and as I said before, right now affordable housing is very available, but nobody has jobs. When we go back to a more normal economy, I think affordable housing will be at a premium again.

CHAIRMAN STRAIN: Paul, just so -- the thought of reasoning that you came up with is not the one I share. There's a lot of potential density in what's already -- with what's in this plan right now for all kinds of affordable housing.

The Immokalee area has wanted to grow. The CRA in 2000 froze the tax base for Immokalee. The county gets that tax base's frozen amount. Any incremental amount above that, the millage rate goes back to the CRA to spend on improvements for Immokalee.

That means the CRA in Immokalee will only improve as much as their tax base improves because that's how they're funded. So data we didn't have in 2007 when this came -- and I wish we did -- but the intensity of the review of this Immokalee Area Master Plan has opened up some eyes of mine -- I mean windows to me that I have not seen before and had not realized, because I would have made my argument even stronger in 2007. Even though I was against it then, I didn't have the impact I may have had now.

In looking at this, if we don't provide a diversity in Immokalee's land use so that people can stay in Immokalee and grow with the town as they grow in their monetary and financial betterment, they're going to move to Ave Maria or Sonoma or one of the other new developments that go around there.

You may want to keep a lot of people in town. You may want them to be able to buy up in town, and it's not a matter of the -- how much additional affordable housing is in certain areas. It's a matter of whether that area is made for affordable housing as a community pocket.

Some people are going to want to be able to move away from the multifamily, not because it's affordable; it's a different product. They may want the bigger yards. They may want to have the peacefulness of a less intense neighborhood. They won't be able to get that in Immokalee if they go into an Estates lot where they have one house on a nice acre- or two-acre plot, but next door to them eight units go up on the same-size lot.

That's what I'm worried about, and I don't think the diversity that Immokalee wants -- has in its culture is reflected in the same market-type housing it's going to be able to have if this passes with these by-right provisions. I think you're going to scare people away.

And that's the best I can explain it. And it's the long-term view of Immokalee that I'm more worried about and it's the long-term view of the financial resources that the CRA's going to have to operate with and move forward with to better the community, and I think you're going to stifle that if we continue with the by-right. So that's the -- I mean, that's the best I can explain it.

And if there's no other comments from the Planning Commission, I certainly -- a gentleman that has been waiting patiently to speak, it's certainly your turn, sir.

MR. SOTER: Thank you very much.

CHAIRMAN STRAIN: You'll need to please state your name for the record, and then off and running.

MR. SOTER: Very good. Good afternoon. My name is Bob Soter, S-O-T-E-R. I served with the Southwest Florida Workforce Development Board for nine-and-a-half years from January of '99 through July of 2008. So I had the wonderful opportunity to participate kind of on the ground floor, if you will, with the Master Plan and Visioning Committee and had the opportunity to participate in the subcommittee that chose the first consultant, RMPK. By the time I had left and we realized that RMPK wasn't doing the job, we were very fortunate to have Bob Mulhere and his firm come in.

Served on a subcommittee that did hire Penny Phillippi, and that was a wonderful decision. So -- and I also had an opportunity relative to Immokalee to write the grant proposal for the USDA loan guarantee that built the career and service center where we held our public meeting recently, so -- and, of course, that building has been able to serve the Immokalee community for a wide variety of uses.

The planning process has been long and tedious but it truly has focused on the needs of the Immokalee community. And for the -- for the several years that I was a participant, I was particularly pleased with the amount of public input and the opportunity afforded the public to participate on a regular basis in that planning process.

I know that some people have called this Fred Thomas' plan. That is absolutely not the case. Again, it's been a broad variety of input and observations that have brought the plan that you have before you today.

I can tell you that when we built the career and service center, there were many stipulations that did not pertain to what the function of the building was but, again, needed to meet the current codes that were in place.

And so, again, the new plan that you have before you, I think, will be focused on helping us achieve what we want to achieve in Immokalee.

I had the opportunity, too, to visit Poland with the Trade Delegation 2005. We specifically went to Poland to bring a company called Skytruck to Immokalee, but the net product of all of that was that the company found all of the rules and regulations so onerous and the process took so long that we lost that company, I believe, to Texas. So those jobs and that clean industry did not locate in Immokalee, did not raise the wealth of that community because we were under, again, the previous plan.

So in summary, what I would like you to do, again, is what you're already doing. You're being very careful,

you're being very cautious. But I think the bottom line, as Bob referred, we need to create a plan that supports the development of small businesses and that creates jobs and careers.

So, again, thank you for your good work and thanks for the opportunity to be able to make this input.

CHAIRMAN STRAIN: Appreciate it very much, sir. Thank you.

MR. SOTER: Okay.

CHAIRMAN STRAIN: Okay. We're on the -- we left off on Item 1D. Is there any more comments on 1D?

And Bob, I don't know what you need to move forward, because I'm not sure if this board's in unison on that issue or not.

MR. MULHERE: I don't know if you want to take a straw poll or just wait until we come back. I mean, I would need to know whether you -- I think I'd need to know whether the recommendation is to delete or to retain.

CHAIRMAN STRAIN: Well, I think, to be honest with you, if you -- in your writeup, when -- I guess we might talk about timing right now. How long do you think it's going to take you to make the changes to this document once we finish up with it?

MR. MULHERE: And we're assuming that we would finish at the next meeting?

CHAIRMAN STRAIN: Well, I don't know -- based on -- at the rate we're going, I don't think we'll get done today.

MR. MULHERE: Yeah, so -- and then your following meeting is in April. Is April --

CHAIRMAN STRAIN: No. The following meeting could be the 18th or 22nd of March, but I'm -- and we might as well get that all on the table. Before the next review is read by this committee, this commission, in this room, I would like to make sure staff has had ample time to review it and especially the County Attorney's Office. Because any hidden problems legally, we need to know them.

MR. MULHERE: Okay. Well, that being the case, I think we clearly don't want to do it in March because you're going to -- your last substantive review of this three-day process is in early March.

CHAIRMAN STRAIN: Right.

MR. MULHERE: I really -- we're going to need to meet with staff during the rewrite process to make sure we're onboard with a few issue. We've named three or four issues that we need to, you know, address.

And so I mean, I personally think we need probably in the range of three weeks to be able to rewrite it, two weeks maybe, and then you need at least a week to review it.

CHAIRMAN STRAIN: Well, staff and County Attorney's Office are going to need some time, too.

MR. KLATZKOW: It's going to take more time than that. This is a major -- we want to get this right.

MR. MULHERE: That's fine.

MR. KLATZKOW: And this has been going on for how many years?

MR. MULHERE: Yeah, that's fine. I'm just trying to come up with a time frame.

MR. KLATZKOW: You know, I was talking to Mr. Bosi before. You know, my office is going to want two weeks to review the final product here before it comes back to the board.

MR. MULHERE: So two, okay.

CHAIRMAN STRAIN: That's the final product.

MR. KLATZKOW: The final product. So however long it takes you and staff to get to a final product --

MR. MULHERE: No, this is --

MR. KLATZKOW: -- I want an additional two weeks. So this is going to take a while.

MR. MULHERE: So again, I was assuming a couple of weeks for us to get to a final product and then two weeks for staff and the County Attorney's Office.

CHAIRMAN STRAIN: And then we have to have some time with it.

MR. MULHERE: Then you have to have some time. That's at least -- you want at least two weeks before your meeting, right?

CHAIRMAN STRAIN: I would think two weeks would work for us.

MR. MULHERE: So that's six weeks right there.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: So March -- you're talking maybe your last meeting in April.

CHAIRMAN STRAIN: And I don't have a problem with that as long as it can work. I think that that comes back now to what started it in the first place. This by-right thing is real, real critical. It will set a different tone for

Immokalee depending on how it comes out.

I personally have stated my opinion on it. I know some of the members here have. I would certainly think, since we heard Penny indicate that it really wasn't focused on in the last two years that she knows of by the CRA, and it's only been in existence possibly three, I would really like them to think about this issue, discuss it, focus on it, before we jump on it and -- because it's Immokalee's plan. And I didn't -- along with those lines, I would certainly, if they want a perspective like I've expressed, I don't mind coming out and expressing it to them. I'm just concerned that they understand what they're walking into if they do the by-right.

MR. MULHERE: Okay. So they have a meeting scheduled usually the first part of the month?

MS. PHILLIPPI: March 17th.

MR. MULHERE: On March 17th. Great. Saint Patrick's Day.

So anyway, we could have that discussion then and be prepared to at least provide you with the CRA Advisory Board's position on this as part of -- I'm not going to make any changes. I'm going to give you their -- then when you have your final review, you'll have to make a recommendation.

CHAIRMAN STRAIN: I agree, but I think that's the way -- might be a better way to handle it. I'd rather see them really spend some time talking about it. We've spent an hour on it, and we're not really -- and we're not even them, and it's not even our town. We're just trying to understand what's best for planning of that town, so --

MR. MULHERE: I understand.

CHAIRMAN STRAIN: -- with the exception of Paul. Sorry.

MR. MULHERE: And keep in mind --

CHAIRMAN STRAIN: David?

MR. MULHERE: -- you know, we agreed that was why our intent was to reduce that bonus, by-right bonus, to something manageable and compatible. Perhaps it's not even necessary at all, so --

CHAIRMAN STRAIN: David?

MR. WEEKS: Just need to get it out on the record. If this meeting originally was advertised for two days ago, February 16th, the maximum we could continue is five weeks without a readvertisement, which would take us to March 23rd. Just so that you know, we're talking about another quarter-page legal ad being necessary, and that's, ballpark, \$1,300. And brings up the question of who's going to pay for it.

MR. MULHERE: Us.

CHAIRMAN STRAIN: Unfortunately, I think it would have to be the applicant to get us there. But honestly, if we don't do this right and there's a mistake, we're going to lose a lot more than 1,300 bucks.

MR. MULHERE: Also, you know, I don't know if you're talking about that, but that pushes the board hearing date back, and you've got to figure out a different hearing date. And that's okay. I'm just putting it on the record that we'll have to find another date that's a little bit further out.

CHAIRMAN STRAIN: Well, and I don't know what the board was thinking of the process with us. If they want us to shorten the time frame, that's going to leave more for them if they want to do it that way. I certainly would think they would appreciate the time to do it right and get them as concise a package as possible.

MR. KLATZKOW: We need to get this done right. The Board of County Commissioners does not have the time or resources to put in the amount of time that you guys can do.

MR. MULHERE: I have no argument there. I'm sure they would appreciate it, and I think it's an effort that's very well -- you know, well based.

CHAIRMAN STRAIN: Okay. Well, let's put it off. Let's not establish the time yet, David, until Bob and you guys after these meetings get over, start focusing on what has to be done, and then start putting the schedule together and come back with a clear time frame.

Yes, sir.

MR. WEEKS: I believe you had said earlier, Mr. Chairman, you didn't think we'd finish this first review today.

CHAIRMAN STRAIN: Right.

MR. WEEKS: And so whether it would be now or at the end of this meeting, we need to discuss when to continue to.

CHAIRMAN STRAIN: 4th.

MR. WEEKS: Okay.

CHAIRMAN STRAIN: The 4th was the make-up date kind of, and that's the day, if we have anything left, we can finish up. The fact that we've only gone through, what, three-and-a-half pages in six hours, I'm -- or five hours, I'm not sure we'll get through the rest of the pages before the day's over. If we do, that's great. We've still got environmental issues to go over and quite a few others, so we'll see where it goes.

Okay. So that leaves the by-right clause pending, and we'll discuss it when we come back for our rewrite.

Now, let's go on with density bonuses. Oh, and before I forget. There were a lot of policies that we discussed the first day that we were going to go back and try to clean up pending more information, and you made note of those, Bob, your first day. There were some documents missing. I had a list of them, and I think we talked about it.

MR. MULHERE: And I have some information. I don't know if you want to --

CHAIRMAN STRAIN: Well, we've got to go back and visit those, and we may do that on the 4th as well.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: Okay. The density bonuses provisions -- where are we, Bob? There you are. Now, there's -- the proximity to commercial mixed use was modified in a bigger way on your sheet. Or is this the only modification now that you're getting down to?

MR. MULHERE: Yeah. What we added as a modification was to not allow that bonus on any lands designated low residential.

COMMISSIONER MURRAY: You changed it.

MR. MULHERE: Yeah. So -- in protection for the low-residential lands. So if you have a project that's 50 percent within the commercial mixed-use district, minimally, and the balance is some other district, medium high -- or medium residential or high residential, you can calculate your density based on the entire project being within the commercial mixed-use district, but you cannot do that when those additional lands are in low residential.

COMMISSIONER MURRAY: Good. You changed.

MR. MULHERE: And, of course, it requires appropriate -- appropriate buffering to the adjacent uses.

CHAIRMAN STRAIN: Okay. Let's go back to the first number two, the introductory paragraph under density bonuses. Did anybody have any questions about that?

Mr. Midney?

COMMISSIONER MIDNEY: Just the very last line where it says the Transfer of Development Rights section. I'm not sure what that is.

MR. MULHERE: Well, that -- what that means, in no case shall the resulting density exceed the maximum density specified for each subdistrict -- which each subdistrict identifies the maximum density -- but we don't want to necessarily have that apply when you're using TDRs. If we develop a TDR program, that may exceed that maximum density because we want the TDRs to be used if we develop one.

COMMISSIONER MIDNEY: Okay. That's very helpful. So the TDR is a future hypothetical?

MR. MULHERE: It is. And we didn't want to preclude that exceeding the maximum density.

MR. WEEKS: Mr. Chairman?

CHAIRMAN STRAIN: Yes.

MR. WEEKS: Actually that is existing language, and that --

MR. MULHERE: Right.

MR. WEEKS: And that -- this reference to TDR program is to the original pre-rural fringe TDR program, which has not been used since about 1990.

MR. MULHERE: Right, but it still --

MR. WEEKS: But it's still there, and it's here. That reference to it is here as well as in the Future Land Use Element and the Growth Management Plan because it is a program that's on the books and it's eligible to be used.

MR. MULHERE: But also, that 2037, that's what we would be amending, I would assume, if we did develop a TDR program, because that's where all the TDR programs reside, in that section, so --

CHAIRMAN STRAIN: Okay. In the fourth paragraph, it starts with a parenthetical four there. Towards the end it says, only be exceeded if utilizing an affordable/workforce housing bonus. Right now, the way the density by-right works, you would have four units by right and four units by right again but not as a bonus, just by right, or is that considered a bonus as well?

MR. MULHERE: It's still a bonus, but it's a by-right bonus.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: Okay. Just wanted the clarification.

As far as the -- to exceed the maximum density specified in each subdistrict, you've got to use the TDC process. To what extent can you exceed that density. Is that --

MR. MULHERE: Right now it's spelled out in the code in terms of the provisions that David referenced back to the existing TDR program that hasn't been used in 20 years. There's a -- it depends on where it's being transferred from and what the value is. There's a very complicated formula. By the way, it hasn't been used.

CHAIRMAN STRAIN: Okay. David?

MR. WEEKS: Just to explain further. You're more familiar with the rural fringe TDR program, and that's a one-for-one or even higher ratio. You know, you have five acres of sending land. It's eligible for one dwelling unit. You can transfer that one dwelling unit and then sometimes get bonuses for doing so.

This old-time TDR program is based upon the zoning of the receiving property, I believe, and it's a fractional. You cannot exceed the maximum density of the receiving site's zoning by more than either 5 or 10 percent, depending on what that zoning is.

Example, RMF16 allows 16 units per acre. If it's a 10 percent, then no more than 1.6 units per acre could be added through the transfer.

MR. MULHERE: And I just wanted to add, any changes that we might make relative to a TDR program in Immokalee, you'll be seeing it through a Comp. Plan amendment.

CHAIRMAN STRAIN: Okay. Bob?

COMMISSIONER MURRAY: Actually I was getting ahead of myself. I was going to the next line, A. That would be my question in A. Although I'm not sure we didn't discuss that.

CHAIRMAN STRAIN: Let me just ask one question about that first paragraph. So you've got four units by right, you have four units for affordable housing by right, and then with the TDR process you can add even to that some percentage; is that the way it works?

MR. WEEKS: Possibly. I would say not likely, because that TDR program also is only applicable to certain higher density zoning districts. So unless you had some RMF12 or 16 --

CHAIRMAN STRAIN: Okay.

MR. WEEKS: -- within the RT -- low residential, I don't think it would be applicable.

CHAIRMAN STRAIN: Okay, good. Now, Mr. Murray, do you want to do your questions?

COMMISSIONER MURRAY: Well, yeah. I just wanted to -- under A, at the very last sentence, appropriate buffering to adjacent lower intensity uses must be addressed. That seems like that's already part of our code, unless there's some particular reason why you needed to put that in there.

MR. MULHERE: Well, I think it's important, because you're allowing someone to get a bonus. If more than 50 percent -- 50 percent or more of their project is within -- is not within the CMU district, they can use the CMU district density, so --

COMMISSIONER MURRAY: Our code wouldn't cover that?

MR. MULHERE: It covers it, but I think it gives you greater flexibility. When we do the LDC amendments, I think we can create specific buffering standards for this scenario that really would make sure that those -- any adjacent use is adequately protected.

COMMISSIONER MURRAY: Okay.

MR. MULHERE: You know, that was the purpose of that.

COMMISSIONER MURRAY: I won't fight you.

CHAIRMAN STRAIN: Okay. Are there any questions on 2A? With that provision in 2A, does that mean that all the density can be piled onto the commercial side if they wanted to?

MR. MULHERE: They could -- they could -- they have to come up with a design. I don't know what that design would be. They're going to be going through -- I can't think of a scenario where they're not going to be going through a zoning process to accomplish this, so --

CHAIRMAN STRAIN: But they could come in and -- for a --

MR. MULHERE: I guess in straight zoning they could, yeah, yeah. But your question is, could they put it all on the commercial side. Yeah, I mean, I guess we're going to give them the benefit of the doubt that they're going to design it in a way that works for the market. I don't -- you know, I don't know what -- exactly what that is. I don't

think there's -- I'm not sure what the risk is or what the concern is. So in that case they --

CHAIRMAN STRAIN: I just was curious.

MR. MULHERE: Yeah. I think they could put it wherever they want assuming it's designed to be marketable.

CHAIRMAN STRAIN: Okay. In the last line, appropriate buffering to adjacent lower intensity, instead of the word appropriate, could we say, buffering to achieve compatibility?

MR. MULHERE: Yeah, that's a good suggestion.

CHAIRMAN STRAIN: Then where it says, uses must be addressed, instead of the word must, we seem to always like the word shall.

MR. MULHERE: Buffering to --

CHAIRMAN STRAIN: Achieve compatibility.

MR. MULHERE: With.

CHAIRMAN STRAIN: With adjacent lower intensity uses shall be addressed. You know, your cohort there couldn't type and talk at the same time, so you got him beat.

MR. MULHERE: Well, I can't spell, but I can type. Okay.

I just want to make sure I get the -- at least generally your -- I got -- Chris is taking notes, but just if I can get something in there so I remember when I'm writing.

CHAIRMAN STRAIN: Okay. Well, let's move on to 2B, affordable/workforce housing bonus by public hearing.

Any questions on 2B? Ms. Caron?

COMMISSIONER CARON: So this gets us up to 16?

MR. MULHERE: Well, that's an interesting question. I was just thinking the same thing. To encourage the provision of affordable/workforce housing -- no, it can't be added with the by-right, no; you can't combine the two.

COMMISSIONER CARON: Okay.

MR. MULHERE: But I think your question's still valid. If you just -- I don't see a cap in there, a not-to-exceed.

COMMISSIONER CARON: Right.

MR. MULHERE: So if you were in the CMU and you had a density of, say, 16 units per acre or 20 units per acre with this bonus, arguably you could get up to 24 or 28 units.

MR. WEEKS: Excuse me. But the CMU has its own cap identified, which I believe is 20.

MR. MULHERE: Yeah, it does. That's right.

MR. WEEKS: Each subdistrict has a cap, so your bonuses could only be added up to that.

MR. MULHERE: Up to that cap. Each district has a cap, that's right.

COMMISSIONER CARON: So if it were maximized, it still could only get to 20.

MR. MULHERE: In CMU.

COMMISSIONER CARON: In CMU.

MR. WEEKS: Correct.

CHAIRMAN STRAIN: Okay. Anything else on 2B?

Okay. Let's move to -- well, 2C is the one we already discussed, so let's go on to 2D, residential income.

Mr. Murray, did you have something?

COMMISSIONER MURRAY: Yeah, I wanted to -- you said -- you may have jumped a little quick for me.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MURRAY: Go back to 2C, please.

CHAIRMAN STRAIN: Sure.

COMMISSIONER MURRAY: I just want to see one thing. Where you said a public hearing would not be necessary, did you take that out?

CHAIRMAN STRAIN: No. This is that one that they're going to confer with the CRA and come back to us on.

COMMISSIONER MURRAY: Okay, good. All right.

MR. MULHERE: This is one of the two policies for by-right zoning.

COMMISSIONER MURRAY: That's the by-right. Okay. Thank you.

CHAIRMAN STRAIN: So now we'll move to D, residential infill.

Go ahead. Ms. Caron?

COMMISSIONER CARON: I had a question. Do we have -- in the rest of the county, what's considered urban infill property? Is it 20 acres or less?

MR. MULHERE: Now?

COMMISSIONER CARON: I thought it was less than that. I mean, I thought infill was like 10 acres or less.

MR. MULHERE: It was at one time.

MR. WEEKS: Yeah. The Future Land Use Element for this residential infill bonus used to be capped at 10 acres. As part of the rural fringe amendments, we both expanded it to 20 acres and added the requirement only for the FLUE, coastal urban area --

COMMISSIONER CARON: Right.

MR. WEEKS: -- that the first of those three infill bonus units had to come from a rural fringe TDR credit.

MR. MULHERE: So I think the reason it was increased was that the idea was to encourage infill development. And if you had a 20-acre parcel that met these requirements, it still qualifies as infill, you know.

CHAIRMAN STRAIN: Well, the qualification here for infill is one abutting property is developed. How does that qualify for infill if the other side of it's -- I mean, so at the end of the far-out distant place where they're developed to, just one side is developed, they just keep --

MR. MULHERE: You can't. You can't leapfrog. You can only get this one time. You can't do this more than once, even if the other side is vacant. It doesn't mean now that parcel qualifies. It doesn't qualify for development.

CHAIRMAN STRAIN: So if someone takes advantage of it early as an infill next to a developed piece, the piece beyond them can be developed as regular zoning but it can't use the infill provision?

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Okay. What about the piece beyond them?

MR. MULHERE: You can't leapfrog. I mean, I'll defer to David.

CHAIRMAN STRAIN: Well, I'm just curious how one property owner can --

MR. MULHERE: Because they're adjacent to developed property.

CHAIRMAN STRAIN: Can a -- right, but that one property owner develops and he's in an area that can be zoned for what it is zoned, his neighbor now is restricted because of the way he developed. So how does he put that burden on his neighbor?

MR. MULHERE: He's restricted anyway because his neighbor's not adjacent to a developed parcel. He doesn't get -- he's not eligible for this bonus. It's not any -- it's not the other guy's fault. He's adjacent to developed property. The one that's not adjacent to developed property doesn't get this bonus.

You have to have at least one developed parcel, one parcel -- one property line adjacent to developed. And this has been this way for how long, 30 years?

CHAIRMAN STRAIN: Well, is the urban area -- I mean, the coastal area relying upon just one abutting property as well; do you know?

MR. WEEKS: It does. What I'm not seeing is any prohibition on the leapfrog. There is a prohibition on creating parcels to take advantage of this provision. You can't take a 30-acre parcel and split it in half so, okay, now I qualify; I'm less than 20 acres. But I don't see the prohibition on the leapfrog.

I wonder, Bob, if you might be thinking of the office and infill commercial.

MR. MULHERE: Maybe I am thinking of office and infill. So if I misspoke -- I mean, I thought you couldn't -- because I mean, that's a good question, otherwise, can you keep going? Can you requalify now new properties by taking advantage of this for a bonus, urban infill?

CHAIRMAN STRAIN: That's what I -- that's what my question was, and I think that's what -- I don't see where that's not possible. That's what I'm asking.

MR. WEEKS: I agree. If it's the desire to prohibit that, we need to state such.

CHAIRMAN STRAIN: Well, I think you need to because, otherwise, what good is it? You might as well just say, all the zoning at the end of the current development can have this new incentive.

MR. MULHERE: The idea is to -- is to incentivize development of properties that are already within a predominantly developed area.

COMMISSIONER MURRAY: Right.

MR. MULHERE: You have economy of sales, you have essential services, you have schools, you have, you know, services. That's where you want the development to occur, before it gets pushed out to the areas where there isn't any service.

CHAIRMAN STRAIN: Well, will you make sure you make a note of fixing this?

MR. MULHERE: Yeah. But it will be treated, I guess, differently than the urban area. And I don't have an objection to that. I don't have an objection to your concern. But I'm just saying that you might want to look at that sometime down the road then as it applies to the rest of the urban area.

CHAIRMAN STRAIN: And also as incentive to development infill -- which is better than developing new lands further out -- the idea of using TDRs in the rural area was developed. Is there --

MR. MULHERE: Yeah. I wanted to say, I put a provision in there, and it says, if a TDR program is developed -- there's a couple typos, but anyway.

CHAIRMAN STRAIN: Oh, I'm sorry. I was still reading off my old one. I didn't see your new one. Okay.

MR. MULHERE: Yeah. Considerations shall be given to incentivize the use of TDRs within areas that qualify for this residential infill bonus, including but not limited to, allowing the bonus by right if all of the additional density is derived from TDRs -- so if they go and buy TDRs, let them have them. That's a good thing -- or we're allowing additional density bonuses of up to a half a unit per acre for each of the three bonus units derived from TDRs. And those are just examples. And they don't have to be in there. I just wanted to give you some flavor of what might be, you know, a palatable attraction to use TDRs for the urban infill. I think it makes sense, if a TDR program is developed.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And I will correct all the typos and misspellings.

CHAIRMAN STRAIN: Anybody?

Okay. How about Item E, roadway access. Are there any questions on roadway access?

And the next one after that, seeing no questions -- oh, David, did you have something? Did I see that arm go up? No, I didn't, okay. I'm so used to seeing them flash out of the corner of my eye, I wasn't sure what it was.

The next one's been a rewrite, density and intensity blending, so we've got to move to the new section in our other handout to get there. And I'll find the page here in a minute.

MR. MULHERE: Page 35.

CHAIRMAN STRAIN: Page 35, okay.

MR. MULHERE: Starts on -- I could give a little background if it's helpful.

CHAIRMAN STRAIN: Sure.

MR. MULHERE: During the RLSA process, the adoption of the Rural Land Stewardship program, there was a property owner who owned a pretty good amount of land in the urban area along Lake Trafford, the north side of Lake Trafford, as I recall, that was high-quality wetlands, high-value wetlands, and that property owner hired a consultant, the consultant participated in that process and suggested that it made sense to protect those high-quality wetlands around the lake. That property owner also owned land in the RLSA, so they were under the same ownership.

We had already developed a transferable -- a density-blending program for the rural fringe area, so we had a model that we could use, and that consultant suggested that a density-blending provision made sense in this circumstance to protect those wetlands and allow that landowner, who also owned land in the RLSA, to be able to, on an acre-per-acre basis, protect those wetlands and transfer his rights out to the RLSA. That got approved. It was very limited.

If you look at some of the strikethrough language in here that I'll -- that would provide for you an understanding of the limitations. It basically said, the lands would straddle the Immokalee urban area and the RSLA area as depicted on the Future Land Use Map and which were in existence and under unified control as of October 22, 2002, which is when the whole thing was adopted.

And then the -- in the aggregate, the project had to be a minimum of 200 acres. At -- so you can see there were restrictions, to make a long story short, as it relates to that. There were restrictions. So there was a landowner who participated through a consultant in this process in Immokalee as well who owned a significant portion of land within the Lake Trafford/Camp Keais Strand overlay, which were also deemed by the county to be high-value

wetlands, and which they placed some additional restrictions on those lands, and that consultant on behalf of that property owner suggested that they be able to take advantage of the density-blending provisions.

And we said, sure, why not. It makes sense, if you're going to protect those high-value wetlands that are in that overlay, we don't have a problem with that. That person also owned land within the RLSA. So you had a similar situation. Existing condition, lands within both the urban area that were valuable and within the RLSA that could be impacted, allow for a transfer.

During the process of the -- the EAC process, the Conservancy -- Nicole, on behalf of the Conservancy -- said, look, if this is a process that's good for one landowner and if it makes sense that we want to protect the Lake Trafford/Camp Keais Strand overlay, which is high-value wetland and the -- part of a system, connected system, let's just allow anyone to take advantage of a one-to-one transfer, they protect those lands and forever put them into conservation. They get to transfer those rights on a one -- on an acre-to-acre basis into the Rural Land Stewardship receiving -- area designated as receiving. They'd have to go through the process to designate receiving. And as you know, there are restrictions on what can be designated receiving in the RLSA. It has to be lower-value environmental quality as compared to other lands.

The difference here is that -- I'll just throw this out there -- they don't necessarily now have to have land owned in both locations. They would then -- if they didn't have land in the RLSA but they had land within this urban area overlay, Lake Trafford/Camp Keais Strand, they'd have to find somebody in the RLSA who's interested in buying those acre-to-acre rights.

And the last thing I wanted to say -- I hope I did a good job explaining that -- is that there has not been any analysis -- before Mr. Strain asks this question -- there has not been any analysis as to what the impacts of the RLSA program might be if the entire -- what's the size of the overlay? See if we can find that. I think -- we know the size of the overlay. I think it was a thousand, slightly bigger than a thousand acres.

But anyway, if every single acre on a one-to-one basis got approved, you would be then able to entitle that many acres as receiving lands in the RLSA. And what would be the impact, we didn't do any analysis of that.

CHAIRMAN STRAIN: Paul, did you have a question? No.

Well, I sure do. Go ahead, Bob. Then Ms. Caron.

COMMISSIONER MURRAY: Yeah. Before you get into a lot more detail, under -- and this may be more for David -- under lower case i -- A lower case i, where it speaks to -- or that the property owner will restore such lands to high natural resource value. My question is, is it appropriate to have it stipulated in the Land Development Code what time frames are associated with it or what predicate there is before they can put a shovel in the ground or take out a permit or something of that nature? Because I'm concerned with the -- you know, the guarantee that that will, in fact, happen.

MR. MULHERE: It would work the same way it works right now with other similar bonuses for restoration. They have to submit a plan. The plan is reviewed by staff. If the staff agrees that the plan is an appropriate restoration program, there are timeframes in that plan, and they have to provide some financial remuneration for maintaining the exotics.

COMMISSIONER MURRAY: Okay. So we're good in that area. And the other thing, when you said you guessed that it, you know, that thousand acres, I'm sure you didn't believe that the thousand acres, they would be all potentially wetland, would they? Is that -- or is that what you're saying?

MR. MULHERE: If not, 95 to 100 percent, yeah.

COMMISSIONER MURRAY: Really?

MR. MULHERE: Yeah.

COMMISSIONER MURRAY: So that's a lot of mitigation. That's a lot -- and what do you think of the implications for their ability to buy in the program?

MR. MULHERE: Well -- okay. Glad you asked me that question. I think -- I think the property owner that has lands in the RLSA and has lands in the Camp Keais Strand overlay can reasonable transfer those rights. They have lands in both locations; they have lands that are lower environmental quality. It makes sense. There's no other players in that game. It's not an arm's-length transition -- transaction. It's the same owner.

COMMISSIONER MURRAY: Gotcha.

MR. MULHERE: The one -- the property owners that might have land within the Camp Keais Strand overlay that do not have land in the RLSA are going to have a much more difficult time to find a buyer. The only

buyer that would be interested in those rights that they would have is someone who only has lands that don't qualify for receiving in the RLSA. Most of the large landowners have lands that fall in both receiving -- now, you wouldn't spend money to buy something that you already are.

So I don't know if there are any landowners that have a significant amount of only lands that wouldn't qualify as receiving in the RLSA and would, therefore, be interested -- I'm sorry. It's the vice-versa -- that only have lands that are receiving and don't have the sending lands to accommodate. I apologize; I flipped them.

COMMISSIONER MURRAY: I guess the root of my question comes down to, do we not favor then? Do we not cause a favorable condition to a certain element of the population that is denied to others because of that particular --

MR. MULHERE: No. I mean, I think here's the --

COMMISSIONER MURRAY: Likelihood.

MR. MULHERE: I think there's two circumstances here. One, the property owner that has them in both places, I think the county benefits because they're going to get a significant chunk of this protected, and the person already has lands in the RLSA that could be impacted anyway, so you probably haven't changed anything, you know. You might have reduced, a little bit, some of the RLSA lands that would be protected because now you're going to protect them over here, but they're both valuable.

COMMISSIONER MURRAY: Well, my concern was, you were facilitating development in one sense, and they can't move forward -- likely can't move forward in another, and that's a concern for equity.

MR. MULHERE: But I'm not sure how -- again, I'm not -- I'm not a wetland expert, but if these are really high-value, high-quality wetlands, there's going to be a significant mitigation process anyway to develop, and it's unlikely that they're -- you know, it's going to be very costly to develop in there, so -- the better question is, forget about -- what if somebody doesn't -- what about the folks that don't own land in both locations. Is there really any opportunity --

COMMISSIONER MURRAY: Well, that's what I'm talking about.

MR. MULHERE: Yeah, I know. And I don't think there is much of an opportunity for them. We've -- by giving them the chance, at least there's the chance if somebody out there wants to -- and I think that was the Conservancy's position.

COMMISSIONER MURRAY: All right.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: But what you're going to be doing is then transferring all the possible densities that are allowed in the urban Immokalee area to be transferred into receiving areas of the RLSA?

MR. MULHERE: In this limited overlay. Not all in the Immokalee urban area. Only in the overlay. Only in the Lake Trafford/Camp Keais.

COMMISSIONER CARON: Right, I understand. Only in the thousand acres.

MR. MULHERE: And right now, what they have as an entitlement on an acre-to-acre, that's all low residential. So they only have -- they're probably ag. zoned, but they have an entitlement of up to four units per acre in the low residential. Not an entitlement, excuse me, but allowed.

COMMISSIONER CARON: But right now we still have by-right provisions in here --

MR. MULHERE: No, they don't get any -- that's not part of this equation.

COMMISSIONER CARON: Okay.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: My question is on 3A, the first phrase I have a problem with. It says, for those properties which are contiguous to Lake Trafford or Camp Keais Strand or that are -- I think that that should be removed. I think we should -- we're only talking about what is in the Lake Trafford/Camp Keais Strand system overlay. And that was one of the things in the EAC. We wanted to standardize the language with -- throughout. We didn't want to put wetlands connected to in there anymore.

MR. MULHERE: Well, maybe, but there was a specific motion, wanted the lands contiguous to be included and not just within, because there's high-value wetlands that are contiguous to this boundary. I'm just saying, that was the EAC motion by my recollection.

So, again, I mean, we can go and look at the record, but I believe that what was decided was that they wanted to be apply to lands within the overlay and contiguous to the overlay, because there are some wetlands that don't fall

within the overlay that are around Lake Trafford that have high value.

COMMISSIONER MIDNEY: Well, I think the whole purpose of the overlay was to get all those wetlands. If they didn't, then the overlay was drawn wrong.

MR. MULHERE: No. Well, I don't know. I didn't draw the overlay. It was done by staff. There's a --

COMMISSIONER MIDNEY: That was their whole criteria was to encompass the Lake Trafford/Camp Keais Strand. That was the whole purpose of it.

MR. MULHERE: No. Again, Paul, if you can look at your Future Land Use Map, there's an area in green that's RT on the north part of the lake.

COMMISSIONER MIDNEY: Right.

MR. MULHERE: Those are lands adjacent to Lake Trafford that have high-value wetland. They are disconnected from the Lake Trafford/Camp Keais Strand overlay. You can see that there's development between the overlay and those lands in green in RT.

So there is some high-value wetlands in that RT, and that was the purpose, I believe, of saying for properties which are contiguous to Lake Trafford or that are within.

And I agree with you on the language of this Camp Keais Strand wetlands connected. That should have probably been changed to reference the overlay language. So I agree with you there from the terminology perspective. But I just want you to know the intent of the EAC was to include both lands contiguous to Lake Trafford and lands within the overlay.

COMMISSIONER MIDNEY: My only problem is contiguous, I mean, that -- you're going around the whole boundary of the strand on both sides. How far in does it allow you to go?

MR. MULHERE: Well, the presumption would be that you would only do that where there was value, wetland value, and then the conditions below. And not all the lands that are adjacent to Lake Trafford have any high-wetland value, so those wouldn't qualify.

COMMISSIONER MIDNEY: Okay. As long as it's clear to everybody else.

MR. MULHERE: Well, I do agree with you that that language needs to be changed to reflect the Lake Trafford/Camp Keais Strand overlay. So we'll make a note of that so it's consistent.

CHAIRMAN STRAIN: Okay. We're still on 3A. Anybody else?

Okay. Bob, the -- some of the things that -- oh, first of all, I want to go back to a couple things that were said. Under triple "i" -- I'm going to go by my document. It's easier to read. And you can tell me if it still applies or not.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: For every acre protected within the Immokalee urban area, one acre of SRA is allowed; is that still in there?

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: Okay. When Ms. Caron asked the question about what that meant versus, I guess, transferring of density and whatever, basically if you take an acre of SRA, I think it's eight units per acre --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- plus any amount of commercial, industrial, whatever, that's allowed on the percentage in the SRA. So that one acre can be a multitude of value in different things.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: It isn't restricted to what it was in the Immokalee -- or what it could have been in the Immokalee area. So --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- potentially an acre in SRA is much, much more valuable than the acre wetland in this wetlands.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: And that's the incentive thing, so --

MR. MULHERE: Yes. It just didn't apply to the bonuses in the urban area, but you're absolutely correct.

CHAIRMAN STRAIN: Okay. I wanted to make sure that got clarified. But the issue that I see most problematic is, during the RLSA review, we had a lot of days of debate. One of the biggest debates was the acreage, the count, how much they wanted to develop, the total. They also had this panther study going on. The panther study has been finished. I've read it thoroughly. I think it hurts their argument quite a bit.

So I'm concerned that if you try putting more land into an SRA from an area outside the RLSA, which -- besides the governor's order and all the other stuff that set the premise for the RLSA, which was that land developed within the RLSA was to be developed only as a benefit from conservation lands presumably by, what I thought was the governor's order, within that RLSA area, which this is not.

So now you're bringing in outside lands, which could set a precedent for many other areas to say, hey, we should do the same thing, including maybe that panther primary area that we talked about earlier.

To move it outside the Immokalee urban area on a one-to-one value, the SRAs then get to benefit from that acreage, but in doing so it reduces the cap on the acreage, I would think. Because I'd hate to see them argue, well, no. Now, we didn't count it. Unless you want to add it in, you add it to the cap. That's a viable argument that's going to be still had with that whole group, and I think it's going to be very problematic.

So -- and then actually, if you read the panther study, that 45,000, by what they're recommending be included in that, it actually takes off that 45,000 substantially. So that 45,000 isn't 45,000 anymore.

MR. MULHERE: Acres.

CHAIRMAN STRAIN: Right.

MR. MULHERE: Acres, yeah.

CHAIRMAN STRAIN: So if they've created -- if they think they have all these credits that -- to be honest with you, if you cash them all in, you're going to have more than 45,000 acres of need -- they're going to argue that this is taking up some valuable needed acreage that they need for their acreage, for their credits.

MR. MULHERE: Well, they haven't made that argument. I'm sorry. I stepped on you, I apologize.

COMMISSIONER MIDNEY: At the time the RLSA was adopted, this was already in effect. It had already been done, the RLSA straddling. The only change to this is to allow the small landowner who doesn't have lands that straddle both boundaries to get in, which is very few landowners. You're not talking about a lot of extra acres here.

CHAIRMAN STRAIN: Well, let me correct -- I remember this process, because I know the property owner that came in. He had his planner sitting here in the room, and he insisted that this one piece of property around Lake Trafford had to be sucked into the RLSA program. We went through a big debate about it. Everybody finally said, okay, we'll live with it, we'll agree with it. We'll calculate it into the totals. And that's not what this is doing. This is expanding it substantially into a much broader area than was ever anticipated during that initial discussion.

This is taking that initial acreage around Lake Trafford and taking -- now you're dumping in the entire Camp Keais Strand, I believe, in all that green area along the southwest side of Immokalee; is that right?

MR. MULHERE: Well, it's somewhere -- I don't know. I guess we've not -- 1,492 acres. Well, that's just the overlay, and then the lands that are contiguous to the lake could add to that. So you might be talking about a couple thousand acres.

CHAIRMAN STRAIN: Okay. Well, if you tell those landowners that you're going to take that 45,000 now and out of it potentially take another 2,000 acres, we're going to have a big fight on our hands. And I don't know why this has got to be the solution for that.

MR. MULHERE: Well, I would say, I assume they're watching this process, I don't know, and that they would be aware of what's proposed -- and I don't know about that either -- and that if they had an issue, they would show up and state that issue.

CHAIRMAN STRAIN: Bob, the way this is written, it would take Aristotle or some- -- I mean, nobody can figure this thing out.

MR. MULHERE: They had representatives at the meeting.

CHAIRMAN STRAIN: Come on. David couldn't even figure out the -- he does this for a living.

MR. MULHERE: The density blending?

CHAIRMAN STRAIN: No. For the last -- before you got back, we spent a half an hour on something in the wrong direction.

MR. MULHERE: But that was existing language in the code.

CHAIRMAN STRAIN: The whole thing's written like this.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: So don't tell me they know what this is exactly saying because I don't think they do. And if they do, I think they'd be here to talk about it.

MR. MULHERE: Well, there were representatives in the workshops, and it was a representative of one of

the large consultants that actually brought forward this language.

CHAIRMAN STRAIN: I really --

COMMISSIONER MURRAY: Really?

MR. MULHERE: Yeah. I'm not defending it. Again, I appreciate the comments that you've raised, I'm just -- I'm just not sure -- I'm just not sure that those landowners have a concern.

You're raising a concern that this may take away from the public policy intent of the RLSA to protect natural resources within the RLSA. Very valid.

CHAIRMAN STRAIN: And create a new argument from them that they need now more than the 45,000-acre cap because the cap was based on lands within the RLSA. I can just hear it now.

MR. MULHERE: And this is pretty -- a good chunk. Because if every acre got transferred -- which I don't think will happen -- but if it did, you're talking probably -- well, at least 1,400, and probably more acres.

CHAIRMAN STRAIN: Paul, and then David?

COMMISSIONER MIDNEY: They are aware of it, I'm sure. They have lawyers that watch things like this. But no one is making them make these transfers. It's a completely voluntary program.

CHAIRMAN STRAIN: But you missed my point. I don't -- that's not the point. The land -- taking land from outside the RLSA to reduce the developable acreage within the RLSA, I think, is a potential problem.

And, David, you had a comment?

MR. WEEKS: Couple things, Mr. Chairman. Just -- you were talking about the applicability. On the visualizer is the existing Future Land Use Map for Immokalee. This dark green up here, the north side of the lake, that is the presently designated RT. And this density-blending provision that exists in the master plan today only applies to that RT designation.

CHAIRMAN STRAIN: Right.

MR. WEEKS: And then the expansion area would include where they've added some RT in this area to the east of the lake, and then within or adjacent to the strand system, which boundary will also be changed.

Second thing I wanted to mention, just as a point of order. It's not some major issue. But because there's reference to the RLSA program, we're going to need to make companion amendments to the RLSA overlay, and that's something that's touched on later about the Future Land Use Map, another issue, and we're -- just to recognize that you're not seeing it in front of you today, but when this petition comes back for adoption, there will be some amendments to the Future Land Use Element, and more than one place that will be necessary to correlate with these changes to the master plan.

MR. MULHERE: Not substantive, but cross-references.

MR. WEEKS: Correct.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: I did have one other thing, if I could, just to add. Not to prolong, but possibly just for consideration.

Assuming that the Planning Commission -- I just want to throw out that this is one way that the EAC supported to foster the acquisition and perpetual protection of these high-value natural-resource areas.

Presuming that you don't support that for the reasons that you've raised, it doesn't mean that there couldn't be some provisions to still advance the protection of these properties and that then this could then become a principal target area for acquisition and mitigation under the other policy that we already have written in that says we're going to create some incentives to protect these areas.

CHAIRMAN STRAIN: But in policy, I think it's 113, we already put that in as a mitigation potential.

MR. MULHERE: And it might drive that TDR progr- -- it might make it viable, whereas, it might not be viable without these lands. So again, I'm just saying, there are some alternatives that might --

CHAIRMAN STRAIN: David, from the perspective of the RLSA and its -- I don't know if you call it consistency or interpretation -- was the program designed to accept or to be -- to benefit from lands outside the RLSA? Was that -- does that -- do you believe that's going to be consistent with the overall order from the governor and the intent of what the RLSA was supposed to accomplish?

MR. WEEKS: First of all, you know, because it was adopted at the same time, that is, it was part of the RLSA amendments to add this density and intensity-blending provision, I see no consistency issue with that as it presently applies.

Now, as far as expanding the applicability, that's where Bob has acknowledged that they haven't done the analysis yet, because that's one of the issues that staff has raised in the staff report is, we don't know what the impact will be to the RLSA program, and that is a concern. It may not be significant, but we need to know. Right now we're acting blindly. We just need to know what that impact is going to be, because that's been discussed in the past with your discussions of the RLSA five-year review process, and there was much debate about the 45,000 acres or credit caps or just exactly how to deal with how much development would be allowed.

And as you've stated earlier, Mr. Chairman, this provision is allowing for more development to be sent into the RLSA. What is that impact? We just don't know.

CHAIRMAN STRAIN: Well, I think at some point we need to find out.

MR. MULHERE: Yeah. Well -- and in my position -- which certainly could be altered by my client, but I'll state it anyway -- is that part of our -- part of our compensation and express contractual obligations did not include collecting data and analysis in support of a policy that was brought forth on the part of a private landowner. Was included by recommendation of the Immokalee Area Master Plan Committee as well as the EAC.

But, frankly, if we're going to do the data and analysis on the impacts of the RLSA, that that wasn't really something we had anticipated, and the burden might shift to the landowners to do that, who would benefit from it.

COMMISSIONER MURRAY: Well, that's not good.

CHAIRMAN STRAIN: I mean, we need the data and analysis just as much as anybody else. And I think, in fact, the question's been raised and it's a concern, and staff even acknowledged it. I don't know how you're going to get around not doing it and if you want to keep this kind of language in there.

MR. MULHERE: Well, I understand that. And generally -- and you know, we'd have to be more specific. But generally, we made that statement to the original -- the original consultant on behalf of the landowner that originally came forward with this saying, if there's any additional data and analysis.

These are very high-value wetlands. So if they were in the RLSA, would they then be able to entitle an acre-to-acre basis of receiving? Then you would know exactly what the impact is. It would be equal to the amount of acres that would qualify for this, in some presumption, couple thousand acres, that now wouldn't be preserved in the RLSA to entitle receiving lands because they're going to be preserved in the urban area.

CHAIRMAN STRAIN: But with the cap on receiving lands being such a sticking point in the RLSA and having read the most latest report, I just want to make sure we're not going to have this hit us alongside the head when we try to discuss that coming up whenever it does come back to us.

Mike?

MR. BOSI: Mike Bosi, Comprehensive Planning.

One issue I would like to point out is, there is no cap on the number of acres eligible for an SRA. Those are proposed amendments that we're going through the process right now of whether we're going to initiate that as a private cycle for the specific amendments, or is it going to be contained within the EAR-based process.

But as it exists today, there are no -- there's no cap within the SRA. And one of the things, through the discussion with Carlton Fields that I have been working on another issue related to the RLSA amendment, is DCA is going to have extreme scrutiny towards any provision that's going to increase the amount of acreage of development within the SRA and they're going to say, there's going to have to be an absolute demonstration of need within these proposals.

If the Immokalee Area Master Plan maintained the language as it exists today, the applicant, we would have to show why there would be the need for the additional 2,000 additional acres of SRA lands to be -- to justify the proposed change and the effect that it would have on the RLSA program, and I think that's very problematic in terms of having to be able to demonstrate that need in that 2025 time frame that an additional 2,000 acres potential of SRA is needed.

That -- and that would be just something for consideration as you're going through with your client.

MR. MULHERE: Well, you know -- I mean, I guess we'll wait and hear what the Planning Commission's recommendation is. But I can state right now emphatically that the benefit of this is protection of what's deemed to be very important natural resource areas. That's the only reason it's in there, from my perspective.

CHAIRMAN STRAIN: Okay, but --

MR. MULHERE: If only landowners are going to benefit and if there's not enough data and analysis to support it -- if only a certain amount of land owners, small cadre of landowners -- unless they're willing to do the data

and analysis, it probably won't go forward.

CHAIRMAN STRAIN: Okay. And Mike, I want to make sure you understand, I know the 45,000 acres is still in debate. I'm probably one of the people that led that charge for a length of time. So I know where that lies. I know what we got to deal with on that. I just don't want to have more problems on top of that problem with this being thrown in the mix.

And Bob, to the benefit of the Immokalee urban area, you may be better off looking at this to incentivize TDRs to improve the urban area rather than move it outside Immokalee and not have it do as much benefit.

MR. MULHERE: I agree.

CHAIRMAN STRAIN: So -- okay.

MR. MULHERE: Well, you know, you've got to take -- there are recommendations. I'm carrying forward a recommendation.

CHAIRMAN STRAIN: The recommendation of the -- the property owner's going to want what's easiest and best for them, so --

MR. MULHERE: Of the EAC and of the IPVC as well.

CHAIRMAN STRAIN: Okay. Well, I still think -- you might want to see Immokalee's urban area be developed, be improved, and be preserved to benefit Immokalee's urban area. Might be a much smarter way to approach it and let these areas stand on their own.

Paul?

COMMISSIONER MIDNEY: Yeah. There's basically, I think, three ways of protecting these wetlands. The first would be by a TDR program. And from everything I've heard about that, they're very complicated to design, and difficult, and especially with the density that we already have locked in, it's hard to see where you're going to be able to get an incentive for people to want to buy these TDRs in the Immokalee urban area.

The second way would be by mitigation banking, and that also is kind of a complicated thing to set up. So this kind of seems like a more ready-made thing. I understand what you're saying, too, that it has its disadvantages.

But when we're trying to protect land that -- you're going to have to give something to the landowners in exchange. You're not going to just be able to take it away from them. It's hard to find which is the best way to do it.

MR. MULHERE: There is a third, and that's acquisition. I mean, acquisition. You have a -- for example, there's a tax that the residents agreed to tax themselves for acquisition of large -- or of environmentally sensitive lands. And so there is a -- you know, they just bought Pepper Ranch. There is a third option, and that's acquisition.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MIDNEY: That is the fourth option, yeah.

CHAIRMAN STRAIN: Nicole, did you want to make a comment?

MS. RYAN: For the record, Nicole Ryan, here on behalf of the Conservancy.

And the reality is that the Immokalee urban area is the hole in the doughnut that is the RLSA in Eastern Collier County. And there are wetland systems, there are important habitat areas that, on the map, end right where that urban area begins. But in reality, there is connectivity that can't be ignored.

So in looking at the importance of these areas as it's connected to Eastern Collier County, in looking at ways to protect these areas, the Conservancy has suggested that the provisions which were already contained in the master plan that -- I don't believe anyone has actually used them for a development or even started that negotiation process.

But in looking at how those could best be protected -- I think Commissioner Midney stated it very well -- in the case of a TDR program, which was the first thing that we looked at. Maybe with the decrease in densities which are now part of the current draft, maybe there is a market for TDRs for someone to want to come in, purchase TDRs, and the ability to increase density elsewhere.

But quite frankly, the densities are so high by right or by doing certain things that doesn't require going out and buying TDRs, I'm not sure there's going to be a market to protect those lands through a TDR program, and I'm not sure Collier County will have the money to actually construct a TDR program in the next several years and get it implemented.

So the TDR program, it's a great idea for the future. I'm just not sure how feasible it is. We certainly like the idea of having the mitigation banking. I think that that could also be an option. But in looking at that, the whole palette of choices, we like the idea of potentially linking in all of these lands to the RLSA.

Now, I do agree that the first sentence under A is a bit problematic because it could allow hundreds or,

perhaps, thousands of additional acres to be part of this, and I think it does need to be limited, and I would say limited to the areas that are within that boundary.

If they're important areas outside the boundary that should be within it, then put it in the boundary. But it, I think, opens up a little too much to say the areas within the overlay and the areas contiguous.

And the other issue is, in looking at how this would impact the RLSA, the conservancy is in no way advocating that this should be added to that 45,000-acre cap. As you know, through the whole RLSA review process, the Conservancy was very concerned about the amount of development that we're going to be getting in the rural lands.

So we think 45,000 acres is a lot of development. We have agreed that we'll work with the county on that but, quite frankly, not an acre more. So this would have to be part of that 45,000 acres. If it's proposed to be in addition to, then that's a non-starter, and protection would have to be in another mechanism.

So those were our thoughts on it. We certainly are willing to work with you on other viable options. And if the decreases in density that are part of this plan would allow for a viable TDR program, I think that's a great way to go. I'm just not convinced that we're there yet.

Thank you.

CHAIRMAN STRAIN: Thank you.

MS. VALERA: Mr. Chair?

CHAIRMAN STRAIN: Yes, ma'am.

MS. VALERA: If I may add. And I think -- and Bob, correct me if I'm wrong. But I'm looking at my notes from the Economic Environmental Council meeting -- and we don't have our minutes yet -- but I don't recall the EAC recommending the lands adjacent or, you know, contiguous to the overlay. I think they were concerned with lands within.

MR. MULHERE: Okay.

MS. VALERA: And also --

MR. MULHERE: I have a different recollection.

MS. VALERA: As I said, I mean, we'll check in the minutes. But the other thing that we're concerned -- and it was part of their first motion on January the 3rd, they said that they wanted to prohibit density increases within the overlay. So that was one of their concerns with this overlay.

MR. MULHERE: I guess there's two things. One, we went back to the EAC, and they looked at this language when we went back to them and they approved this language when we went back to them. So I'm pretty sure it is consistent, but that's neither here nor there. We'll get their minutes. It doesn't matter at this point.

I guess the question is --

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yes. I have to ask you the -- did they concern themselves in any way with the implications?

MR. MULHERE: Yeah, okay.

COMMISSIONER MURRAY: Well, okay. So --

MR. MULHERE: Not with the implications of -- there may not be any implications if the cap is not exceeded. The only implication would be on the part of the property owners whether they agreed or disagreed. Right? I mean, if it's 45,000 -- if there is ever a cap, if the cap is not exceeded.

CHAIRMAN STRAIN: Well --

COMMISSIONER MURRAY: But none of those things are known.

CHAIRMAN STRAIN: I think that the problem with that 45,000 number has got to be resolved. And until that's resolved, I'm not of a mindset to think you can impose on the RLSA program. I just think it's not the right choice without the data analysis to support it, including whether or not we have a problem with the acreage.

That study that was released, they started at 45-, and they start taking off the -- obviously all the developed areas, Hogan -- the mining areas, the roads. So the acreage is far less than 45,000 acres now in perspective to where they think they started from. So when they come back and hear they've got another 2,000 acres coming out of it, I'm sure there's going to be problem.

MR. MULHERE: That this is the panther protection plan?

CHAIRMAN STRAIN: Yes. That's the plan that supposedly they were going to buy into if everybody was

warm and fuzzy afterwards. And I'm not sure where their mindsets are on it yet. But there are a lot of recommendations in there that are actually more -- set -- are actually more in line with what we argued during the RLSA review than not, so --

MR. MULHERE: So it may be premature for this, but there may be a place for this, but it kind of depends on how that process works out, is what you're suggesting?

CHAIRMAN STRAIN: That was -- that would be my comment. If the RLSA can benefit from this or this can benefit from that and there's no objections from the state, then I don't have a problem with it. I just want to make sure we don't run into a stronger argument now that causes us more problems with the RLSA program.

MR. MULHERE: Well -- and my only response to what Mike said was, if there's no cap right now, he's right, then DCA would consider this an increase in intensity. But if there is a cap and the cap isn't exceeded, then it certainly would be no issue.

CHAIRMAN STRAIN: The fight right now isn't what worries me. It's the one coming down the road. Paul?

COMMISSIONER MIDNEY: Yeah. Again, I think that we should eliminate the first part of that sentence, properties contiguous to the strand. It should only be the ones in the strand. And a couple hundred acres of that 1,400 are Seminole land. They're not going to be involved.

CHAIRMAN STRAIN: But I think that Bob's going to review the minutes to find out if the word contiguous was involved. And if it -- if the EAC recommended it, are you still recommending it be struck?

COMMISSIONER MIDNEY: Yes.

CHAIRMAN STRAIN: Okay. Well, I don't have a --

MR. MULHERE: He's limiting the impacts by taking that out of -- limiting it to maybe a thousand acres, say.

CHAIRMAN STRAIN: And I don't -- depending on how the RLSA issue comes out, it doesn't matter to me. So I mean, why wouldn't we go along with Paul's suggestion at that point? So --

MR. MULHERE: So that would be stating then, for those lands within the Lake Trafford/Camp Keais Strand system overlay.

COMMISSIONER MIDNEY: Only.

MR. MULHERE: Yeah, that's all it would say.

CHAIRMAN STRAIN: Just out of curiosity, why wouldn't we want to protect other wetlands that are there that are contiguous and contribute to the --

MR. MULHERE: Because -- we would want to, but not by enhancing -- based on your discussion, not by increasing the impacts to the RLSA.

CHAIRMAN STRAIN: Oh, so we'd find another way to protect those?

MR. MULHERE: Yeah, we would have to.

COMMISSIONER MIDNEY: Try.

CHAIRMAN STRAIN: Okay. Well, why wouldn't you want to include them -- if you can do it for the RLSA for the one part, what would it matter if you do it for the second?

COMMISSIONER MIDNEY: Well, I'm listening to what you're saying. I just think it sounds too onerous.

CHAIRMAN STRAIN: Oh, okay. Well, I'm thinking if he said one acre, it would sound too onerous. So I'm starting at one acre. So if you go to -- if one acre's acceptable, then 2,000 is. I mean, I don't know if it makes a difference because if we're not going to run into that road block with the landowners in the 45,000 cap and all that argument, I'm not -- it doesn't really matter how many acres you move into the SRA base to get the benefits for the environment out of it.

MR. MULHERE: Well, with Paul's change, you're talking about a maximum of 1,400 acres, and probably less if some of it's Seminole land.

CHAIRMAN STRAIN: Okay. Well, I think the rest of the discussion on 3A's going to have to wait until we come back with a -- David?

MR. WEEKS: Just clarification. Could you go over again one more time, please, what the proposed change would be to that first sentence under 3A.

COMMISSIONER MIDNEY: Well, my proposed change would be the -- starting the -- whole first line and the second line up to where it says to, delete.

MR. MULHERE: It would read, for properties within the Lake Trafford/Camp Keais Strand --

COMMISSIONER MIDNEY: Yes.

MR. MULHERE: -- system overlay.

MR. WEEKS: Thank you.

CHAIRMAN STRAIN: Okay. And that -- but still, David, that's going to be contingent on this RLSA issue, so -- okay.

MR. MULHERE: When you say contingent, meaning -- I mean, meaning --

CHAIRMAN STRAIN: Well, I think Mike's, David, everybody said that you're going to have to do some kind of analysis, data analysis, to determine, first of all, if it's even acceptable to do. I'm more concerned about where the property owners are going to go in regards to this 45,000 cap. If it's going to affect the cap, then it's out the door before it begins, as far as I'm concerned.

MR. MULHERE: So then I guess what I need to do is send email to the landowners here and ask them if they're interested in providing some additional data and analysis?

CHAIRMAN STRAIN: I would suggest that.

MR. MULHERE: Because unless we're going to go and renegotiate, we're not going to provide that.

CHAIRMAN STRAIN: You guys have come in here with this plan, and you've been carrying the flag for several landowners.

MR. MULHERE: Well, I don't know about carrying the flag. Again, the EAC made a recommendation for this, the Immokalee Area Visioning Committee. I mean, you know, those are -- the client is CRA. So, I mean, this was recommended to carry forward. I think we have an obligation to carry it forward. I'm not sure I'm carrying it forward. I don't have a dog in the fight, you know, one way or the other.

CHAIRMAN STRAIN: Okay. Well --

MR. MULHERE: I don't own any land in Immokalee.

CHAIRMAN STRAIN: If you guys want to -- it's how you work out the data -- I think you're going to need the analysis, staff's telling us, no matter what. So how you work that out with your client is up to you.

I think the next item then, we'll move -- well, let's take a -- Terri, you don't look too unhappy, but we'll take a break. How about if we come back in 20 minutes to three and we'll resume at that time.

(A brief recess was had.)

CHAIRMAN STRAIN: We left off on -- well, we're actually on our Page 47 in our original document. We've finished with 3A, which basically is going to have to have some more research and review.

We're going to go to 3B right now. Okay. Under 3B, does anybody have any questions under 3B? David?

MR. WEEKS: Commissioners, the staff concern expressed in the staff report is that this provides for an amendment to the Future Land Use Map through a rezoning action.

COMMISSIONER MURRAY: Can't do that, can you.

MR. WEEKS: And we just question whether that can legally be done.

CHAIRMAN STRAIN: You're asking him?

MR. WEEKS: No.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: I was going to -- holy cow.

MR. WEEKS: This is not without precedent, I don't think. There's a different circumstance, and I'll mention that.

In the master plan mixed-use activity center in the FLUE, there's an ability to adjust the boundary of the activity center through a rezoning, which has the effect of similar, I think, to what they're processing here, that you are changing the boundary, and then after the fact, the county would come along and change the activity center maps to show the boundary to correlate with the rezoning action.

So I guess that's similar to what they're proposing here, but I still -- it just strikes me as a bit odd when I read it to say, we're going to change the subdistrict boundaries and it's going to occur through a rezoning action, and I was hoping the attorney's office could be here to offer comment.

MR. MULHERE: Well, while they're waiting, if I could -- I think it might be helpful if -- maybe not everyone understands why we would propose something like this.

If you have a piece of property that you want to develop and it straddles two subdistricts or three subdistricts,

you want to design -- you want to put a master plan or design that property so that it makes the most sense on the property as a whole and not based on some artificial boundaries within that property, that I have to put this use over here because that's allowed in the subdistrict, and I can't move it over here.

We want people to design it in a way that makes the most sense. So we're not letting somebody get more intensity or more density, but we are allowing them to shift whatever uses might be allowed in one area or another within that project throughout that project to design the best project.

So, I don't know if we -- you know, I mean, I don't know if we adequately conveyed that, but that's why we put some conditions in place for the further protection, enhancement, or restoration of wetlands or other natural resources.

So you might be able to avoid impacting them, whereas, you otherwise wouldn't be able to because the subdistrict precludes you from moving something from one place to another or the -- you know. Or the shift mitigates for any negative impacts on adjacent properties through appropriate measures.

So we think we're protecting the other properties. We think it makes sense to be able to develop it as if -- you know, I can put in some commercial at this level of density in this subdistrict. My project includes lands that aren't in that subdistrict. Let me spread that around even though that density might exceed what otherwise would be permitted in half of the project because it's of a lower density subdistrict. Do you follow what I'm saying? And I think that the design can be much better.

Now, I agree with David that there may be a question if this is self-amending, I think is the term that the state would use. I would suggest to you that if the policy makes sense, let's see what the state has to say about it.

COMMISSIONER MURRAY: Okay.

CHAIRMAN STRAIN: Well, let's on -- and Heidi, the question came up of legal about this issue, and I'll let David rephrase it for you. But we're on -- under the density and intensity blending, Item 3B, which on our sheet is on Page 47. I'm not sure what pages you're using.

MR. WEEKS: Well, Bob's handout, I see it on Page 36.

MS. ASHTON: Okay. And you're under B?

CHAIRMAN STRAIN: Yeah, B -- the very first sentence in B, the very -- up to the semicolon, the introduction to that, that's the question.

MR. MULHERE: I'm sorry. I just wanted to clarify. And the other thing is that there is a restriction that wouldn't allow you to increase the overall density or intensity, which is -- which is one that I -- this shift does not result in a change of the acreage of each land use subdistrict within the subject property.

So while you could shift it around, the boundaries, you could shift the boundaries, you can't achieve some greater level of intensity or in density. That wasn't the intent at all.

CHAIRMAN STRAIN: Go ahead. Mr. Murray?

COMMISSIONER MURRAY: One thing that we established -- I think you were out --

MR. MULHERE: I'm sorry.

COMMISSIONER MURRAY: -- with that is that it's not going to happen in the low -- we're not going to allow the 50 percent thing that we were talking about earlier.

MR. MULHERE: Yeah, that was another provision.

COMMISSIONER MURRAY: I know, but I think this broaches that. I'm not sure that it does, but I think it does.

MR. MULHERE: Well, not really, because again, let's say that you had low and medium density, and you've got a provision in here that says you have to adequately buffer.

COMMISSIONER MURRAY: Okay. But let me frame my -- then let me frame it then, because you said you were straddling. In your illustration you said about straddling three districts.

MR. MULHERE: Two or three districts.

COMMISSIONER MURRAY: If one of them were the low, we had, I thought, established that we wouldn't go there then with that.

MR. MULHERE: That was a separate provision. That was another provision. That was a bonus provision.

COMMISSIONER MURRAY: This doesn't relate in any way to that?

MR. MULHERE: No. It's separate. I mean, I'm not saying that you're -- what you're saying is to minimize any unintended impacts to low residential, maybe what you're suggesting is we should do that but we didn't. The

policy that you're thinking of is one where we were allowing a density bonus, which we said wouldn't apply in low residential.

COMMISSIONER MURRAY: Okay.

MR. MULHERE: There's no bonus here.

COMMISSIONER MURRAY: All right.

MR. MULHERE: This just allows you to design the plan -- design your piece of property within those -- by shifting the boundaries of those districts to allow for an appropriate plan instead of forcing something to be in one location when it might not make sense and it might not protect natural resources.

COMMISSIONER MURRAY: I didn't have a problem with that. I was just concerned with the straddling of the districts, whether or not that opens up an issue for -- and I'm pretty sure it opens up an issue for you.

MR. MULHERE: And if I might add, it's particularly an issue in Immokalee if you think about the fact that -- and I don't know that this is true in the rest of the urban area. But in Immokalee, you have very small -- you have a lot of multiple district conditions. You can have --

COMMISSIONER MURRAY: Yeah.

MR. MULHERE: You can have a subdistrict and another subdistrict and another subdistrict, and you want somebody to go in and acquire that and you want them to redevelop it, and they can straddle two or more or three subdistricts, this provides some flexibility for them. I mean, I honestly think it's a very good policy. Whether it will fly or not, I don't know.

COMMISSIONER MURRAY: They'd have to come in -- under that scenario they'd have to come in for a public hearing. Wouldn't it be more effective to just change the district?

MR. MULHERE: Well, that's a Comp. Plan amendment, so that's totally different.

COMMISSIONER MURRAY: So -- well.

MR. MULHERE: And they don't have to come in --

COMMISSIONER MURRAY: Maybe that's a good reason --

MR. MULHERE: -- for a public hearing. They might not have to.

CHAIRMAN STRAIN: Okay. Ms. Caron, then Ms. Ashton.

COMMISSIONER CARON: Okay. I'm fine if we want to hear from the county attorney first.

CHAIRMAN STRAIN: Okay. Heidi, did you want to --

MS. ASHTON: Okay. So we're looking at the new subsection --

CHAIRMAN STRAIN: 3B.

MS. ASHTON: -- 3B. And I've reviewed the section, and we -- I don't recommend the addition of this language personally. I think it's a little crazy to start getting -- shifting land use map designations, so -- and I don't know that that really furthers what Ms. Phillippi is trying to do with her economic development. And it -- I believe it will have a bad precedential value for other areas in the county. So I don't recommend it at this time.

CHAIRMAN STRAIN: Okay, thank you.

And David, I guess that kind of puts it in perspective for your question then.

Ms. Caron, did you still have a question?

COMMISSIONER CARON: Yes, I do.

If this were to fly, is it the intent that all of these -- all five of these criteria be met?

MR. MULHERE: Yes. I'm having -- I just don't understand what the harm in good design is.

CHAIRMAN STRAIN: Well, I think part of the problem is, we have always looked at the GMP as locked in stone, although we know it isn't anymore. But to get to the point that it isn't, it has to go through a rather elaborate public process, much harder than a PUD. This would eliminate that potential. And basically you'd do it on the rezone, and the GMP then follows the rezone.

David expressed a concern that --

MR. MULHERE: Yeah, I know.

CHAIRMAN STRAIN: -- they may not even like that. That may not even -- it's self-amending, as I think you used the term.

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: And that may be a problem. And if the county attorney says it is a problem or it could set a problematic precedent, I'm not sure why we need to start that in Immokalee.

MR. MULHERE: That's fine. We're just trying to think out of the box to make things happen a little differently than they usually do, so --

COMMISSIONER MURRAY: And if I might --

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: -- I would like to hear what David has to say.

MR. WEEKS: I was going to say, I certainly understand the benefit that's being proposed here, and --

COMMISSIONER MURRAY: So do I.

MR. WEEKS: -- and the overall goal to promote economic development, and in that vein of thinking, eliminate as many hurdles as you can. And this proposal would eliminate a hurdle for that scenario Bob described where a single parcel has multiple future land use designations. Remove the hurdle of having to come in for a plan amendment for what conceivably could be a rather small piece of property where the development is -- your cost benefit, like, how much am I going to make on the development of this property versus how much is it going to cost me to go through a plan amendment process and then go through a rezoning process and all the other steps for development. So we eliminate the plan amendment process, which is both costly and very time-consuming. So I fully understand the benefit of what's being proposed here.

MR. MULHERE: With no greater impacts presumably.

CHAIRMAN STRAIN: Why don't we -- you guys are going to come back with a rewrite anyway. Before the rewrite comes back, why don't you guys, off record, get together with the County Attorney's Office and see if there's a way to work a language that fits what you want to do. If there isn't, there isn't, but at least you can give it another try.

MR. MULHERE: Fine. That's good.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: I think that's a great suggestion, because I'm not sure there isn't some merit to what you've proposed. Have you looked at how many properties?

MR. MULHERE: That's what we just looked at.

COMMISSIONER CARON: All right. So that may --

MR. MULHERE: It's hard -- the only thing that makes that hard is somebody could aggregate a couple parcels, and we can't anticipate that process. We want people to do that. We want people to aggregate parcels into a nice project.

But I think we can certainly take a look at the urban core and maybe limit this to that area where we really want to see aggregation and development. And so -- and that's also the most intense district, so there would be less concern with low residential or any unintended consequences.

So what I was thinking was maybe this is something that only applies in the urban core, and maybe we wait and see what the Department of Community Affairs has to say.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Bob, aren't most of your boundaries in the urban core based on roadways anyway? I mean, I'm looking at this. Some of it may not be, but it appears that if you're going to get down to the smaller lots, you probably won't have this problem.

MR. MULHERE: You won't have too often, but looking at the -- looking at the proposed designations, you could have -- I think you could easily have medium or high residential adjacent to the CMU in a project, or both -- or all three.

And that was, I think, where we were focusing anyway. So eliminating maybe low residential or focusing in on the CMU or properties abutting the CMU, you know, would narrow that down. It wouldn't -- it probably wouldn't address Heidi's concern. I think -- I mean, I'm not speaking for Heidi, but I think her concern is, you know, it's -- it is -- in a sense it is amending the Comp. Plan without going through a Comp. Plan amendment, but it's not allowing any greater intensity, and it's limited to a project.

MR. WEEKS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. WEEKS: I'll just offer this comment, which may at least partially address this. If we're dealing with like subdistricts, that is, if we're dealing with more than one residential subdistrict, I think this could be handled through the density rating system where we would allow for this blending of densities.

A more difficult issue is where you have completely different districts. So a residential subdistrict and then the CMU, for example, or residential and industrial, or CMU and industrial where you have totally different land use categories, that is a -- that's a tougher nut to crack.

CHAIRMAN STRAIN: Okay. Well, I think that given some time --

MR. MULHERE: I agree.

CHAIRMAN STRAIN: -- to work on it before we come back with a rewrite, that might be the solution, so -- we still got to get -- we still got to get consistent with legal, so --

MR. MULHERE: We also wanted to give the Department of Community Affairs something substantial to look at.

CHAIRMAN STRAIN: I think if this had gone up like it was, they'd have plenty to look at, Bob.

Let's just keep moving then. We're on Page 48, our Page 48. It's the urban industrial district, and you've gone up too far. Okay. Right there.

There's the first paragraph, Paragraph B; does anybody have any questions on that particular paragraph?

Okay. We've got B1, the industrial subdistrict, IN. Mr. Murray?

COMMISSIONER MURRAY: If I may. You know, that looks, for all intents and purposes, as though it were a -- what do they call that, a park, a business park; is that what you're intending there, or is it true industrial? Because it seems like an interesting mix.

MR. MULHERE: It is industrial, true industrial. You can see it allows --

COMMISSIONER MURRAY: Yeah.

MR. MULHERE: -- manufacturing, processing, warehousing, wholesaling packing houses, but it also allows some of the other uses that we want to attract, such as high-tech industries, laboratories.

COMMISSIONER MURRAY: Would this be a new industrial district, or is this the one that's currently in place? Because that's where Trade Port is, that area.

MR. MULHERE: It's very, very similar to what was in the code for the industrial district out there. I think it is expanded a little bit to include some uses that are typically not found that are more light industrial.

COMMISSIONER MURRAY: Yeah, like office and -- right, commercial, yeah. All right. How much of an expansion? Not much, small?

MR. MULHERE: No, not significant, no.

CHAIRMAN STRAIN: Anybody else? We're still on B1.

David?

MR. WEEKS: Just a couple of cleanup items, or so I think.

The third line includes a use, very first use after the word including, uses ancillary to the airport, and then the very last line of Paragraph 1, campground accessory, et cetera. Because the airport now has its own designation, it seems that both of those items should be removed.

MR. MULHERE: Yeah, agreed.

CHAIRMAN STRAIN: Along those lines, David, why are we -- an industrial district is defined in the Land Development Code for its uses. Why are we spelling out so many uses in the GMP? What is the benefit of that?

MR. WEEKS: I think that's -- I don't think it is necessary. I think it's just a carryover from the way the master plan is read.

CHAIRMAN STRAIN: Well, if Immokalee wanted to change the uses, either -- they could actually change it for other items, because I don't believe this is limitation.

MR. MULHERE: It's not.

CHAIRMAN STRAIN: But if you wanted to change it to say, well, you know, we no longer want vehicle racing in our industrial area. We don't need it anymore or we want to have a special over a conditional use for vehicle racing. The way this seems to be written, I'm not sure that you got enough latitude here, whereas if you just address the whole thing in the LDC, you'd have more latitude to take in and take out and mix and match the uses as you would want to.

COMMISSIONER MURRAY: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER MURRAY: Would you normally have day care in industrial?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Yeah, they have --

COMMISSIONER MURRAY: You would, huh?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: People drop their kids off.

COMMISSIONER MURRAY: In industrial?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: David?

MR. WEEKS: Yeah. The industrial zoning district allows for, as well as the industrial designation in the FLUE, does allow for certain, we'll call them, accessory or related or subordinate commercial uses for industrial development. And the rationale being that industrial lands are major employment centers, so you want to be able to have some restaurants, maybe childcare, which I know might seem incompatible on the surface and potentially could be, but you don't want to force the workforce to go outside of that employment area.

COMMISSIONER MURRAY: I can appreciate that.

MR. MULHERE: Gymna- --

MR. WEEKS: Physical fitness.

MR. MULHERE: Gyms, yeah.

COMMISSIONER MURRAY: Well, the reason I ask that question is because all of those things are already in the industrial subdistrict.

MR. MULHERE: But this is the industrial subdistrict for Immokalee. It's --

COMMISSIONER MURRAY: Yeah, so why do you need to bring those things into light? In other words, this is not located anywhere else. Try to put it in English. In other words, the citations that you have here are unique?

MR. MULHERE: Yeah. This is -- this is for the industrial district in Immokalee.

COMMISSIONER MURRAY: Okay.

MR. MULHERE: I think the chairman's question of, by naming all those uses specifically, are we in some way limiting ourselves --

COMMISSIONER MURRAY: Yes.

MR. MULHERE: -- and they are not limited to those. They only include those uses, as you know.

But, I -- for example, the limited commercial, the phrase, a variety of industrial limited commercial and associated uses. The limited commercial is sort of further defined as you move down to say business services intended to serve the needs of employee and visitors, such as, and then it lists some typical uses.

Down the road, there's going to be some substantial industrial development with employees, and someone's going to say, this commercial is appropriate in this location. It's not there. And then the staff is going to use that language to justify whether that use that's not there should be allowed in that industrial district. I can't name every use.

COMMISSIONER MURRAY: And I agree with the chair that -- I think I'm agreeing with the chair. What I'll say is that maybe you need to take them out.

MR. MULHERE: But by doing that I run the risk of reducing or having a situation where someone doesn't understand what the intent was in the future.

CHAIRMAN STRAIN: But wouldn't they look at the LDC to find out what the intent is?

MR. MULHERE: No. You have to look at the Comp. Plan to find out what the intent of the Comp. Plan is.

CHAIRMAN STRAIN: But if the intent said it was the industrial, distribution, trade and manufacturing, and list -- went up to the semicolon, then they -- to know what those uses are, you could go to a master list like we currently have under our zoning categories in our Land Development Code.

MR. MULHERE: You know, I'm not trying to be argumentative. I'm concerned about unintended consequences. And this language pretty much exists in the code for a reason the way it does in the Comp. Plan today.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: My question is for David. And Bob, maybe you too. I'm not sure it's a good idea to pull those things out that had to do with the airport. I mean, some of this is adjacent to the airport.

Bob, isn't it in there for a reason because somebody locally must have thought that was necessary?

MR. MULHERE: Not the vehicle racing. That's only allowed in the airport, and I don't think we'd want to allow it anywhere elsewhere but where it is allowed right now within that -- within that area.

COMMISSIONER SCHIFFER: The ancillary support to the airport, I mean, you could have a catering company that's running stuff into the airport.

MR. MULHERE: That's --

COMMISSIONER SCHIFFER: And then the campgrounds, when they are having the racing, maybe that -- I mean, if the local people put these words in, why are we pretending we know more than they do?

MR. MULHERE: I mean, you could take out vehicle racing and its ancillary uses and leave in uses ancillary to the airport, and that would --

CHAIRMAN STRAIN: David?

MR. WEEKS: Remember, they're proposing a new airport designation. Right now the airport is within the industrial subdistrict, so that's why the language appears today in the master plan under the industrial district because the airport is within it.

Since they're proposing a separate designation for the airport, these uses that specifically are accessory to or ancillary to the airport, to me no longer seems appropriate. That should be allowed under the designation for the airport itself, and it does refer to "the airport," meaning the Immokalee Regional Airport.

COMMISSIONER SCHIFFER: And that makes sense. But my concern is that the citizens groups that reviewed this language, certainly before we did, but they may know something we don't know and they may want something -- I mean, there may be a campground in that area that's adjacent to the airport.

MR. MULHERE: But I don't think that's an issue. What happened was that the airport was working its way through the process and only just got their PUD approved, as you know. And after the PUD was approved, we -- we then -- or right before, I guess -- we then created a separate designation for the airport property at the recommendation, I think, of staff. And so that does cover it.

I'm not arguing with you as it relates to the term uses ancillary to the airport. I think -- I think if we left that in and took out the rest of the specificity related to campgrounds and vehicle racing, we'd probably then have the opportunity to not have an unintended consequence. There could be something there that might support the airport that's outside of the airport property.

COMMISSIONER SCHIFFER: But these uses you're not allowing -- you're not noting them in the airport.

MR. MULHERE: Well, that's because if we want to get to that, we have language under the airport that really covers it, because -- you can see what's struck through there in the red on the screen -- or yeah, in your handout, it says, in addition to all uses permitted in the industrial district, allowable uses include other uses deemed to be compatible with the CCAA needs and vision and consistent with the adopted airport master plan.

So the presumption there was that the adopted airport master plan would cover these other uses, including vehicle racing and so on and so forth. We could simply add the list of those uses back to the industrial Immokalee Regional Airport subdistrict.

COMMISSIONER SCHIFFER: Yeah. Again -- and this is in the end. There might be somebody -- Penny can maybe verify it. That there may be some guy that's running a campground for race day out there or something that wants it in that district. I mean, we assume everybody was thinking when they made this list up. So before we yank stuff out and can't understand why, we might be missing some points. Thank you.

CHAIRMAN STRAIN: Mr. Murray, then David, and then I got a clarification.

COMMISSIONER MURRAY: Yeah. My question has to do with clusters. I can't remember whether they're development clusters or whatever that terminology is that's appropriate that the EDC was opposing --

MR. MULHERE: Yeah, target cluster industries.

COMMISSIONER MURRAY: Yeah. How does that relate to --

MR. MULHERE: This -- these uses are -- include uses that are targeted cluster. Yeah, they include those uses.

COMMISSIONER MURRAY: By the absence of that statement, do we prevent the development of that?

MR. MULHERE: No, not technically. That's my concern though. My concern -- my concern is -- you know, I'm just worried about what's going to happen five, six, seven years from now.

COMMISSIONER MURRAY: Appreciate that.

MR. MULHERE: When you only say in the industrial district what's allowed is a variety of industrial limited commercial and associated uses, period, there's no examples, no guidance, and some use comes up that we didn't see before, and it happens all the time, and somebody has to make a decision as to whether or not that falls under

industrial, limited commercial, or an associated use.

COMMISSIONER MURRAY: I want you to get there, please understand. I want you --

MR. MULHERE: You know, I don't know what else to say. I can't really say anything else.

COMMISSIONER MURRAY: Because of the fact that you nor I nor anyone in this room can foresee what five or seven years from now will, you know, potentially be sought for that area, the question that arises, if you can't include everything, there ought to be a means by which you can --

MR. MULHERE: That's why you put, such as.

COMMISSIONER MURRAY: Such as, but --

MR. MULHERE: I can only make my best professional argument, and if it doesn't cut the mustard, then I'm still going to go to sleep tonight.

COMMISSIONER MURRAY: I'm not -- I'm not disagreeing with your argument. I want to clearly understand that what you're achieving with your argument does, in fact, get there.

MR. MULHERE: I know. I know. You're on my side is what you're saying on this one?

COMMISSIONER MURRAY: Yeah. I'm not agin' ya.

I think the community needs to develop, and I think it's important. This, in particular, I think, is very important to get right because of what you want to do with jobs.

CHAIRMAN STRAIN: David?

MR. WEEKS: If for industrial lands there's only a limited supply -- it's pretty large in Immokalee -- but one of the concerns that staff would have about the -- the campground as one example, those are not traditional industrial uses, and the concern would be the inventory of using up valuable industrial land, the limited quantity that we have for nonindustrial land use. It's the same rationale for why over the years the county has amended the industrial district to remove commercial land uses. Let the commercial go to the commercial areas, with the exception of some of those that -- like a restaurant that serves as a support function to the employment center within industrial, but leave the industrial lands principally for industrial development.

It's a lot easier to have a new designation and new zoning for commercial lands than it is to get new industrial lands, so we want to try to protect those.

Unrelated, I think we need to work, perhaps, with Bob on the terminology. That phrase of business services intended to serve the needs of employees and visitors, and then gives examples of day care, restaurants, and convenience stores. No objection to the examples, but the terminology business services is a specific SIC terminology, which means something very different than the listing here. I think we just need to -- I think we need to just clean it up a little bit.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Can you tell me in the industrial district, how many acres are in here?

MR. MULHERE: Overall in the industrial district? I'm sure we could get that for you in just a second.

I did want to -- while he's looking for that answer, if I could, I just wanted to point out that there's an awful lot of ag. zone land on the outskirts of the urban area and outside of the urban area that would allow for campgrounds and camping. So there's a lot of room, and the airport itself allows it. So I just wanted to give you some sense of comfort on that.

CHAIRMAN STRAIN: Okay. So David, while that's -- who's looking it up, David? Okay.

MR. MULHERE: Because those are the only residential on the spreadsheet, yeah.

CHAIRMAN STRAIN: So from a perspective of your department, do you have any problem leaving in the references to those uses in the IN district?

MR. WEEKS: No. I'll tell you one thing I would suggest that we specifically add though, and that would be a specific reference to the industrial zoning district, because that is absent here. So we've identified a lot of uses, and I recognize it says including, but there's a long list of uses, but they may not capture everything that's allowed in the industrial zoning districts. So to play it safe, let's make sure we include that industrial zoning district list of uses.

CHAIRMAN STRAIN: Okay. Did you get that, Bob?

MR. MULHERE: I did, and I'm not going to try to complicate it, but I'd like to give you a little additional information.

In the -- the industrial district, the IN district, as we're proposing it, it's 754 acres, but I don't think that gives the full answer you're looking for. So what I would say to you is if you -- if you include the industrial district and the

industrial mixed-use district, which is here, and the Immokalee Regional Airport which allows industrial uses, you're talking about a total of 3,099 acres out of the 17-and-change acres.

MR. WEEKS: That information's in the staff report on Page 9 near the bottom of the page. I think that may be what Bob's reading from --

MR. MULHERE: Yes --

MR. WEEKS: -- the proposed industrial acreage by category.

MR. MULHERE: -- and just by comparison, previously looking at industrial designated lands in the existing Immokalee Area Master Plan, it was 2,643.5, and now we're proposing just about 3,100. So there is an increase of about 455 acres of allowable industrial-type lands.

CHAIRMAN STRAIN: Okay. Are --

MR. MULHERE: And, excuse me, 100 of that 500-acre increase is the addition to the airport for the extension. Thank you. That's a good point.

CHAIRMAN STRAIN: You know, your forecast model indicated it needed 1,600 more acres. But we'll get into that when we get into the supporting data, so --

MR. MULHERE: And I think that's very much tempered by the current economic conditions that probably was not factored in when that was done. So -- I mean, we'll be happy if we can begin to fill up what we're proposing.

CHAIRMAN STRAIN: I don't disagree with you. I'm just trying to -- we got a lot of supporting data that we still have yet to go through, and some of the detail and supporting data clash with the analysis we have.

MR. MULHERE: You may be wondering, well, why we didn't update or something. We're only using the best available data. We're not doing any kind of new analysis or new research, new collection of data. We're using what's available, which is all DCA requires.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: The reason that I actually was asking that question is that we just approved the Immokalee Airport --

MR. MULHERE: Yes.

COMMISSIONER CARON: -- PUD. That was five million square feet of industrial. You've already -- you've always had this industrial subdistrict, which is another 754 acres. And I don't know how many million square feet that will add to industrial.

And my questions are actually coming from the next category, you're adding -- you took out of low residential and added it in this additional category of industrial mixed use.

MR. MULHERE: We took some out of it, yes. Some out of commerce center, some out of business park, and created industrial mixed use, which is a buffer from the hard -- the heavy industrial and the residential.

Immokalee, in our perspective, has too much residential and not enough residential and mixed-use zoning.

COMMISSIONER CARON: But it's going all the way to C5, so you haven't -- there is no transition.

MR. MULHERE: Well, there is because we also increased the customers center mixed-use district which allows for the -- the full range of commercial uses but doesn't allow the industrial uses.

I mean, you have industrial today throughout the county immediately adjacent to residential. It's how you buffer it, it's how you buffer it. But what we've done is tried to put a light industrial, a lesser industrial, you know, immediately adjacent to the airport and immediately to the industrial designation.

CHAIRMAN STRAIN: Okay. Well, the way we're going to leave B1 is David recommended a few things to be struck.

MR. MULHERE: Yep.

CHAIRMAN STRAIN: But basically the use references will stay in. Is that, David, where you're at?

MR. WEEKS: Yes, sir.

CHAIRMAN STRAIN: Okay. Let's move on to B2.

MR. WEEKS: And the -- my suggested addition of specific reference in the industrial zoning district.

CHAIRMAN STRAIN: Right.

MR. WEEKS: And we'll work with the agent to clear up a little bit that phrase business services because of the SIC code connotation.

CHAIRMAN STRAIN: And could you get the language back on the screen for us?

MR. MULHERE: Oh, sorry.

CHAIRMAN STRAIN: No problem. We're going to move to B2, which is the industrial mixed-use subdistrict.

Is there -- anybody have any questions on the industrial mixed-use sub- -- Mr. Vigliotti?

COMMISSIONER VIGLIOTTI: Brad.

CHAIRMAN STRAIN: Oh, Brad?

COMMISSIONER SCHIFFER: Thank you.

Bob, the -- when you're referencing the C4 and the C5, you know how the -- all these uses inherited, prior uses, in other words C4 inherits C3, C3 inherits 2C.

MR. MULHERE: Yep.

COMMISSIONER SCHIFFER: Is that what you intend to have happening here?

MR. MULHERE: Yes, but to make sure that we were allowing the C4 and C5 uses.

COMMISSIONER SCHIFFER: Okay. So essentially you're allowing the uses of C1 through C5?

MR. MULHERE: Yes. I think there will be less demand for those uses, but there's no reason not. They're low-intensity uses.

COMMISSIONER SCHIFFER: Would that be a better way to put it, or do you want to make the person realize that they have that inherent use?

MR. MULHERE: Well, if you look at -- I could be wrong, but I think if you go to the Land Development Code and look at C4, it says that all the uses -- at least it used to, and I don't know if it still does.

COMMISSIONER SCHIFFER: Right, it does.

MR. MULHERE: But all the uses -- okay, I think you're covered.

COMMISSIONER SCHIFFER: Okay. But in other words, based on that inheritance, you're essentially allowing C1 through C5?

MR. MULHERE: Yes.

COMMISSIONER SCHIFFER: So why don't you just say it, and then everybody knows it? They have to be smart enough to know that.

MR. MULHERE: We could do that. I mean, there's no harm in doing that. As it stands, it is a fact that if you are C4, you get everything from C1 to C3, and if you're C5 -- so by clarifying it, maybe it makes it cleaner.

COMMISSIONER SCHIFFER: Well, there might be some -- you know, some guy may be wanting to do something as C1 and doesn't know that, opens this up, sees that, and -- you know, it's -- you know, the inheritance thing. If your intent is to use all those uses, then let's just let them.

MR. MULHERE: I don't object to that.

CHAIRMAN STRAIN: Well, how does that dilute your commercial district by allowing the C1 through C3 and actually suggesting that it can be used in the industrial mixed use? I mean, if you really want this to be for the lighter industrial, C4 and C5, but now you're allowing it C1 through C5, won't you see a predominance then of C1 and the other light uses that could go elsewhere?

MR. MULHERE: Only -- only if it's an appropriate location from the market perspective for those uses, and I don't think it will be.

I mean, there could be some C1 uses that somebody might -- some office use or some other use. I don't know what it might be that might be appropriate there. But you're going to put a convenience store where it's appropriate to put a convenience store, and the land values are going to be significant that if you don't have to by industrial-zoned land, you won't buy industrial-zoned land. You'll buy land that's more reasonably priced for that use.

So I didn't want to -- I mean -- look, the way it was written and intended to be applied, C4, C5, and business park districts would be allowed; the uses in those districts would be allowed. I don't know if it makes any sense to restrict those C1-, C2-, C3-type uses.

CHAIRMAN STRAIN: I was just asking. It's your -- go ahead, Bob.

COMMISSIONER MURRAY: If you had -- let's say for the sake of argument what we know are targeted industries, medical and research -- and I don't know what rehabilitative centers are yet -- but high technology and so forth, are they going to be constrained to be in these places, or can they still occupy lands that they would choose that would be appropriate but through a PUD or --

MR. MULHERE: They can.

David, the question was -- and I just want you to hear this because -- the question was, if someone wanted to

come into Immokalee with a targeted industry, are they restricted to those designations --

COMMISSIONER MURRAY: The subdistrict.

MR. MULHERE: -- subdistricts that -- that would allow that use, and generally the answer is yes. There is an alternative without having to amend the Comp. Plan, I'm thinking at least in the urban area, you have a business park district, right? And that can go anywhere?

COMMISSIONER MURRAY: Well, before you proceed to answer, let me enhance that question, because we did listen to a gentleman, a fellow by the name of Mitch, who told us about a situation. And you know, I was wondering how we could facilitate such a thing.

MR. MULHERE: Well --

COMMISSIONER MURRAY: And I recognize it's not a direct correlation there, but using a targeted industry that may want to have corporate headquarters or whatever.

MR. MULHERE: Yeah. I guess my feeling is, there's ample opportunity with what we've put here for these types of uses to go in these locations where we already identified them.

The situation that Mitch identified was a corporate headquarter related to the agricultural industry, and we agreed we would look at the ag. designation to address that.

COMMISSIONER MURRAY: Okay. Let me go further then, because what you and I both know -- I suspect others do -- is that with these targeted industries, the idea is you get a core industry in there, and then other like and supporting industries tend to build around it in support of or in -- whatever.

And I just wondered whether or not you end up with a hodgepodge as opposed to the intended clustering. So that's the real -- where I'm going with my questions ultimately in this. Does that -- does the way this is structured, does it facilitate that?

MR. MULHERE: I think it does.

COMMISSIONER MURRAY: It does?

MR. MULHERE: I think it does.

COMMISSIONER MURRAY: If you do, then I'm good.

MR. MULHERE: I just did want to get back to C1 through C5 briefly. I'd like to reserve -- as long as we're looking at things, I'd like to just take a look at that in response to your question to make sure that -- that we're not creating an opportunity where it would be inordinate -- would take away from the commercial district. And I will take a look at that, and maybe that we want to restrict it to more of the C4, C5 uses, and that relates to your question, too.

CHAIRMAN STRAIN: That sounds good.

Okay. So anything else on B2 before we moved to --

COMMISSIONER MURRAY: Yeah.

CHAIRMAN STRAIN: David?

COMMISSIONER MURRAY: I just wanted to find out what rehabilitative services centers were; what is a rehabilitative center? Is that where someone would go and get physical therapy and so forth?

MR. MULHERE: Yes. I mean, it could be a number of different things. It could be physical rehabilitation, it could be job rehabilitation, you know.

COMMISSIONER MURRAY: Okay.

MR. MULHERE: Employment rehabilitation.

CHAIRMAN STRAIN: David, your turn.

MR. WEEKS: Couple of comments. One Ms. Caron's already touched on, and that was staff's concern about the transition, the stated intent of this subdistrict, to provide a transition yet it allows a rather high intensity of uses that would be next to low industrial -- low residential.

Another point -- more of a point of information. Because this allows for a mix of uses from an array of commercial to limited industrial uses, implementation of this would require rezoning to a PUD for either the mix of uses or to just allow those light industrial uses. I use the term light industrial in a broad sense, generic sense, because we don't have a light industrial zoning district. We have the industrial district, we have the commercial districts. We do have a business park district. And I think we have a research and technology park PUD provision now in the LDC as well, which leads me to say, number one, for that mix of uses or just for those light industrial would require PUD zoning unless the subsequent LDC amendments that will be prepared for Immokalee provides for either a separate

zoning district or overlay that would accommodate these types of uses.

Secondly, I would suggest that in addition to the business park district being included, that we also should include the research and technology park if I am correct that there's a zoning district for that.

A different point is the business park district itself does have a list of uses, but it also has development standards. And this body reviewed the Naples Daily News PUD a few years ago, and it was relying upon the business park subdistrict and the FLUE, which has standards that are similar to what the business park zoning district has, and that's to require a lot of open space, pocket parks, pedestrian facilities. It's not just, here's a bunch of uses and you're allowed to have them. It's also a certain design that's intended.

And as this is worded, which is not unlike the existing industrial subdistrict in the present Immokalee Master Plan for which I see this as a weakness, we don't say, you must comply with those development standards and design parameters under the business park. It only says you can have those uses. And to me that's a disconnect. If you want those uses, then you need to develop a business park subject to those design parameters, not just be able to grab those uses and place them in a totally different context.

So I would recommend that if business park district uses are allowed that they only be allowed subject to those design parameters.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Well, personally, I think -- that's a little bit of where I was going to end up going, David. If in -- point of fact, you really want a transition area between your industrial and your residential, and most of this either goes to residential or -- some of it backs up to commercial here, but probably C1 through C3. I can't really tell from this right now.

It would seem to me, rather than industrial mixed use, that you go business park and technology park. Those are good transitions. It's all the kind of targeted industries you're going for, plus more. So I don't know what you would lose, and the transitions would be better because there would be more open space. They are more parklike atmospheres. There's more things that would benefit the community.

MR. MULHERE: I guess what I would say in response is, number one, what you have right now is industrial immediately adjacent to residential. That's what you have right now in most of the circumstances. Industrial immediately adjacent to low residential. I mean, so that's what you have now.

We thought we were taking it a little bit better by having this industrial mixed use, a step down in intensity from what you have right now, which is industrial immediately adjacent to low residential.

As far as the business park, I don't think that's a bad suggestion. That's why we included that use there. But I will tell you that there's some concern over the inability to use that district over the long time that it's been in place based on some of the standards that are in there, and particularly for Immokalee.

So it might be that we might have to look at the business park standards as it relates to Immokalee as part of the LDC amendment process -- not trying to find more work for myself -- but that may be something we need to do to make sure that it is usable. It's no sense if it isn't usable. But we felt that this had a good variety of uses as a transition down from the full range of industrial uses to something less, and then you go to low residential. There are buffer requirements. I mean, again, throughout the county you have industrial immediately adjacent to residential. You have to buffer appropriately.

CHAIRMAN STRAIN: Well, in the case where we don't have any straight zoning that will fit this particular example, why don't we label that industrial mixed-use subdistrict IMU PUD and then define it as, if these types of facilities want to be utilized, they then go to PUD?

MR. MULHERE: Well, we don't have to label it that way. I think we could just -- I mean, we can -- all of that is ag. zoned, at least I think it is.

MR. WEEKS: If I may, Mr. Chair. I just want to point out that this IMU down here that's southwest and south of the airport, this is either presently industrial or commerce center --

MR. MULHERE: Right.

MR. WEEKS: -- industrial, so it's already allowed, intense uses. The new industrial is this narrow strip along the west, northwest, and then the north side of the airport.

MR. MULHERE: Of the airport.

CHAIRMAN STRAIN: Well, if we are changing this to the IMU and we don't have any standards for such -- and but -- and obviously we can't force the existing owners to go into a PUD, then what are we going to do?

MR. MULHERE: Well, now see, I -- I guess I would disagree with that. You've got ag. zoning. They're going to have to rezone it. So there's two options. We either write standards, a zoning district -- which I would prefer not to do. I would prefer to require a PUD rezone.

CHAIRMAN STRAIN: So those existing guys in those small parcels down along the roadways, they're in an ag. zone still? They're not zoned for the commercial that they're operating under?

No. I know up there, but the IMU goes all the way down to the southeast side and around as well. Yeah.

MR. WEEKS: Those areas are presently zoned -- a lot of it's that C5. None of that is ag.

CHAIRMAN STRAIN: Okay. But we're going to be turning all those into an IMU?

MR. MULHERE: We're going to allow them to, if they wish to, rezone their property consistent with IMU or use it if it is already in that fashion.

CHAIRMAN STRAIN: Okay. That's where I'm worried about having standards, because you're going to have to have a standard that fits all those properties for them to be then consistent with the IMU that they are being forced into.

MR. MULHERE: If they rezone it. Under their current zoning, they can continue.

CHAIRMAN STRAIN: Okay. So then from a legal point, could we go ahead and, if they want to change the zoning to the IMU, can we make that a PUD requirement, or their option is to leave it like it is, which is a standard zoning format that they've had for years?

MR. MULHERE: So, you know what, if I could, Chris just raised an issue. I mean, it's true that they could rezone to any district that's consistent with that industrial mixed-use designation, which would include the C4 and C5, and probably the business park and the research and technology park, or a PUD that could incorporate, you know, all of those uses.

So they're not limited to a PUD. So, again, we're not requiring a PUD, but if they want to use a mixture of uses, just like is the case today, they may have to go through a PUD zone.

CHAIRMAN STRAIN: Okay. I'm worried about how to get there.

MR. MULHERE: I know.

CHAIRMAN STRAIN: I mean, everybody's got an idea that this is the right thing to do. Not everybody's, but let's say there's an idea that this is the right thing to do.

David or somebody said a little while ago that it'd have to be basically a PUD because they don't have a straight zoning for this designation. How do we get there then?

MR. WEEKS: Okay. Hopefully what I said was, if they wanted to get that mix of uses. I agree with what Bob said because, for example, C4 is allowed. So if someone says, I want just C4 uses, they could ask for C4 zoning only.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: But to get the mix of some commercial, some light industrial, or to get just those light industrial-type uses for which there is no single zoning district, conventional, then they would have to rezone the PUD.

MR. MULHERE: Which is true really anywhere today if you want a mixture of uses.

CHAIRMAN STRAIN: Okay. Do we need to state that in this paragraph somewhere that the PUD process would have to be utilized, or is that the only option that's out there?

MR. WEEKS: I think it's a given.

CHAIRMAN STRAIN: Okay, fine.

MS. VALERA: Mr. Chairman, if I may. Then I wonder then if it's really needed to have all these uses spelled out here in the GMP. I mean --

CHAIRMAN STRAIN: Uh-oh. We're going to start that again, huh? Good point.

David, that's your call. It's your -- Carolina, you guys are the ones that accepted it in the first one. If you don't like it in the second one, state why and --

MR. WEEKS: This one's a little different because this does not correlate directly with a zoning district. The various -- on Bob's handout, Page 37, where it says, the subdistrict also allows for less light manufacturing, processing, and so on. Some of those uses, many of those uses are allowed in industrial zoning district, but we don't want to -- I don't think the intent is to allow all uses from the industrial zoning district.

MR. MULHERE: No. In fact, some of the uses probably aren't permitted in the industrial zoning district. I

would caution against that. I feel very, very secure in recommending that you list the example uses in these areas.

MR. WEEKS: My point is, there's not a single or even group of zoning districts that we could reference in the LDC that would capture all of these uses. It's going to be some zoning districts, like C4 and C5, and portions of other zoning districts.

So generally I would agree with the approach of, why list all the uses, just reference the LDC, what zoning district they can have. But in this case, it doesn't exist.

CHAIRMAN STRAIN: Okay. So in this case you favor leaving the uses in here such that they are?

MR. WEEKS: Yes, I do. And we'll get to potentially struggle each time someone comes in and says, well, I'm proposing light manufacturing, and we have a debate on whether what they're proposing is or is not light manufacturing. But I don't see a way around that.

CHAIRMAN STRAIN: Well, the only thing you might want to do is elaborate that, subject to as stipulated in the Land Development Code, and that way they're limited to uses defined in the Land Development Code, or can you not do that?

MR. WEEKS: I don't know if these terms are defined in the LDC.

MR. MULHERE: No, they're not and --

CHAIRMAN STRAIN: Well, they will have to be for implementation, won't they?

MR. MULHERE: Well, you have all kinds of new uses coming up. I mean, you have all kinds of uses that we want to attract that we don't even know about today.

CHAIRMAN STRAIN: Well, that certainly leaves the land use open to a lot of subjectivity down the road.

MR. WEEKS: It does, and I don't necessarily think that's a bad thing. I mean, ordinarily my preference is, if you want C3 uses, just reference the C3 zoning district in your amendment. This is a different animal.

MR. MULHERE: We have to have some flexibility. We have to be able to use the interpretative skills that we as professionals have honed over years of experience, and we can take a situation where we don't have an answer and come up with what's the best answer.

I mean, I'm trying to help this community have a plan that will help them diversify. And every time we put a -- further ratchet it down, it becomes more difficult. This district should be -- have some flexibility. I'm sure we can figure out when a use comes in that we didn't know about, whether it falls in here or not. And if not, we'll come before you and we'll ask you about it.

CHAIRMAN STRAIN: Or you'll send a land use attorney in who will argue that he's got a right to do this because of the flexibility that you didn't expect, and that's what we have to worry about, because we hear it -- we get it constantly, Bob.

MR. MULHERE: I understand that, but I don't know how much trouble you can get in in this industrial district here. The only question would be a level of intensity, whether some more intense use should be in industrial land or in this land, you know. It's pretty clear what's permitted, if you -- as I look at it.

CHAIRMAN STRAIN: David, in your -- in staff's position, did you accept this in the first round? I mean, in your sufficiency responses, did you have any complaints or concerns?

MR. WEEKS: I don't recall. Because of the revisions that have occurred, we might have raised some issues and they might have addressed them. I know the prin- -- oh, yeah. I'm not sure if it was this specific subdistrict or the industrial subdistrict that an earlier version of their petition would have allowed mobile homes, and we objected to any residential being allowed within an industrial subdistrict of any kind.

I know we had during sufficiency and continue to have some concern about the transition, because it does state the intent to transition. And I don't disagree with what Bob said. Right now the industrial designation is adjacent to low residential, but the stated intent is to provide transition. And my thought would be lesser intense uses would be more appropriate to actually provide transition.

CHAIRMAN STRAIN: Packing houses and warehousing are the same that's allowed in the industrial district up above, and they certainly aren't much of a transition.

MR. MULHERE: But they exist.

CHAIRMAN STRAIN: I realize that, but I'm not sure it fits a transitioning attitude, if that's what you're trying to go to.

MR. MULHERE: I can tell you that this community, in reviewing this plan, wants those uses to be allowed in this district.

CHAIRMAN STRAIN: Well, maybe your best bet is to leave it all industrial and not create this animal that nobody knows what it is, and now we're going to have to go forward and try to figure it out in the future.

MR. MULHERE: But industrial allows more uses than what we have here. This is a step down.

CHAIRMAN STRAIN: David, how would you write implementing language, or how would you see the LDC implementing this district use-wise or description-wise?

MR. WEEKS: I don't know that we would need an LDC amendment to implement this. It would -- it's going to have to occur through a rezoning, and at the time of the rezoning, the county collectively would be comparing the uses proposed against the uses listed here.

CHAIRMAN STRAIN: Well, if that's the case, then I can see a lot of people coming in and saying a lot of things are manufacturing that are more intense than what you may see as a transition. If that's -- if this has got to be the language at the least level, we might want to consider, everywhere where you have the word allows, might have the word may allows -- or may allow. That way there's some relative ability to say, well, that says may allow, and this type of manufacturing was one that was not considered as one that would be allowed.

MR. MULHERE: I personally think that's going to create more questions of interpretation when someone says, well, I don't think it may allow that one, but -- but hey. I mean, I'm just --

CHAIRMAN STRAIN: Well, I don't know, Bob, I'm just -- this is --

MR. MULHERE: I'm trying to figure out what is the objection to a step down in intensity? I recognize every one of these districts is going to require some interpretation at some point or another, every single one of them.

CHAIRMAN STRAIN: Okay. How do you see this as a step down in intensity?

MR. MULHERE: Because it's got less allowable uses than the industrial district which is immediately abutting the low residential right now today and, in fact, is in airport industrial.

CHAIRMAN STRAIN: But as far as some of the uses in the industrial district above it, they're just as intense as the ones that are now being allowed in this one below it.

MR. MULHERE: Some are, and -- but we believe that those can be appropriately buffered, you know. And if you want to use a mixture of uses, you're going to have to come in with a PUD, and you're going to have to demonstrate how you're adequately buffering against your adjacent property.

CHAIRMAN STRAIN: Well, I think we need to move on past this one and give it some more thought for the final read, because I'm not sure I'm comfortable with it yet, but maybe there's going to be more language and things added as the future -- you guys work it out.

MR. MULHERE: Let me ask you a question. Would it give you some sense of comfort if we actually required a buffer, a substantial buffer, in the Comp. Plan adjacent to low residential?

CHAIRMAN STRAIN: I'm not sure what everybody else's concerns are. I'm trying to figure out why you need to create this hybrid to begin with, that's all. That's kind of where I'm at. Based on everything now that we've read and the intensities there, some of which are the most intense ones used in the industrial, and they're going to be allowed because they're there now, but because they're listed here, they're going to be allowed to be recreated.

MR. MULHERE: And the reason is because the industrial doesn't allow also that commercial mixed use that you have in here. This is a district that allows a mixture of uses.

CHAIRMAN STRAIN: I'm just not sure you'd get the transition. That's why I'm wondering why it's worth it, but --

MR. MULHERE: You know, I guess I wish I didn't use the word transitional. We wouldn't be having this discussion.

CHAIRMAN STRAIN: Well, you'd have to have some reason to want to change it to an IME over IN.

MR. MULHERE: It's the mixture of uses. It's the mixture of uses.

CHAIRMAN STRAIN: Okay. Anybody else have any comments on B2 at this point? I think, Bob, the best thing to do is, we're going to come back for a re-discussion. Might be feeling a little bit better about it by that time.

B3. Anybody have any issues on the Immokalee Regional Airport subdistrict? Could you put that language back on here?

You see the last line, it says, other uses deemed to be compatible. I would just say compatible and consistent with the adopted airport master plan. We don't know what the CCA's needs or visions are, and I don't know how can you have an article subject to that.

MR. MULHERE: Say that again. Okay.

CHAIRMAN STRAIN: See the word -- the second line up, see after the word compatible, strike "with" all the way down to "the," compatible -- there you go. Compatible with the adopted airport master plan. Wouldn't that be what you --

MR. MULHERE: I'm going to suggest, as may be amended, because they're going to amend that plan.

CHAIRMAN STRAIN: Yeah, that's fine. But I think that's a better way to state it.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: Anybody else have any issues on B3?

If not, we'll move to the overlay's features. Now, this is a rewrite again, so we're going to have to turn on the other pages to take a look at it. C1, and that pops up on Page 37 of the rewrite.

MR. MULHERE: There isn't a great deal of change here, or I don't think substantive -- I don't think there was a great deal of substantive change in the difference in what you had and what you see except that we would probably need to potentially remove the reference to density and intensity blending depending on what we do with that.

There is a limit -- we did add a limit, which does make sense to me -- that would limit the density in this Lake Trafford/Camp Keais Strand system overlay to four dwelling units per acre, which is already allowed in the low-residential subdistrict, but we're not going to grant any bonuses in that area because we don't want, you know, higher development in that -- in that location and that.

And it -- let's see. What else did we add? We added a provision that would clearly grandfather, protect, vest, whatever, the little bit of development that has already occurred in there that wasn't subject to these. So there are -- there is a little bit of development on the edges that's some ag. clearing and, I think, some houses, and so they're exempt from it unless -- as long as they were legally -- legally cleared, and that's the standard language that we use in the code for that.

CHAIRMAN STRAIN: Okay. Anybody have any questions?

Bob, we reference to, in the first paragraph there, to density bonuses on the end of it.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Now, that means the by-right provisions do not apply?

MR. MULHERE: That would be the way they would -- I would, yeah, interpret it.

CHAIRMAN STRAIN: Okay. David, is that concurrent with your read of it? You're still looking -- we're on Page 37 of the new write. I know you haven't had a lot of time with this.

MR. MULHERE: I can tell you that was our intent. No density bonuses.

CHAIRMAN STRAIN: Including no by right?

MR. MULHERE: Yes.

COMMISSIONER MIDNEY: And this came during the EAC meeting.

CHAIRMAN STRAIN: While Dave's taking a look at that, I've got one more --

MR. MULHERE: We could clarify that. We might want to just make sure we clarify it.

MR. WEEKS: The question was about the last -- the last sentence?

CHAIRMAN STRAIN: The last couple words on the first big paragraph, it says, are not eligible for any density bonuses. I want to make sure that includes, not the by-right provision as well. That's all I was asking. And is that language sufficient to ensure that, because that was the intent not to include that.

MR. MULHERE: I believe it, at least -- it falls -- some of it falls under the density bonus provisions. We'll have to check, because I think it would apply to that.

MR. WEEKS: I know we were discussing earlier under the density rating system the density bonus of four units per acre versus, I think it was Paragraph 1C or D that was the -- to get you to the base density. And I would think of that as a bonus. But maybe for clarity, just say, not eligible for any density bonus, including by right.

MR. MULHERE: Yeah, I think that would --

CHAIRMAN STRAIN: I think that'd be safer to do.

MR. MULHERE: Yep.

CHAIRMAN STRAIN: Okay. The last paragraph, it talks about -- whoa.

MR. MULHERE: I know. It's a little hard to do this.

CHAIRMAN STRAIN: Well, you're doing a lot better than Patrick. Could you scroll down to your last paragraph.

MR. MULHERE: Yep.

CHAIRMAN STRAIN: Right there.

MR. MULHERE: Seminole reservation language?

CHAIRMAN STRAIN: Yeah. See where it says, if development on a Seminole reservation severs the connectivity, my questions was about what the word severing means. Does it mean 100 percent, 10 percent, restricts?

MR. MULHERE: That's a good question.

CHAIRMAN STRAIN: Right.

COMMISSIONER MURRAY: Severs means to cut apart. Yeah, technically it would mean 100 percent, but I don't know that --

CHAIRMAN STRAIN: I don't think you mean that though, because if they cut 99 percent of the water flow and don't have wetlands anymore, what have you got left?

MR. MULHERE: I mean, does the word functionally -- does the word substantially -- I'm just asking a questions, you know.

CHAIRMAN STRAIN: Well, substantially is just as ambiguous. Functionally, I guess a wetland can be determined to be functional or not. Maybe that's the best word.

COMMISSIONER MURRAY: If you want to say completely, you could.

MR. MULHERE: No, I don't think we do. I think we -- I think we -- you know, if we have a -- I guess for lack of a better way to describe it is a -- lack of function for that wetland-connected system due to something that occurs in the reservation, that would sever it, so -- so if we say functionally, I think that clarifies it.

COMMISSIONER MIDNEY: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER MIDNEY: The flow is going east to west. So if the Seminoles did do something, that would just create an isolated wetland on the other side of it. I don't think it would destroy it.

MR. MULHERE: The rest of it wouldn't, no.

CHAIRMAN STRAIN: Okay. So what is this saying? If the development severs the connectivity east of the reservation, the wetland protection measures will not be applied to those severed eastern lands.

So then, Paul, what you're saying is, those lands still are valuable wetlands, so why would the reservation -- why would the protection measures not then be applied?

MR. MULHERE: Because they wouldn't be part of the system. They'd be severed from the system. And these are to apply -- they'd still have to adhere to all wetlands, state, federal, Collier County; just the additional measures, the greater wetland protection measures are intended to apply -- this came from staff. I didn't -- environmental staff.

CHAIRMAN STRAIN: Well, it doesn't matter. We still can question it.

MR. MULHERE: No, I know that. I'm just telling you that there's a reason why I think they wanted that included, because I think there's no value to that end of the system once it's severed from a system-wide perspective.

CHAIRMAN STRAIN: Okay. So what that means though is that wetlands connected to the Lake Trafford/Camp Keais Strand system overlay would no longer be part of that system overlay if they were severed by this -- consistent with this language.

Okay. And if they were severed by this language, what would they then be controlled by?

MR. MULHERE: That was Morse code. That was SOS.

CHAIRMAN STRAIN: From who?

COMMISSIONER MURRAY: From Terri.

MR. MULHERE: Sorry, I couldn't resist.

CHAIRMAN STRAIN: Oh. It's not been hard enough on you today, I can tell.

MR. MULHERE: They would be controlled by the existing wetland protection mechanisms. Let me say, those that are not within the reservation would be controlled by those because those within the reservation --

CHAIRMAN STRAIN: Are controlled by them?

MR. MULHERE: Yeah, we have no control over.

CHAIRMAN STRAIN: Paul, is that the way you understood it?

COMMISSIONER MIDNEY: Yeah. I can understand the logic of it from the county's perspective. My understanding is that the Seminoles are going to use that -- preserve those wetlands as part of the tourist thing that

they're planning to develop, but we don't know until it happens.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And I think the word functionally is good because I think it gives some evaluation. At least you can do an evaluation and determine, is that -- has that occurred? Is there a loss of function?

CHAIRMAN STRAIN: Okay. Now, the other item -- does anybody have anything else on the C4 portion of the overlays and features?

Okay. How about -- oh, David?

MR. WEEKS: The -- well -- it -- okay, I'd like to buy a vowel, please.

MR. MULHERE: It sounded like you had a lot of vowels.

CHAIRMAN STRAIN: It's been a long day.

MR. WEEKS: Boy. Policy -- bear with me. This -- so I get my point out. Policy 5.1.7 of the original submittal provided that essential services were allowed in all land-use districts, and then in Bob's handout version that's been stricken.

In most but not every district or subdistrict it provides that essential services are allowed, which we have no objection to, we support. But I think the industrial subdistrict, one or more of those, fail to include essential services, and I would suggest that we add it. That's more of a global comment.

Now, specific to the overlay that we're discussing, I don't think -- it's silent to essential services, and I would suggest that we add language similar to the conservation designation that allows a very -- allows essential services on a very limited basis, because after all, the objective here is to protect these lands. They are in same vein as conservation lands. And if it's silent to essential services, that certainly begs the question that essential services would be allowed without elimination.

CHAIRMAN STRAIN: I think that's a good item.

MR. MULHERE: So the conservation where we talked about designating lands conservation; is that what you're talking about?

MR. WEEKS: I'm thinking of the conservation designation in the FLUE. I can look that up.

CHAIRMAN STRAIN: So you want to add an allowance for limit essential services in this overlay?

MR. WEEKS: Yes. Again, the concern would be, without language to the contrary, if someone came in saying, well, we want to X, Y, Z essential service, I think staff would be hard pressed to say no, even though that might appear and, in fact, be contrary to the intent of the protection measures for these very lands.

CHAIRMAN STRAIN: Okay. Bob, you have any problem with that?

MR. MULHERE: 516? Okay. What page is that on? Let me just get to that. I mean, what I thought we were going to do, and maybe we didn't -- I just thought it and didn't do it -- so let's just take a look at it -- was that we were going to -- other uses provided -- it should say provided for in the Collier County Future Land Use Conservation Designation. Does that not cover that? So, basically, you have no conservation-designated lands right now in Immokalee.

MR. WEEKS: Right.

MR. MULHERE: But as lands are acquired, or even those that have already been acquired, they will be then designated conservation. And it says here, inclusive of public access and passive recreation and other uses provided for in the Collier County Future Land Use Conservation Designation. My thinking was that the Collier County Future Land Use Designation, conservation, limits essential services.

MR. WEEKS: I can't read this.

MS. VALERA: Bob, actually the Land Development Code has restrictions of the types of essential services in conservation.

MR. MULHERE: I thought we did that in the Comp. Plan as well.

CHAIRMAN STRAIN: Okay. David, just before -- something just dawned on me -- and excuse me for going off on a completely different tangent.

Kady, I know you're probably watching us, and we took a break a little earlier than I had indicated, and if you still need facilities management to get in here, we can accommodate that at any time. You've just got to let me know when.

So I know she's monitoring this show. And we were going to try to break around -- closer to three o'clock. We broke a little early, and during that break I think facilities management wanted to come in and set up this room

before they left for the day.

They're still welcome to do that. If you're listening, just let us know, stick your head in the door, and we'll break for a while while you set up, and then we'll resume.

So with that in mind, Bob and David, go ahead. I'm sorry, David. It was your turn.

MR. WEEKS: I didn't follow all of what Bob was saying about the conservation designation uses. But if it -- if language is added to the overlay to capture the uses in the conservation designation, that would be sufficient. The conservation designation does include aside from the various other limited uses. One provision is essential services necessary to ensure public safety, and then the other is essential services necessary to serve permitted uses identified in the list of allowable uses above, and it goes on and on. But, again, it's much narrower than the typical broad allowance for essential services.

MR. MULHERE: So I'm going to suggest -- I know it's not typed exactly right. But I'm going to suggest that in the language that we add a phrase to the existing language, which reads, for the purposes of conservation inclusive of public access and passive recreation and other uses, including essential services as permitted therein provided for in the Collier County Future Land Use Conservation Designation.

So I think that would be very clear that the limitations that exist in the conservation designation in the FLUE apply in the Immokalee conservation designation.

CHAIRMAN STRAIN: Okay. Why don't we, right now, take a break for about eight minutes till four 4 o'clock. And we may cut it short when we finish this section and then go over what we need to do on the 4th.

But I want to go over and make sure facilities management didn't need to get in here. So let's break until four. We'll come back in eight minutes.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Thank you, sir.

We're a little late, but we're back on. And we have our setup complete for this evening's meeting, and roll.

We left off on Page 49, Item C1. I believe we completed that discussion. We need to find out if there's any discussion on C2 or C3.

MR. WEEKS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. WEEKS: Actually I don't think we did finish C1.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Bob and I spoke very briefly during the break. Bob was discussing making some changes to policy 5.1.6 which pertains to acquisition of lands within the -- I'm not sure if it's specific to wetland overlay, but anyway --

MR. MULHERE: No.

MR. WEEKS: It's not, okay. What I was suggesting, and Bob had said he agreed with, was actually within the wetland overlay itself, we would add language that provides that essential services within the overlay are allowed as per the conservation designation.

CHAIRMAN STRAIN: Okay. That's what you guys were starting to work on when we went on break. That works fine. Anybody have any concerns?

Okay. Let's look at C2, Seminole reservation, SR feature. Does anybody have any issues there? How about staff?

COMMISSIONER WOLFLEY: No.

CHAIRMAN STRAIN: Okay. C3, urban infill and redevelopment area feature; any issues there?

Okay. Now, with that, that takes us to the end of the standard language of the Immokalee Master Plan. That does not get us through the revisit to the several or, if not more, policies and clauses that were -- we went through the first time we didn't have additional information from, and let me kind of indicate what those are.

There was a community redevelopment area plan that was referenced, which we didn't have; there was a certified sites program that was referenced that we didn't have; the walkability study by the MPO; the federal enterprise community, whatever that is and the HUBZone, policy 111.

MR. MULHERE: I could go over some of these. If you want, I could give you some updates, and it should be relatively quick.

CHAIRMAN STRAIN: All I'd like to do is read all the stuff that's referenced and take it out, one or the

other.

MR. MULHERE: We've got several of the documents which we can forward to each of you via email; it may have already happened.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And we've copied staff on those. That is the enterprise zone and the hub. Okay. So the state enterprise zone -- anyway, we've got some documents coming to you.

I can talk to you about the certified sites program because I have some information on that.

The community redevelopment plan was the one --

CHAIRMAN STRAIN: Policy 712.

MR. MULHERE: But that was the one where the document really only had substantive data related to Bayshore.

CHAIRMAN STRAIN: Right. So I said, well, give us the right one. When I asked for it previously and you gave it to me, the one you gave me was for Gateway/Bayshore, or Bayshore/Gateway, and I just said, well, find the right one and get it to us.

MR. MULHERE: And we have that, so we're sending that to you as well.

CHAIRMAN STRAIN: Okay. Because we need to read that. It's a referenced document.

MR. MULHERE: So maybe I could talk about the certified sites program.

CHAIRMAN STRAIN: Well, you can talk about it. I still want to see the written part of it.

MR. MULHERE: There isn't anything. Well, I can -- I can send you what the EDC has.

CHAIRMAN STRAIN: Well, then you can't reference it. I mean, how do you reference something if nobody can look it up, but if they have to --

MR. MULHERE: I think.

CHAIRMAN STRAIN: -- they have to find Bob Mulhere and ask him.

MR. MULHERE: No. Well, it's the EDC. It's a program they run. I can get you that, Commissioner.

COMMISSIONER MIDNEY: I'm thinking that it's kind of getting near the time when I have to leave. Maybe if you could just list the things --

MR. MULHERE: He was --

CHAIRMAN STRAIN: That's what I was doing.

COMMISSIONER MIDNEY: -- that you were starting to do, but let's not go into actually talking about them.

CHAIRMAN STRAIN: We weren't. I was trying to get it across to Bob that he can talk about it all day long, but the -- or the master plan could be changed. This item is -- please refer to Bob Mulhere if you can find him in Collier County somewhere.

MR. MULHERE: I don't think I want that.

CHAIRMAN STRAIN: Okay. Get us the written documents that you keep referring to. That's a necessity for those items, and that will be first up on our discussion --

MR. MULHERE: Okay.

CHAIRMAN STRAIN: -- on March 4th.

MR. MULHERE: Okay. So you named five.

CHAIRMAN STRAIN: Okay. Okay. I'll walk them quickly.

Community Redevelopment Area Plan as it pertains to Immokalee, the certified sites program, the walkability study by the MPO, the -- in policy 111 you refer to two others called the federal enterprise community and another thing called the HUBZone, H-U-B, and then, of course, ordinance 03-80 was referred to. I can pull that myself, but if you have it, fine, send it to us.

And then the last thing that I want to emphasize to you is you -- in your supporting documentation, and I saw it in the Florida Enterprise Zone, you referred to the Immokalee Master Plan economic analysis. That was the one done by the state. They refer multiple times in that document to the data they use for the FIAM. And, again, I'd like to see what data they used to produce your economic analysis to make sure it's consistent with the data used in this master plan.

MR. MULHERE: Now, we're chasing a hor- -- we're chasing our tails. We can't get anything else out of the university. We've emailed the author. He has no data. He has no backup data. He doesn't have access to it.

CHAIRMAN STRAIN: Wow. That sure does -- hurts the credibility of the document, but we'll have to deal with that.

MR. MULHERE: I'm just -- I can't manufacture it, you know.

CHAIRMAN STRAIN: I understand. I don't -- if you can't get it, you can't get it.

MR. MULHERE: We talked directly to Dr. Jackson.

CHAIRMAN STRAIN: Okay. Those are the issues I have on my list. If anybody else -- Paul?

COMMISSIONER MIDNEY: The Florida Trade Port Parkway, I'd like to see the map of it.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Oh, that's right, too. You're right.

COMMISSIONER MIDNEY: And then the little square of land that Brad was talking about that was commercial. Remember that little pink --

CHAIRMAN STRAIN: Yeah, the -- it's the commercial that we're suggesting you might want an RT for that. You guys were going to look at that. But that's an issue to do with the master plan that -- you know what he's talking about?

MR. MULHERE: Yes, I do. It's just east -- it's in that primary panther area, isn't it, or close to it?

CHAIRMAN STRAIN: No, no. This was the piece -- oh, you weren't here.

MR. SCOTT: I'll fill him in.

CHAIRMAN STRAIN: Okay. You'll fill him in, good. Okay.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: One thing -- and, Bob, could you do this? You know how you're making the two maps, the past and the future, the proposed map? Could you put those at the same scale. They've very close to being the same scale, so it's not a matter of fitting, but -- and the reason is, it's easy to hold it up to the light and kind of see the differences.

MR. MULHERE: You know, I assume that we can. I would know of no reason why we couldn't do that. I thought we already had.

CHAIRMAN STRAIN: Well, just say yes and cross your fingers. We'll just hope for the best.

MR. MULHERE: Yeah. It may be that we -- well, whatever.

COMMISSIONER SCHIFFER: You can do it, trust me.

CHAIRMAN STRAIN: Okay. That's the list of documents. When we come back next time, we'll go back over those policies we didn't finish, and we need to go through the staff's report, the charts to do the staff's report, and then any questions from the supporting documentation, and I think that wraps up what we need to do on the 4th. And I expect it'd be about a half a day or less, and then we'll -- by that time we need to have a schedule from staff and the County Attorney's Office and you as to where you think this thing is going for its next meeting.

And, David, you had something you wanted to throw in?

MR. WEEKS: Just to mention, as far as walking through the element, the one thing we have not discussed is the Future Land Use Map, and I didn't know if you wanted to consider that today.

CHAIRMAN STRAIN: I think on the 4th. I think we've had enough today.

MR. WEEKS: Okay.

MR. MULHERE: The only thing that I would add or would like to add is that I would like, as you walk through the staff report, for the staff to be able to -- and I'm sure they will be able to -- recognize or, you know, specifically indicate where we have addressed issues through this process either ourselves or through the discussions we've had with you. That would -- that's going to change, you know, their position on a lot of stuff. And we've had discussions with them, but I'd like to see that, you know, become part of the record, density reductions and --

CHAIRMAN STRAIN: Well -- but, Bob, I really think that by the time we get done on the 4th, if staff hasn't got an issue, they don't need to bring it up. By the time you come back to us with your rewrite, staff will come back and say, well, through this whole process we resolved all these issues. We only had these remaining, if any.

MR. MULHERE: That's good.

CHAIRMAN STRAIN: Okay?

MR. MULHERE: Yeah, that works.


CHAIRMAN STRAIN: That work for everybody here? Is there a motion to continue to March 4th --

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COMMISSIONER MURRAY: So moved.
COMMISSIONER SCHIFFER: So moved.
CHAIRMAN STRAIN: -- at 8:30 in the morning at this location?
COMMISSIONER SCHIFFER: So moved.
CHAIRMAN STRAIN: Motion made. Seconded by Mr. Murray.
All in favor, signify by saying aye.
COMMISSIONER KOLFLAT: Aye.
COMMISSIONER SCHIFFER: Aye.
COMMISSIONER MIDNEY: Aye.
COMMISSIONER CARON: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER VIGLIOTTI: (Absent.)
COMMISSIONER MURRAY: Aye.
COMMISSIONER HOMIAK: Aye.
CHAIRMAN STRAIN: Okay. We are continued to the 4th.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 4:22 p.m.

COLLIER COUNTY
PLANNING COMMISSION


MARK STRAIN, Chairman

These minutes approved by the board on 18th March 2010, as presented or as corrected _____.

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