

February 4, 2010

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, February 4, 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, CDES  
Ray Bellows, Zoning Manager  
Thomas Eastman, CC School District, Real Property Director

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the February 4th meeting of the Collier County Planning Commission.

If you'd please rise for pledge of allegiance.  
(Pledge of Allegiance was recited in unison.)

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

Item #2

ROLL CALL BY SECRETARY

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COMMISSIONER VIGLIOTTI: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER VIGLIOTTI: Commissioner Kolflat?

COMMISSIONER KOLFLAT: Here.

COMMISSIONER VIGLIOTTI: Commissioner Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER VIGLIOTTI: Commissioner Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER VIGLIOTTI: Commissioner Caron?

COMMISSIONER CARON: Here.

COMMISSIONER VIGLIOTTI: Chairman Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER VIGLIOTTI: Commissioner Vigliotti is present.

Commissioner Murray?

COMMISSIONER MURRAY: Here.

COMMISSIONER VIGLIOTTI: Commissioner Wolfley is absent.

Commissioner Homiak?

COMMISSIONER HOMIAK: Here.

Item #3

ADDENDA TO THE AGENDA

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CHAIRMAN STRAIN: Okay, addenda to the agenda. Ray, I think everybody's -- everything staying more or less as noted on here?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Okay. And I do know that there are handouts involving some of the cases coming up.

Mr. Nadeau, I believe you may have some handouts for us, and I think staff may have some. If Mr. Anderson is here, he may have some.

I'd like to ask that you distribute the handouts early in the meeting, like now, and then we can read them during our break or during any slower times, and that would help us be more prepared for your particular item.

And make sure you give one to the court reporter, please. Thank you.

MR. NADEAU: Good morning. For the record, Dwight Nadeau, representing the petitioner.

There were some concerns about the disclosure information --

(At which time, Mr. Wolfley enters the boardroom.)

MR. NADEAU: -- in the two last petitions that are in your agenda today.

This information was produced by the Ohio attorney yesterday afternoon. It has been forwarded to county staff, including Assistant County Attorney Heidi Ashton-Cicko.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER VIGLIOTTI: For the record, Mr. Wolfley is here -- Commissioner Wolfley.

CHAIRMAN STRAIN: Okay, and I don't see Bruce Anderson, but I know he's got a change coming up to his, but we'll deal with that during the meeting.

Item #4

PLANNING COMMISSION ABSENCES

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Okay, Planning Commission absences. Next week we have off, but after that it becomes intense. We have a meeting on the 16th of February, which is a Tuesday, in this room at 8:30. It will be for the Immokalee Area Master Plan. It will be the first of two or three scheduled meetings.

Does anybody know if they are not going to be here on the 16th?

(No response.)

CHAIRMAN STRAIN: Okay, it looks good. Then on the 18th is our regular meeting. I don't know how much we've got yet scheduled for that meeting. But does anybody know if they're not going to be here on the 18th?

COMMISSIONER MIDNEY: I'm going to be late.

CHAIRMAN STRAIN: Mr. Midney's going to be late.

Item #5

APPROVAL OF MINUTES – JANUARY 7, 2010 REGULAR MEETING

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With that, we'll move into the approval of minutes. The set of minutes that we were distributed were January 7th, 2010. Is there either a motion to approve or a motion to correct?

COMMISSIONER VIGLIOTTI: Motion to approve.

CHAIRMAN STRAIN: Motion by Mr. Vigliotti. Seconded by?

COMMISSIONER CARON: Second.

CHAIRMAN STRAIN: Ms. Caron.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: 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.

COMMISSIONER HOMIAK: I would have to abstain, because I wasn't here that day.

CHAIRMAN STRAIN: Okay. Ms. Homiak will be abstaining from the approval of January 7th meeting.

Item #6

BCC REPORT – JANUARY 26, 2010

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The BCC reports and recaps, Ray, for January 26th?

MR. BELLOWS: Yes, the Board of County Commissioners heard the PUD amendment for the Naples Bath and Tennis. That was approved by the board 5-0, subject to the CCPC conditions.

The rezone for the Olde Florida Golf Course was continued to February 23rd.

The sign variance for the Lemetka Plaza, that was the Benderson project, that was approved on the summary

agenda.

And the variance for the Vineyards, that was approved by the BZA 4-1, opposed. And it was subject to staff conditions, along with some additional conditions. One was they wanted to -- the roof to be painted green. Two, that the residents within the homeowners association that abutted the maintenance tract has at their request within 20 days that they request the building be rotated so the doors face away from their development but the building placed within five feet of the wall and landscape buffer with additional trees.

CHAIRMAN STRAIN: Interesting. Thank you, Ray.

MR. BELLOWS: You're welcome.

Item #7

#### CHAIRMAN'S REPORT

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CHAIRMAN STRAIN: Chairman's report. Don't really have any this morning. We'll move right into the issues.

Consent agenda items, there are none of those.

Item #9A

PETITION: BD-PL2009-1304, BARBARA KAREN LEHMANN,  
27 EAST PELICAN STREET, ISLES OF CAPRI

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And with that, it will take us into the advertised public hearings. The first one up for today is Petition BD-PL-2009-1304, Barbara Karen Lehmann, Trustee for Barbara Karen Lehmann Declaration of Trust on 27 East Pelican Street, and I believe that's in Isles of Capri. It's for a boat dock extension.

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

(Speakers were duly sworn.)

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

(No response.)

CHAIRMAN STRAIN: Okay, with that, Rocky, it's all yours.

MR. SCOFIELD: Good morning. For the record, Rocky Scofield, representing Barbara Lehmann of 27 East Pelican Street in Isles of Capri.

The property is -- we have it on the overhead? Feel free to read that handout during my presentation, the other agenda items.

CHAIRMAN STRAIN: Well, the IT was just in here trying to adjust all the screens, so maybe something got turned off by accident.

MR. SCOFIELD: Okay.

CHAIRMAN STRAIN: Well, there you go.

MR. SCOFIELD: All right. You know, Ray, I've got a little bit better one than that.

In Isles of Capri down on the very end is Pelican Street. This is East Pelican Street. And you can see the lot there is highlighted. It's located on Snook Bay. For the record, I'm a Cracker, so we say Snook, okay?

I'm going to -- to start out with, the request -- we need to -- I need to change this request of the BDE, and I'll give you the background on it.

When this application was submitted, another staff member of our office submitted this application and the measurement was taken from the old property line, the platted property line. And I've discussed this before in front of this commission that a lot of times platted property lines don't always line up with actual shorelines, seawalls, ripraps.

And in this case, as you can see there, the blue line going across these properties right in the middle, those are the old platted property lines. And you can see there's a good deal of property between that blue line and the mean high water line, the shoreline.

Right now, and -- yeah, that's correct. So when this application was done the staff agent who filled out the application adhering to what the LDC says, and they always want you to measure from the most restrictive point,

which in this case would have been the property line, which is 28 feet landward of the mean high water line, that's where these measurements were taken from.

So in the packet you got where it says we're applying for a 97-foot boat dock extension for a total of 117 feet, well, the communication wasn't made in our office. Back in '05 another person in our office went to the state for Mrs. Lehmann and got the necessary -- it's called a Certificate of Lands Filled Prior to 1975. And we've discussed this before. I'll be glad to go into detail, if you want.

But basically what that is, is when you apply for a state permit, the state looks at that and they see your property line and they kick it back to you and they say well, you've got to show me who owns that property between the platted property line and the mean high water line, because you're not the riparian owner, it means you're not out to the water.

So what we do is we fill out the application, the Certificate of Lands Filled Prior to 1975. We show old aerials. We go through the process. The state comes back to us with a big, long document from the trustees and they -- what it is, they say we have no title to that land. The state lays no claim on it. Everything below the mean high water line the state does claim. But that upland property, they give you a certificate saying they don't claim.

The owner takes that certificate down to the Clerk of Courts. It's recorded. And then what you see now, a few years back on this aerial here on the overhead, now when you bring it up in the Property Appraiser's Office you'll see the entire lot out to the mean high water line is in yellow. So now that belongs to the owner. And it's kind of by default. The state says we have no claim on it. You can kind of have it. And so that's -- when it's recorded, that's what it is.

So now I have papers which I will submit here today. This request that we're here today for should read it's a 69-foot boat dock extension for a total of 89 feet.

And this is the drawing on the overhead now showing that. And I will submit these for the change.  
(Handed document.)

MR. SCOFIELD: Now, again, the quick history on this: This -- when Ms. Lehmann bought this property, it was one lot back in '02. And the dock that you see there on the left side with the boat -- well, they're both very similar, but the one on the left, that's the one in question. This was one lot 120 feet on the waterway, had this dock, boathouse. When she bought the property she immediately applied and had the lots subdivided into two 60-foot lineal foot lots of shoreline.

When that happened, this dock was in the middle of the property. So now the property line, riparian line, split the dock pretty much. So now to come into conformance that dock has to be removed. The lot next door's been sold and that one, there'll be a similar boat dock extension coming before you in the near future for that lot. But that's the existing conditions right now.

And this is an aerial showing the existing dock. And then in the purple magenta color there, that's the proposed dock, how it will fit on this slot. And again, on the lot next to it there will be a similar dock being proposed there.

You can see on this aerial very clearly where the shallow areas are and where you have to go out to get into deep enough water to moor a boat.

This is in the aquatic preserve. We have the DEP and Corps permits. So the state allows you to go out to minus four feet of water in the aquatic preserve to moor your boats. And the setbacks here, we had 15-foot setbacks on each side. We have two boatlifts which the LDC allows for two slips. And these are the proposed conditions.

This aerial is a comparison which we try to always bring up and showing you on Snook Bay there all the other docks. Everything's pretty much similar. The proposed dock that we're here today is not as far out as the existing dock that's going to be removed. All of these docks here are out the similar distance, and most of them longer than what we're proposing. And you can see the shallow areas in there.

Again, it's in the aquatic preserve. State really will not let us dredge if we can move the dock out to deep enough water. And so that's what all these docks show in this area.

So that's -- if anybody has any questions, I'd be glad to answer them.

CHAIRMAN STRAIN: Okay. Mr. Schiffer, then Mr. Kolflat.

COMMISSIONER SCHIFFER: Rocky, one thing, what's the length the boat's going to be on this site when we're done? It looks like you've got two lifts. Are we going to exceed the 50 percent?

MR. SCOFIELD: Well, we're not sure, but what we're propo -- what Mrs. Lehmann's proposing, one is for a

30-foot boat and the other one's for a 20. The inside slip is for a 20. And that's what we put in the application. And then a 30-foot boat on the outside.

COMMISSIONER SCHIFFER: And the lot width is 60?

MR. SCOFIELD: Is 60.

COMMISSIONER SCHIFFER: So there's no --

MR. SCOFIELD: So they can't go any -- you're pretty much maxed out. You have 15 feet to either side for the setbacks.

COMMISSIONER SCHIFFER: But don't we have a requirement, the combined length of 50 percent of the lot width?

MR. SCOFIELD: Well, that's one of the criteria.

COMMISSIONER SCHIFFER: Right.

MR. SCOFIELD: Yeah. And we stated in our application that we did not meet that criteria. However, if you read the staff report, they say the intent of the criteria was met, even though in actuality it does not meet the 50 percent.

COMMISSIONER SCHIFFER: Okay. The other question is, what do we measure to? Your elevation or section drawings show you measure to the outside of the pile. The plans are measuring to the center of the pile. Where should we be measuring, do you think?

MR. SCOFIELD: To the outside.

COMMISSIONER SCHIFFER: Okay. So the drawings that are the plans -- in other words, you show a setback of 15 feet, but that's actually to the center of the pile. So will the dock --

MR. SCOFIELD: Yeah, what they try to -- you know, always, you know, any structure that's a permanent structure in the water has to, you know, be within the setbacks. So it would be not the center of the pile, it would have to be the outside of the pile.

COMMISSIONER SCHIFFER: Okay. So even though the way you show it in the plan -- in other words, you won't go back to this plan and say but wait, we showed it to the center line. You're acknowledging that the plan --

MR. SCOFIELD: That's right. You know, and that's just -- and that's something that's not caught between the CAD person and the staff person that's making the application. So that -- yes, in actuality that should be to the outside of that piling.

COMMISSIONER SCHIFFER: Okay. And you'll build it that way.

MR. SCOFIELD: That's correct.

COMMISSIONER SCHIFFER: The other thing is, is the depth here -- you've shown this a little different than normal. You show us a zero of the MGBD and then mean high water's a foot and a half above it, mean low water's half a foot. So some of these depths -- for example, the outer one has a five-foot depth which essentially would be a four and a half foot depth at low tide and a six and a half foot depth at high tide. So the concern is are we able to bring in too big a boat here or --

MR. SCOFIELD: Well, no. I mean, the aquatic preserve rules which we're regulated by is minus four feet mean low water at the state. And that's the furthest extent of the terminal platform of the dock. You can put a lift outside of that, the state allows that. I think it's a bad ruling, but it's something we're stuck with in the state. I think we should be allowed to go in the deeper water, but they restrict us to minus four feet and that's low water. So yes, it would be right around six feet, five and a half feet, high water.

COMMISSIONER SCHIFFER: Okay. So do you think -- have you gone too far or are you right at that?

MR. SCOFIELD: No, we're right at -- on the end of the dock we're right at minus four feet. Because it gets very shallow quickly on the inside slip.

COMMISSIONER SCHIFFER: But you're at your section AA, four feet doesn't look like it's at -- well, you have to subtract. Okay, that's fine, the tolerance is close enough. Forget it, I'm done, thanks.

CHAIRMAN STRAIN: Mr. Kolflat?

COMMISSIONER KOLFLAT: Yes. Does the extension we're talking about this morning differ from what was on the notice?

MR. SCOFIELD: Yes, sir. That's why I stated earlier that the notice -- your notice stated, and we're applying for a 97-foot extension. In actuality it's 69 feet.

COMMISSIONER KOLFLAT: Does this present any problem legally?

MR. SCOFIELD: Not that -- we've done this before. I've submitted the paperwork this morning for the record, and it's lessening what we had. But go ahead.

MR. WILLIAMS: Steve Williams.

Commissioner Kolflat, that is a lesser use, a less intense. It's a smaller extension than what we noticed. So the notice was actually for a greater encroachment into the water and I don't have a problem with that.

COMMISSIONER KOLFLAT: Thank you.

CHAIRMAN STRAIN: Okay, does anybody else have any questions of the applicant?

(No response.)

CHAIRMAN STRAIN: Hearing none, thank you, Rocky, and we'll have staff report.

As part of the staff report, will staff comment on the changes and whether or not they have any impact on the analysis.

MS. CASERTA: Good morning, Commissioners. Ashley Caserta, Department of Zoning.

Staff is recommending approval for this dock extension. And I don't think that the change of request makes much of a difference with the review. The actual design of the dock is not changing, it's just where the measurement is being taken from. The mean high water has not changed, so I don't think that the staff analysis would change at all with this request.

I don't have any other presentation. If you have any questions, I'd like to answer them.

CHAIRMAN STRAIN: Any questions?

Mr. Murray?

COMMISSIONER MURRAY: Ashley, you're responsible for putting all this together, correct?

MS. CASERTA: Sure, yes.

COMMISSIONER MURRAY: Let me bring your attention to the conclusion statements where you make recommendations, and there are three. And number three speaks again to prohibited exotic species. This would be the third time that I've asked that it be taken off. In each case it has been agreed that that doesn't belong there.

Can we have some sense that that will finally be removed from these petitions?

MS. CASERTA: Number three regarding the exotic species?

COMMISSIONER MURRAY: Correct. Each time we have asked that you remove that. The last time the young lady from environmental has come forward, there is -- we have no activity under water there that we're concerned with.

MS. CASERTA: It is a standard stipulation from the Land Development Code and we can remove it from the staff report and presentation.

COMMISSIONER MURRAY: Well, you guys have said that. Now this will be the third time. I'd like to see it removed rather than talking about it. Because it's annoying as hell to see it like this. Thank you.

CHAIRMAN STRAIN: Thank you. Anybody else have any questions of staff?

Mr. Schiffer?

COMMISSIONER MURRAY: Why not?

COMMISSIONER SCHIFFER: Ashley, the concern I have is this is a narrow lot and they are putting in more than 50 percent of the boat, you know, you've noted that.

But if you look at the placement of the outer lift, the concern I have is that if they do put a big boat on that, it's going to stick into the setback. In other words, right now it appears the center of the lift isn't the center of what they're calling as a 30-foot area that they can put a boat in. So how are we going to make sure this boat's not sitting --

MS. CASERTA: If a vessel were to go in that did encroach into the setbacks, that would be in violation of this approval. A Code Enforcement case could be opened and they could be charged with a violation.

COMMISSIONER SCHIFFER: Okay. So I would assume that the center of the boat would probably sit on the center of the lift. No?

So Rocky, maybe explain that for me.

MR. SCOFIELD: The boatlifts are correctly shown. When you moor a boat on a lift, generally the cradle beams that go underneath the boat, the rear -- the one toward the stern of the boat, usually that cradle beam -- the heaviest part of the boat is near the transom. Especially with outboard engines. Even inboards.

So if this is the stern of your boat, your lift is usually four to five feet from the stern of the boat. That's where most of the weight is. Most of the boat hangs out over the front cradle beam. So that's how these lifts -- that's why

they're shown this way, they're positioned this way. The boat will come in from the west -- the boat will come in from the west, the bow will be to the east.

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

CHAIRMAN STRAIN: Donna, did you have one? Ms. Caron?

COMMISSIONER CARON: Yeah, I'm just -- I'm concerned about the -- your thinking on criterion -- secondary criterion number three, which very clearly states that it is the length of the vessel or vessels in combination that cannot exceed 50 percent. And I don't know where you get the intent to be other than just what is stated in clear, plain English.

MS. CASERTA: That was something that staff discussed within our department. And that was our professional opinion, that the intent was to not have a larger boat, rather than that the two boats in combination are stacked upon each other wouldn't meet the intent of the code.

COMMISSIONER CARON: Well, that's not so, Ashley. The intent is that it only take up 50 percent of the width. So it wouldn't be a bigger boat. I mean, you're not -- that's not a logical statement.

CHAIRMAN STRAIN: I think the difference is the literal interpretation of the ruling is what Ms. Caron's talking about. And the intent is something I guess if staff has -- would have to go back and may have researched the way that was formulated in the first place. I'm not sure -- but the literal statement is what I think Ms. Caron's focusing on.

MS. CASERTA: I do understand the literal statement. And that was my first thought when I was reading and looking at this petition. However -- let's see. Am I on here?

Okay, the two vessels will not be moored length-wise as if they were moored maybe from here to here and would take up more than 50 percent of the water frontage. Since they're not moored front to back, they'll be moored side by side and won't be taking up more than 50 percent of the water frontage. They'll still be at exactly 50 percent if they do the 30-foot vessel, as described.

COMMISSIONER CARON: Right, I understand what you're saying. But that clearly is not the intent of the code or it would have said that. The code is very clear here. And it doesn't affect their petition, because remember now, we're supposed to be, and we've had this discussion many times, following these criteria precisely and exactly.

So now you can't start making changes because you dreamt up an intent. The code is very clear here. It doesn't change whether or not you can approve this or not, recommend approval or not, because we only need two -- four out of the six or something for the secondary criteria. And there's only one in question. But to make an interpretation that clearly doesn't match the words on the page seems to me to be, you know, not the intent of the code.

MS. CASERTA: I did say that it does not meet that criteria, it was just staff's opinion.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir, Mr. Schiffer.

COMMISSIONER SCHIFFER: Ashley, when you are opining on this, and maybe it's not the view of the property owner, the applicant, it's the view of his neighbors that could start to get blocked by multiple boats stacking up on the dock. But it -- you said it's not met. We play scorecard. It's not going to affect the outcome.

CHAIRMAN STRAIN: Okay, anybody else have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Okay, I have a transportation question. Just kidding, John. If you all haven't noticed, John broke his leg, and it was kind of insinuated in the beginning we ought to ask him up here every single time for every application. But since Nick -- that's punishment from Nick, I don't think we need to do that to John anymore, he's had enough.

With that I'll ask for any -- are there any public speakers, Ray?

MR. BELLOWS: No speakers on this item.

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

(No response.)

CHAIRMAN STRAIN: Okay, hearing none, thank you. And we'll close the public hearing and entertain a motion.

Mr. Vigliotti?



COMMISSIONER VIGLIOTTI: I recommend motion for approval -- submittal to the board with motion of approval.

COMMISSIONER CARON: Second.

CHAIRMAN STRAIN: That motion's been made and seconded. Is (sic) the motion maker and the second accept staff stipulations one and two and dropping number three, as recommended by Mr. Murray?

COMMISSIONER VIGLIOTTI: Yes.

CHAIRMAN STRAIN: Second?

COMMISSIONER CARON: Uh-huh.

CHAIRMAN STRAIN: Okay. Is there any discussion on the motion?

(No response.)

CHAIRMAN STRAIN: All those 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.

MR. SCOFIELD: Thank you.

Item #9B

PETITION: PUDZ-2007-AR-11320, SEMBLER FAMILY PARTNERSHIP #42, MCMULLEN MPUD

CHAIRMAN STRAIN: Next item up is Petition PUDZ-2007-AR-11320. It's the Sembler Family Partnership No. 42, known as the McMullen MPUD off 951.

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

(Speakers were duly sworn.)

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

Ms. Homiak?

COMMISSIONER HOMIAK: I spoke to Mr. Anderson.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yes, I spoke with Mr. Anderson.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: And I spoke with both Mr. Anderson and just briefly with Dwight Nadeau on this matter.

And with that, I guess whoever's going to make the presentation, it's all yours.

MR. ANDERSON: Good morning, Mr. Chairman, Commissioners. My name is Bruce Anderson from the Roetzel and Andress Law Firm on behalf of the applicant.

With me today is Dwight Nadeau, planner with RWA.

This project came before you almost a year ago, and at that time you asked us to continue it in order to update a market study and to try to work with representatives of Swamp Buggy Days with respect to noise concerns.

Some things have changed since that time. Probably the most important item that's changed is that residential uses have been dropped from the application. There have been concerns expressed about mixing residential uses with

businesses that were more geared for contractors and concerns about compatibility of those two uses together.

A revised market study was submitted. I think staff does not agree with everything that is in there. But we have agreed to disagree, and my client wants to let the free market system operate on its own.

We have worked closely with the Swamp Buggy Days, and we have agreed to provide a noise disclosure statement in all contracts that will be placed, and contracts provided to buyers. And the County Commission is scheduled to consider next Tuesday whether to authorize the County Attorney to advertise an exemption in the noise ordinance specifically for Swamp Buggy Days' operations. And let me state for the record, my client is supportive of that exemption in the noise ordinance.

Also that has been resolved is the issue of proximity to Physicians Regional Hospital and the PUD to allow for some medical office uses. We have an understanding with the comprehensive planning department that just over three acres of the PUD will be eligible for medical related office type uses.

And I want to take a moment and explain, there are a couple of uses that at first glance might seem awfully similar. And those are uses 19 and 20. Nineteen is health care services, and number 20 is health care units or care units. And that includes group housing assisted living facilities.

The essential difference is that number 19 is for nursing homes, where nursing is the most important component of that use. An ALF is different because it is not primarily dependent upon a skilled nursing care. There may be some, but it's incidental, it's not the primary purpose.

Another reason is that under the SIC Code, which dates from 1987, ALF uses are most similar to the uses that are listed in SIC Code group 8361, and that contains a long list of undesirable uses, such as alcohol rehabilitation, drug rehabilitation, halfway houses for youth. And rather than, you know, repeat that SIC Code number and then exempt everything else that's listed in there, we simply decided to go with our own more precise definition of what the care units will be, and it is tied into that definition that's provided in the Land Development Code.

We're not aware of any opposition to the project and we're appreciative of the fact that staff is recommending approval.

I'm going to ask Dwight Nadeau to come up here and discuss the specifics of the site plan and the development standards. And after he finishes, he and I both will be available to answer any questions.

MR. NADEAU: Commissioners, good morning. For the record, my name's Dwight Nadeau. I'm planning manager for RWA and I'm representing the Sembler Partnership No. 42 this morning.

I'm probably going to be standing in front of you for about six hours today, so I'm going to change my presentation style and I'm just going to have a friendly chat with you, lay out all of the facts, we'll get the record straight. I'm not going to really use code citations, we're just going -- I'm going to explain the project to you.

The subject property being 19.32 acres is at the intersection of 951 and Rattlesnake Hammock. Rattlesnake Hammock extension would go over and serve the McMullen parcel, which is this portion of activity center number seven.

Now, the Growth Management Plan has very specific language that's been written in the FLUE related to land uses. And I wanted to show you what really is permitted in this portion of the growth management -- of the activity center number seven.

Oh, boy, I can't read that.

Okay, this is the excerpt from the mixed use activity center section of the Future Land Use Element. And what it says in here is that this particular property is to be commercial development, exclusive of the quarter mile medical use rule. We'll get into that later.

The permitted uses include personal indoor storage facilities, mini storages, offices for various contractors, building and trade. And then that would include engineers, planners, primarily A&E firms.

Now, that 185,000 square feet would apply to both of those land uses. And there are accessory land uses that are permitted associated with the A&E, but you can't build a Lowe's because it wouldn't be accessory to the architectural and engineering firms. Therefore, there's really a mini storage land use and some offices that are permitted.

Now, with the understanding that group housing is a permitted land use within any commercial zone, and this is within an activity center, this rezoning process is intended to provide for senior housing opportunities and not be subject to the quarter mile rule that I'll discuss in a few minutes.

So I'm telling you with complete honesty today -- unfortunately my client isn't here -- but the project is going

to be developed as a senior living facility. The contract purchaser is going to be purchasing both the Hammock Park Commerce Center to the east -- to the west, and the McMullen property for an entire continuing care retirement community. But it won't have the buy-ins, it's going to have the rental opportunities in it. So it's not going to be as restrictive as a typical CCRC.

Now, here's the PUD master plan. And as you can see, the 19.3 acres is effectively surrounded by natural areas. Both properties that I'm speaking of, but more particularly this McMullen tract, has received a South Florida Water Management District permit and a Corps permit. And the preserve boundaries and jurisdictions that are identified along the northern property reflect those permits.

This portion of the property is within the Hammock Park Commerce Center PUD. It is all entirely conservation. So there is no opportunity to cross between the two projects. However, the roadway will be completed to serve two entrances, as well as to serve future development in the south.

Now, with regard to the land uses, the entire site could be developed with CCRC land uses at a floor area ratio of .6. The medical office -- the medical related land uses are permitted within this small band here. It provides for adequate opportunity for some medical office or some medical diagnostic centers. This distance is roughly a little more than 200 feet and this is just a little bit less than 200 feet. It still remains a viable office parcel, consistent with the Future Land Use Element.

Now, let me tell you how this boundary is measured. On Page 9 of your comprehensive planning memorandum in your packages, Mr. Weeks has made a policy decision on how a measurement is to be made for this quarter mile boundary.

This is the measurement by literal reading of the Future Land Use Element that we were proposing. And that was to be measuring the quarter mile or 1,320 feet from this point.

Through Mr. Weeks' policy discussion and extensive discussions with Mr. Weeks, he did make a policy decision, and that was to make the point of measurement for the quarter mile to be in this location with the facilities and services that service the hospital. Even though these medical offices are in the same tract as the hospital, this is the location where Mr. Weeks and our petitioner agreed to measure that boundary. Therefore, this little swath is what shows up on the PUD master plan.

CHAIRMAN STRAIN: Dwight, before you go too much farther, do you believe your application and the use that you intend, which is the CCRC, is dependent on needing any of it classified within a quarter mile of the medical facilities?

MR. NADEAU: No, sir.

CHAIRMAN STRAIN: Why are you going into all this?

MR. NADEAU: Very good.

CHAIRMAN STRAIN: I'm just curious. If it's not something that you're concerned about and you don't seem to be objecting to the --

MR. NADEAU: No, not at all --

CHAIRMAN STRAIN: -- staff's conditions, I was wondering --

MR. NADEAU: -- I just wanted to make -- I wanted to make the record clear so everyone can know how we got to this point. Because our prior measurement was giving us a recommendation of denial, so that's all. I'm just showing you what has happened working with staff.

CHAIRMAN STRAIN: Mr. Murray had a question.

COMMISSIONER MURRAY: Yeah. Hi, Dwight. Are you saying that it's an absolute that there will be an ALF, that's what you're going for and only that? What happens if it doesn't entirely happen, is this an alternative?

MR. NADEAU: No, it's not necessarily going to be an ALF. There is a contract purchaser, but we need to retain the opportunities that are provided for through the Future Land Use Element in this language.

COMMISSIONER MURRAY: So it is --

MR. NADEAU: So we could have a mini storage.

I'm sorry to interrupt, Commissioner.

COMMISSIONER MURRAY: That's all right, I interrupted you. I apologize.

So what I think you're saying to me is the possibility, although perhaps remote, still exists that you might want to use that 3.16 acres or some part of it for medical offices.

MR. NADEAU: That's very true. If as a part of the continuing care the senior housing development chooses

to need to have maybe 20 or 30,000 square feet of medical office, it could easily be located there. But the senior housing is not dependent upon the offset.

COMMISSIONER MURRAY: I understood that, but I thought I would --

CHAIRMAN STRAIN: Well, no, but the point I was trying to make is that they don't seem to be disputing the need for the 3.16 acres and the result that staff came to. So I don't know why we want to get into a debate on that. And I was going to try to save you some time in your presentation if you just work on the issues that are more relevant that we're going to really be needing to work on, so --

MR. KLATZKOW: If I may, because I don't want to get into this issue of four years ago when we can hammer it down now.

So are you willing to accept staff's viewpoint as shown in the monitor up there?

MR. NADEAU: That is accurate.

MR. KLATZKOW: Okay, thank you.

MR. NADEAU: I would like to try and ask for some clarification from staff on the PUD exhibits. On that permitted land use -- on that permitted land use 19, these are health services, skilled nursing care. I want to show you -- I want to show you from the SIC Code what these particular land uses permit.

This is where the majority of all of the senior care is provided for. There is another category, 8631, where it does have rehabilitation, you know, alcohol/drug dependency shelters and those sorts of things that may or may not be found to be undesirable for this particular piece of property.

And this is the reason why we have a permitted land use 19 that has the specifics of these land uses. But as a catchall we're getting the senior housing in 20, as Bruce explained.

Now, I think we had some discussion about changes -- or looking at the stipulation for building the bridge across 951.

CHAIRMAN STRAIN: Excuse me, when I had asked for handouts earlier, Bruce wasn't here. Bruce does have a handout that might clarify that bridge issue for the paragraph that is in question, Exhibit E. And --

MR. ANDERSON: Yes, sir, we have worked with transportation staff and the County Attorney's Office to delete paragraph A.4 on Exhibit E and replacing it with the following language. Quote, no building permits shall be issued for this McMullen PUD until the bridge/canal crossing described in Section 5.5.L of Ordinance 07-30. The Hammock Park Commerce Center PUD is constructed as depicted in figure one below. End of quote.

CHAIRMAN STRAIN: Okay, Dwight, that may help explain the bridge issue. And when we get to questions, I'm sure if we need more clarification. But that basically wipes out that entire paragraph with the replacement that Bruce --

MR. NADEAU: Indeed it does, yes, Commissioner.

Mr. Anderson's already gone over issues related to the Swamp Buggy, and I don't have any further presentation materials for you, so I'm happy to answer any questions.

CHAIRMAN STRAIN: And I sure will try to help you with questions.

So does anybody want to start?

Ms. Homiak. I'm sorry. Boy, I'm messing up last names today.

COMMISSIONER HOMIAK: In Exhibit A, number 20.

MR. NADEAU: A.20, yes.

COMMISSIONER HOMIAK: That you're specifically wording to leave out the SIC codes.

MR. NADEAU: Yes, we were. We were working --

COMMISSIONER HOMIAK: So are you using -- and you're including care units only including -- and you're including group housing and group housing facilities?

MR. NADEAU: Assisted, yes.

COMMISSIONER HOMIAK: Okay, and the definition of that in our Land Development Code includes drug rehab, homeless shelters, halfway houses, all the things that are undesirable to a lot of people in the community. And that I was -- thought that its specific SIC Code, leaving it out was supposed to alleviate those types of things.

And if you're looking for assisted living facilities, then nursing homes and independent living, why don't you just say that?

MR. NADEAU: Well, these two particular land uses were re-crafted about five times. We've been working with the County Attorney's Office. If it meets the pleasure of the Commission, I may defer to Ms. -- to Heidi to assist

with the explanation of this.

If we need to remove the term care unit, we can. We just want to ensure that we get the senior housing opportunity, the ALF, the independent, the continuing care, so we can provide for the current contract purchaser.

MS. ASHTON-CICKO: For the record, Heidi Ashton, Assistant County Attorney.

I didn't work on this particular project, but I would refer you to the Sarecino PUD, where the way we handled that issue is we specifically excluded certain uses. And I can pull that language from my file and read that into the record, if you'd like.

COMMISSIONER HOMIAK: Sure.

MS. ASHTON-CICKO: Okay.

COMMISSIONER HOMIAK: And then --

CHAIRMAN STRAIN: Well, just -- Karen, the language she's going to pull up is on the second project we have to discuss today. And it's on number -- it's on Page 1 of 10 of -- on Exhibit A. So if you want to look at it, it reads the following: Health services including but not limited to skilled nursing care facilities, groups 8051 through 8059 and care units, only including group housing, group housing facilities, assisted living facilities, independent living facilities, continuing care retirement communities and nursing homes, all for persons over age 55 and excluding mental, emotional or alcoholic and drug addiction rehabilitation. That is the language they use there, and it maybe more meets some of the concerns you have.

MS. ASHTON-CICKO: For consistency we could add that language at the end, if that's your desire.

COMMISSIONER HOMIAK: Sure.

CHAIRMAN STRAIN: Yeah, I think that's a -- Karen, do you think that -- I think that covers the issues you're bringing up, does it, from your review?

COMMISSIONER HOMIAK: I think so. But it doesn't cover homeless shelters or defender halfway houses. There's a whole list of things under group care facility, which I'm assuming -- it's a different wording but it says group housing facilities. It's not even the same definition of a house, so I'm not sure what it's supposed to be.

CHAIRMAN STRAIN: Heidi, that's a good point. And whatever we find to resolve this, we ought to make sure that we carry it over on those other projects. Because while this one is in an activity center, those other ones are in residential areas, makes it even more concerning. So --

MS. ASHTON-CICKO: We'll expand the exclusions, if that's your desire.

CHAIRMAN STRAIN: I would think that would be a good move. Okay.

Mr. Wolfley?

COMMISSIONER WOLFLEY: Does that mean that there will be group housing there or not?

CHAIRMAN STRAIN: It will be group housing, but we're going to be excluding soup kitchen -- I mean homeless shelters and things like that.

COMMISSIONER WOLFLEY: Okay.

MR. NADEAU: That's correct, yes.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah, and I may be naive here, but wouldn't this be an excellent location for those things? It isn't in the middle -- it's in the middle of commercial areas. Why are we excluding those things? I know people don't want them in their backyard, but society needs them.

MR. NADEAU: Well, society does need them, but we're also in a political process and we received a letter from the Naples Lakes owners, it may or may not be in your package, and there was a list of obnoxious uses to them. We excluded those uses for several reasons: One, watching the Board of County Commissioners in various adoptions; and also the letter that came from someone anonymously from Sherwood Park -- I'm sorry, from Naples Lakes.

COMMISSIONER SCHIFFER: And Naples Lakes is across 951?

MR. NADEAU: That is accurate.

CHAIRMAN STRAIN: One thing that we might want to remember is right next door -- I should say within one tract of this facility is the -- what's the name of that great big place that's a homeless shelter out there? Reverend Mallory owns.

MR. NADEAU: First Assembly of God?

CHAIRMAN STRAIN: First Assembly of God, yeah. That's a rather large homeless facility right next door

to this project. So I'm not sure that we haven't already met maybe the need that would be in that area by that larger facility that's there taking care of it now, so --

COMMISSIONER SCHIFFER: The homeless needs.

CHAIRMAN STRAIN: Yes.

COMMISSIONER SCHIFFER: But there are -- anyway, I don't want to hang on the point, I just want you to tell me out loud why you don't want them. That's all. Thank you.

CHAIRMAN STRAIN: Okay, we're on questions from Mr. Nadeau. Anybody else have any questions?

COMMISSIONER SCHIFFER: Well, I do.

CHAIRMAN STRAIN: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: And I know you -- this becomes somewhat moot when the owner does own the parcel next door. But could you put interconnection in case these two parcels are split up and sold and developed commercially between the one to the west? Would that be all right?

MR. NADEAU: Well, the connection between the two projects are going to have to be the Rattlesnake Hammock extension, because the easterly 80 feet of the Hammock Park Commerce Center is in a conservation designation with the Water Management District and Corps. So we can't physically cross it.

COMMISSIONER SCHIFFER: There would never be a way to go through it, okay.

MR. NADEAU: Well, we could open up the permits and try, but we just got the permits.

COMMISSIONER SCHIFFER: So when you do develop this together, people, staff and everybody's going to be running out onto Rattlesnake and going around that?

MR. NADEAU: Potentially the client can help me. Mr. Tom Hareas is in the chambers with us. I don't believe that he's been sworn, but he may be able to give you an idea.

But I can tell you right now, we're constricted from providing interconnection east to west.

COMMISSIONER SCHIFFER: Okay, thank you, that's good.

CHAIRMAN STRAIN: Okay, anybody else have any questions?

Ms. Caron?

COMMISSIONER CARON: Yeah, I wanted to get back to this concept, if you put an ALF facility on this property, it's probably a very good use of the piece of property. However, it does back up to the Swamp Buggy facility.

How are you going to monitor this letter that supposedly is going to solve all the noise issues? Because while we don't technically qualify ALF units as residential, people live there 24/7. Why should their rights be any less than had you put a multi-family development up there?

MR. NADEAU: Of course. Commissioner, we've attacked this on actually two fronts. We've been assisting Swamp Buggy Days to try and get their noise ordinance exemption.

COMMISSIONER CARON: Which allows them to be as loud as they are today.

MR. NADEAU: Which allows them to be as loud as they want to be. And any complaints would be non-actionable.

In addition to that, we have provided for full disclosure of the Swamp Buggy facility in any contract documents or lease documents that would be offered to potential residents of the senior housing facility.

In addition to that, we are -- while staff has removed the condition, we are going to include sound attenuation measures in the construction of the buildings such that the -- there would be a 35-decibel reduction from the ambient noise outside the building.

I understand from staff in discussions yesterday that someone was actually out with a dosimeter listening to the Swamp Buggy races this past weekend, and they determined that the sound levels were within the acceptable limits as provided by the current noise ordinance.

So with all of that, we feel that we have ameliorated any concerns related to this Swamp Buggy noise and compatibility issue.

COMMISSIONER CARON: Where in the documents does it say you're going to do that sound attenuation?

MR. NADEAU: It would be added to the document. I'm bringing this up to you today.

COMMISSIONER CARON: It was in the old, but --

MR. NADEAU: It was in the old, yes.

COMMISSIONER CARON: -- it got taken out of here, so --

MR. NADEAU: But you'll find in the supplemental staff report that Nancy's gone through and identified all of those old stipulations and the reason why she has had them stricken.

We are willing to take that noise attenuation construction matter on our own, so we will accept that condition.

CHAIRMAN STRAIN: Anything else?

COMMISSIONER CARON: You can go ahead for right now, because I'm going to start coughing again.

CHAIRMAN STRAIN: Mr. Wolfley?

COMMISSIONER WOLFLEY: How many days a year are the Swamp Buggy races?

MR. NADEAU: It's three days a year.

COMMISSIONER MURRAY: Six.

COMMISSIONER WOLFLEY: Well, twice a year but three days --

CHAIRMAN STRAIN: Mr. Murray?

MR. NADEAU: Well, it's six days, yes.

COMMISSIONER WOLFLEY: So we're talking about six days.

MR. NADEAU: Yes.

COMMISSIONER WOLFLEY: Is there any other activity there that would break any kind of sound barrier?

MR. NADEAU: Probably not that noisy. They may have some dirt track races and they do have rave parties on the weekends, but --

COMMISSIONER WOLFLEY: Because this whole discussion reminds me of somebody that moves in next to an airport and then three years later screams about the noise.

MR. NADEAU: It does somewhat, doesn't it, Commissioner?

COMMISSIONER WOLFLEY: Okay, thank you. For six days.

CHAIRMAN STRAIN: Steve?

MR. WILLIAMS: Steve Williams.

Just to be clear on Mr. Nadeau's comments, just because someone is compliant with our ambient noise readings and our statute, I only have to mention the two favorite words of the county to point out what a problem that can continue to be, in Stevie Tomatoes. We have never found them in violation of the ambient noise or noise readings or anything else, but it certainly does not lessen the complaints we receive to date on a daily basis.

So just to be clear, because the noise readings are okay and they were okay during Swamp Buggy this weekend does not mean it will not adversely affect the residents within it. So I just wanted to be clear.

The readings may be fine, but that doesn't mean that you're not hearing it and the bass or whatever else isn't traveling through the walls and into the ALF.

COMMISSIONER CARON: Right. And my point is further made in that what happens out there today is not necessarily the only thing that can happen out there. They're not limited to six days a year or whatever.

And beyond that we do know, we've had these issues. And we're talking about a very vulnerable population that can't -- you know, can't get up and move in a lot of cases. So they're stuck if they move in there and that becomes an issue for somebody who didn't see the slip of paper on the bottom of the 87 forms that you have to fill out first for Medicare. So I think it's important.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: If you check the noise level and it doesn't surpass the limits in the noise ordinance, then why are you trying to offer some kind of an exemption?

MR. ANDERSON: We're not offering an exemption, we're just supporting one that was requested by Swamp Buggy.

COMMISSIONER MIDNEY: Well, if the noise is not surpassing that, why is it necessary?

MR. ANDERSON: You need to ask them.

CHAIRMAN STRAIN: Wait a minute, are -- I'm sorry, do you represent Swamp Buggy, sir?

MR. JOHNS: Yes, sir, I do.

CHAIRMAN STRAIN: Okay, fine, go ahead.

MR. JOHNS: For the record --

CHAIRMAN STRAIN: Were you sworn in?

MR. JOHNS: Yes, you did.

My name's Randy Johns, for the record.

We've had -- this noise thing has come up several times. And in the old racetrack, the noise became a problem. Whether it exceeded the noise limits or not, there were so many complaints came that the commissioners decided to move us out to where we are right now.

And I know and you know if enough people come and complain, you're going to have to react. We're trying to get an exemption from it, just like you have for the airport, just like you have for the drag strip over in Immokalee. We want to be protected. We're not here to try to stop these guys from going forward, we just don't want to be ran out from where we're at.

So we have on -- I think it's on February 9th we're going in front of the board. Jeff Wright from the County Attorney's Office has drafted a noise exemption. And we're going for a recommendation of approval or to be -- to go forward with it, I should say -- to advertise it and to try to get an approval.

So based on us getting the approval, we have no problem with these guys going forward. If we don't get this, we need to work out some deal that the Swamp Buggy is protected that we don't have to move.

COMMISSIONER MIDNEY: Yeah, I mean, I support the project, and I don't think that they are surpassing the noise level and I don't see why they need to go and get an extra piece of legislation about this if they're not surpassing the noise level. But I guess if they want to do that to protect themselves, that's fine.

CHAIRMAN STRAIN: Well, I think it's a -- you've got to look at the size of the Swamp Buggy grounds facility. It runs north to south. They're currently on the far north end. This facility at McMullen and the rest of the potential facilities that could be built on the south end don't have the same exposure to what's on the north end right now. That does not limit Swamp Buggy from moving or expanding to the south end some day. If they do, that level of noise might get more intense closer to areas that might object to it. And I think that they're smart going forward with this exemption, because it's cautionary and it's probably a good move.

That however doesn't mitigate what could happen to the people living in this project. A lot of people don't read that fine print that comes with all their hundreds of pages of documents when they move into a place. And Swamp Buggy themselves will be covered by what they're proposing to do. I think it's the duty of this board to make sure that the future people who occupy this facility at McMullen are equally covered, regardless of what Swamp Buggy does to cover themselves. So that's everything in a nutshell.

Mr. Vigliotti?

COMMISSIONER VIGLIOTTI: Yeah, my opinion on this matter is Swamp Buggy's been there for years, they've been there first. And as we talked about the analogy of people moving in next to an airport and complaining, I don't know -- I definitely wouldn't be able to approve this today until I knew that they got their exemption. So I don't know how legal -- how any of the board members feel, but I wouldn't be voting for approval until they got their exemption.

CHAIRMAN STRAIN: Well, hopefully before the day's over we can see what other issues we can address to make that happen.

Mr. Murray and then Ms. Caron.

COMMISSIONER MURRAY: Yeah, this Commission may recall that I tried mightily to have Mr. Wright, the Assistant County Attorney, to include the Swamp Buggy as the same exemption that was given to Immokalee's trade port for their racing. Now we're going to have an exemption, perhaps.

I have, and my wife have sold tickets at the Swamp Buggy for the last seven years. And on Saturdays the racing begins somewhere and it's time trials, it's very intermittent. It begins somewhere around 12:30, 1:00, can end, as it did this last weekend, at 2:00 or it could be 4:00. Very intermittent. The sound -- I sell tickets, I can hear the noise, it's not that terrible.

On the next day of Sunday racing, they have races and it's essentially the same thing. A little more intense but not bad.

And I'm fully in agreement with Commissioner Caron that we have to protect the people who are going to move in there. On Page 3 of 5 where the staff has indicated that will be -- shall be designed and constructed to a soundproof -- to be soundproofed with a sound level reduction of 35 from I guess ambient. I'm not sure what that number should be.

But I can tell you this: The Swamp Buggy is not a for profit operation like Stevie Tomatoes and it does good things. It provides lots of money for lots of folks in the community. So I would be really upset to think that we would encumber an organization that has been successful and effective, and that alternatives are possible through building



and design. Thank you.

CHAIRMAN STRAIN: Ms. Caron, did you have any more you want to add?

COMMISSIONER CARON: No, just to say that I think everybody's in favor of what the Swamp Buggy people are doing and their business. They've been there forever. They're part of the character of Naples.

Our job is to take this petitioner and make sure that he protects what he puts on his property. It has nothing to do with Swamp Buggy. Great, I hope you get your exemption. You were forced to move out there in the beginning to solve a noise issue.

So the only point here is that these people who are going to come in and if they move in an assisted living facility, we should require them to protect those people that move in there from the potential noise --

COMMISSIONER MURRAY: Absolutely.

COMMISSIONER CARON: -- hazards. And that was my only point.

CHAIRMAN STRAIN: Are there --

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: -- any other questions?

Heidi?

MS. ASHTON-CICKO: In connection with what Ms. Caron has just stated, Mr. Klatzkow has requested an additional developer commitment from the applicant, and they've agreed to add language that would indicate that within 120 days of PUD approval that they will record a notice of proximity to the Swamp Buggy grounds and make reference to the noise that's generated. And that will be recorded against the entire development. We'll attach the legal description so it will show up on any title commitment that is issued in connection with a sale of any real estate.

CHAIRMAN STRAIN: Okay, thank you.

Mr. Wolfley?

COMMISSIONER WOLFLEY: Didn't -- I think the petitioner said that this is a rental instead of an ownership issue. They're not going to be selling units, they're going to be renting them.

CHAIRMAN STRAIN: Would you move the mic a little closer to you?

COMMISSIONER WOLFLEY: So I'm afraid that they wouldn't see that title issue.

MS. ASHTON-CICKO: Well, you'll have two protections: One is the notification that's already in there that they have to give to any prospective resident, and then you'll have the second layer, which will be something that's recorded that would be pulled up if a tenant wanted to check the encumbrances or check the -- or in the event of a sale. So it would protect both the retirement community as well as the commercial property.

COMMISSIONER WOLFLEY: Thank you.

CHAIRMAN STRAIN: Bruce, did you have something?

MR. ANDERSON: And I just wanted to reiterate about the sound attenuation, because that's going to be part of the building. We'll reinsert that old stipulation. And I hope that between that and the two forms of disclosure that that will be sufficient to assuage any fears.

CHAIRMAN STRAIN: Maybe.

MR. ANDERSON: I said I hoped.

CHAIRMAN STRAIN: Are there any other questions of the applicant?

(No response.)

CHAIRMAN STRAIN: Okay, I'm not sure who's going to want to answer this on the applicant's side, but let's start with Exhibit A. And it would be Page 2 under B, accessories, numbers two and three.

One is that they're both pertaining to uses accessory to what would presumably be office space.

In the prior PUD application they were limited because of some I believe comments from staff in comprehensive planning that they be limited to 5,000 square feet. In this particular PUD application they're not limited. Can anybody explain why?

MR. NADEAU: Through the various iterations of the document, in the process that limitation may have just fallen out.

CHAIRMAN STRAIN: So you have no objection to adding the --

MR. NADEAU: None at all.

CHAIRMAN STRAIN: -- limitation back in?

MR. NADEAU: None at all. And that's going to be for two and three.

CHAIRMAN STRAIN: Right.

On the next page, under Exhibit B, Page 1, under care unit intensity it talks about an FAR of .60 which has been customarily accepted by this board for many other particular cases.

But you have no ratio of reduction between the square footage of care facility and the maximum commercial. So under this scenario you could consolidate all the FAR at .60 on a section of that property and still try to fit in 185,000 square foot of commercial. I'm not sure that was the intent -- the understanding at the time of the GMP amendment.

I certainly would think we need a conversion ratio of so many units of care unit intensity to commercial square footage reduction.

Have you -- staff was supposed to let you know of that concern. I'm sure they did. Do you have a response to it?

MR. NADEAU: Well, in actuality, speaking with W.T. Bowman of Tindale-Oliver last evening, we did a trip generation analysis to take a look at if we did take 185,000 square feet of the permitted land uses, that being half of that mini storage, half of that 185,000 being in professional office, with the addition of the proposed senior living, our trip generations are substantially less than what the maximum are that are identified in our document.

So I guess the answer to your question is that yes, we would not be able to have the .6 floor area ratio on those lands that would be identified for medical office. But there is the possibility that all 19 acres could go for senior living and use that .6 FAR.

So no, we do not have a conversion. And if you'd like to discuss a little bit of that with Mr. Bowman, he's here to maybe offer some commentary.

CHAIRMAN STRAIN: You're making an assumption that my concern is over transportation. My concern has nothing to do with transportation.

My point is you're asking for too much intensity on that parcel, and I don't believe that -- had we known during the GMP amendment process that you intended to use a .60 FAR for care facilities on there, as well as in addition to and on top of the 185,000 square feet in commercial, you may have had a different outcome on your Growth Management Plan amendment.

So I'm asking you if you're going to consider a conversion. It will certainly have bearing on whether -- how I decide to vote on this. It is strictly up to you guys. You had time to consider it before today's meeting. It's your call.

MR. NADEAU: Perhaps we could come back to that while we have our expert take a look at it.

CHAIRMAN STRAIN: There's going to be a break before I get done anyway, so yeah, that will be fine.

Under the transportation issues, Bruce, do you have a typed handout for that language you want to have changed? Or could you at least put it on the overhead so we could read it? I know you read it into the record, but it's hard to remember.

MR. ANDERSON: Yes, my only copy I had to give to staff, so if you'll display it.

CHAIRMAN STRAIN: Well, is it the one that you sent around last night? That you sent back to staff last night, has that changed any?

MR. ANDERSON: Yes -- no.

CHAIRMAN STRAIN: Okay. Now, the intent of this was to get the county out of the middle of the financial part of funding this bridge. Is the county satisfied this is done?

MR. CASALANGUIDA: Yes.

CHAIRMAN STRAIN: Okay, the big kahuna is nodding his head yes. Okay.

Then the way this would happen is some private entities would have to come together, get that bridge built for this project to get any building applications.

MR. CASALANGUIDA: That's correct.

CHAIRMAN STRAIN: Okay, does that include an SDP?

MR. CASALANGUIDA: For the record, Nick Casalanguida.

They could get an SDP ahead of that, but they would not get the building application permit.

CHAIRMAN STRAIN: Okay, that was my concern.

The building of a bridge that's built will be the first phase that's shown on Exhibit E?

And Nick, I'm directing the questions to you because when you broke John's leg, I didn't want to see him have to hobble up here on top of that suffering as well. And I'm sure you have just as much familiarity with it.

COMMISSIONER MURRAY: He's hobbling.

MR. CASALANGUIDA: He's got an exhibit. Let me grab the exhibit from him, it shows the complete bridge.

CHAIRMAN STRAIN: Okay. That was where I was going.

MS. ASHTON-CICKO: Mr. Chair, while we're waiting for John to come forward, I just wanted to note that if the parties didn't come together and come up with an agreement for the fair share, this property owner would not be able to go forward until that bridge is built, so that means he'd have to do it.

CHAIRMAN STRAIN: Understand.

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: It's just got to get built one way or another before a building permit --

MS. ASHTON-CICKO: Right.

CHAIRMAN STRAIN: -- issue. Understand.

MR. PODCZERWINSKY: Good morning, Commissioners. For the record, John Podczerwinsky, Transportation Planning.

CHAIRMAN STRAIN: You can tell us that Nick really didn't break your leg, we know that.

MR. CASALANGUIDA: No, I did.

CHAIRMAN STRAIN: You did.

MR. PODCZERWINSKY: That's what happens when you disagree with the boss.

All right, you're going to see today two exhibits here that have been provided by Sembler. And the first one that you're going to look at right here is the -- what's discussed in the Hammock Park PUD as far as the Section 5.5.L that was discussed. This is actually the north half of the ultimate bridge design that has to go in there.

This is the replacement bridge for the culvert bridge that exists there today, okay?

This is now the exhibit that's shown as the ultimate future design for the bridge, which is also going to be dependent upon that what is called Hacienda Lakes development, coming into the south of McMullen PUD and Hammock Park PUD. All of them are going to need to be participants in the ultimate bridge design.

But the first two PUDs, McMullen PUD and Hammock Park PUD, are participants in -- if you'd go back to Exhibit 1 -- in this exhibit because of the right-of-way constraints that are there today.

CHAIRMAN STRAIN: Do you foresee any possibility that the county would end up being responsible to expand this bridge once the first phase is put in as required by this document here?

MR. PODCZERWINSKY: At this time, no, we do not. We're trying to structure that so that it's only the adjacent landowners that are benefiting from this bridge that are responsible to widen it.

CHAIRMAN STRAIN: Okay. Does the county need to have some kind of oversight in the planning and design of this bridge so that it's easily expandable? There are some bridge systems between flat decks and pre-cast and con/spans that aren't -- that may not be as economically expandable as another one could put in. How's that being handled? Because there's no language to offer a review process for that at this point. Or is that automatically done?

MR. PODCZERWINSKY: You're going down the right track. We've been through this with Sembler for what, it's been a year and a half now or so? About a year and a half in planning this bridge and coordinating it with the intersection design.

It's been coordinated with the 951 widening and the Rattlesnake connection to that intersection. So we've really worked with Sembler and RWA, and Banks Engineering I know is also involved in this, so -- we've worked with them to have them incorporate our design, and we're happy with it so far.

CHAIRMAN STRAIN: Your design is for the traffic movements, the lanes and all that. The physical structure of the bridge, is that being addressed by county to make sure it will be expandable?

MR. PODCZERWINSKY: Yes, we will get seen at the right-of-way permit phase.

CHAIRMAN STRAIN: By then it's all designed.

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: Have you provided information to anybody about the design that's preferred for expandability?

MR. PODCZERWINSKY: At this point no, because we're looking at the applicants to find the most economical design that they can put in there that will be approved as well in our right-of-way permit.

This is also subject to a Big Cypress Basin right-of-way permit, which does have some certain criteria on

what kind of bridge can be built here. I believe this is a -- you can use box culverts in this area with special permission, and I believe there's a minimum design low member elevation that has to be met, which I believe they have sought a waiver from South Florida Water Management District on that low member design.

So there's a lot of effort and expenditure that's been put into the design process on behalf of the applicant that the county didn't have to spend on, so we're really happy with the contributions that are being made toward the design of this bridge and the ultimate construction of it.

CHAIRMAN STRAIN: Okay. While you're standing, and I know it's probably -- I hope it's not painful for you.

MR. PODCZERWINSKY: No, not at all.

CHAIRMAN STRAIN: A-1 talks about a C.A.T. bus shelter that will be going in this location.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: It says the developer shall make payment in lieu at the time of development order application.

It's nicer if we know values so that the payment doesn't become a disputed issue down the road. So do you have a value that is used standardly that we could put in there instead of the reference like --

MR. PODCZERWINSKY: We do, but the value is relatively old. The value that I last had was around 25,000, and that was probably two years ago. So I have yet to get an updated value on that.

CHAIRMAN STRAIN: Is the value the responsibility 100 percent for this particular project?

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Okay. So maybe if -- with the developer shall make payment in lieu at the time of development order application for 100 percent of the design in construction cost, I'd rather, so there's no dispute as to how much they're contributing, and whatever that design and construction cost is, they'll end up having to cover it then.

MR. PODCZERWINSKY: The county's okay with that, if the applicant has no objection. And we can work out the value between now and the time that this goes to I guess consent on the Planning Commission's consent agenda.

CHAIRMAN STRAIN: I'll ask the applicant.

MR. PODCZERWINSKY: Any objection to that?

CHAIRMAN STRAIN: Bruce is nodding his head that he has no objection.

MR. ANDERSON: Just let the record reflect.

CHAIRMAN STRAIN: We heard it. Thank you, Bruce.

The -- that's it out of that document.

In the original PUD that came to us about a year ago, besides the SL, sound level, reduction building envelope of 35 that was required, there was another sound issue, and I'll read it. It was staff recommendation number four. The owner or its assessors and assigns shall construct a berm and sound wall totaling 12 feet in height along the property boundary adjacent to Swamp Buggy grounds no later than when the residential development or care unit development receives its first C.O.

Now, as far as staff goes, the staff person involved in this, I'm assuming that this sentence was put in here to protect members of the public who would be buying in this facility, while I also understand there's a need to make sure Swamp Buggy grounds doesn't have any problems.

The fact that they're off the hook or they will be off the hook doesn't alleviate the protection of the public. Is there a reason why you wouldn't have re-recommended item number four to be included in this new PUD?

MS. GUNDLACH: Good morning, Commissioners. For the record, I'm Nancy Gundlach, Principal Planner with the Department of Zoning.

And Commissioner Strain, the reason that the wall and berm combination was removed was because at the time that was written we had a residential component to the PUD. I removed it once the residential component was removed.

CHAIRMAN STRAIN: Okay. But your stipulation back then said the following: No later when the residential development or care unit development receives.

So it seemed to me that you were concerned about the care unit development as well. And why did you -- why are you not concerned about it now?

MS. GUNDLACH: The information's always changing and evolving. And at that time that that was written, and that was about a month ago, I had sent out a code enforcement investigator to do some sound readings at the October Swamp Buggy event. And he had reported back to me that the readings were well within the confines of the noise ordinance.

And also, since then we had approved a PUD that is catty-corner, it's at the northeast corner of McMullen PUD, it's called Good Turn PUD. And that has an adult congregant living facility component as well. And there are no soundproofing or berms required in that PUD, so I was trying to be consistent.

However, I've heard a lot of testimony this morning and had some conversations yesterday, and I would certainly support the 12-foot combination wall/berm combination, if that's what the Commission would like to do.

CHAIRMAN STRAIN: Mr. Vigliotti?

COMMISSIONER VIGLIOTTI: I was going to suggest that.

Also, I keep hearing it was a residential component. Now it's assisted living facility where people and residences are going to live. So why do we switch back and forth? People are going to live there. So I definitely suggest keeping the wall.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Okay, Mr. Schiffer?

COMMISSIONER SCHIFFER: Just while we're on that issue, these are multi-story buildings. The 12-foot berm's not going to help a 50-foot tall zoned building. I mean, these people are going to be in the upper floors. I think if we want to protect them, let's protect them with construction. The berm is going to protect the parking lot.

CHAIRMAN STRAIN: What is the height requirement? Do you remember -- well, I'll pull up the --

MS. GUNDLACH: I could tell you that.

CHAIRMAN STRAIN: Yeah, we're at 50 feet with actual 62. So yeah, 12 feet's only going to cover the parking deck.

And I'm not for being impractical, but I wanted the record to be clear on where staff's reasoning was in the change between the two recommendations. I think it's -- after we go on further here today, we'll probably have more discussion on the matter.

And it's getting close to break time, I'm at a point where I can break on my questions for just -- I haven't got that many more, so why don't we come back at 10:15 and resume.

(Recess.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from the break. Let's try to move forward with the remainder of the questions of the applicant.

Somebody from the applicant needs to come up to the microphone.

MR. ANDERSON: Yes, sir.

CHAIRMAN STRAIN: One of the things I think that would be important to clear up today, since you've accepted the staff positioning of the medical acreage, 3. whatever acres it is, exactly what uses you believe are limited to that section of the -- not limited. What uses can only -- have to go on that section of the property? Are there any uses that you're asking for that you feel need -- that have got to go in that medical area so that there's no dispute with staff over what can go in there and what can't in the future?

MR. NADEAU: It's 19 --

CHAIRMAN STRAIN: Bruce?

MR. ANDERSON: Principally the concern is to allow ALF and just medical office uses. If there's a concern about a particular use --

CHAIRMAN STRAIN: Well, right now I believe you all think that number A.2, A.9, A.16, 17, 19, 21 are limited to that quarter mile radius. Is that what you're believing?

So if you build an ACLF, are you telling us that you're going to have the skilled nursing care facility located in that radius area? And if you're not, I'm not saying it's wrong, but I want everybody to acknowledge that here today so we don't have a fight going down the road.

MR. ANDERSON: Okay, the three acres is the limiting factor. Anything can go related to the ALF on all 19 acres. It's just the three acres that there are going to be limitations as to medical or some other -- a medical office use.

CHAIRMAN STRAIN: Okay. Then if you could turn to Exhibit A and look at number 19. You see the -- do you see the double asterisks over on the next page, Page 2? It says, these uses are permitted under the GMP as

support medical uses and are only permitted within the boundary of a quarter mile offset from the hospital to the south as depicted on Exhibit C.

So how -- if you're going to build an ALF, are you then saying that those services can be spread throughout the property? Is that what your assumption is?

MR. ANDERSON: Yes, an ALF could.

CHAIRMAN STRAIN: Okay. I just want to make sure that staff is in agreement with that. And David, you're the closest staff person. Is that going to be a problem or is that acceptable?

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

And yes, staff is in agreement with the uses listed on Exhibit A that are indicated as support medical uses.

Or to state it differently, staff also agrees that the item number 20, which are care units, group housing, so on, which includes assisted living facility, staff agrees that that is not limited to the support medical office portion of the site.

CHAIRMAN STRAIN: What about No. 19, the skilled nursing care facilities that would be part of the CCRC or ALF?

MR. WEEKS: Struggling with that one a little bit.

CHAIRMAN STRAIN: Well, this is the time to get it on the table.

MR. WEEKS: Yeah.

CHAIRMAN STRAIN: Let's resolve it today.

MR. WEEKS: The applicant has identified it as a use limited to the support medical portion of the site. It does -- there's three SIC codes there in that grouping and they're all nursing care facilities that require skilled nursing on-site.

And I'm still struggling with trying to distinguish that from nursing home which is listed under number 20, which is not restricted to the support medical area. And my understanding of a nursing home, I'm struggling to understand the difference. Because a nursing home does also by nature have skilled nurses on-site.

CHAIRMAN STRAIN: Right.

MR. WEEKS: So if anything I think I would go ahead and make the decision that number 19 does not have to be limited. I just don't think --

CHAIRMAN STRAIN: On the premise it's accessory or part of the use of a bona fide CCRC or ALF. But if it was a skilled nursing facility only to support the hospital, it would have to be limited. Is that a fair way to look at it?

MR. WEEKS: Yes, I would agree with that.

CHAIRMAN STRAIN: So I think that number 19, when it comes back for consent, we ought to clean the language up, because I'd hate to see it become a problem when you actually came in for your SDPs and we had a dispute over what it meant at that time. Let's just get it resolved on the consent agenda.

Ms. Caron?

COMMISSIONER CARON: Yeah, I just want to -- should perhaps that be broken into two separate numbers so that health services -- and I'm not sure now what is covered under that category -- would have to be limited, but skilled nursing facilities would not have to be limited? Is that what we're trying to achieve? And could we do that simply by doing 19 and 19.A?

CHAIRMAN STRAIN: I think whatever way you do it, you know what the clarification is and --

COMMISSIONER CARON: I mean, just the number, but --

CHAIRMAN STRAIN: Yeah.

MR. ANDERSON: That's a good suggestion. Thank you.

CHAIRMAN STRAIN: Okay. One would have a double asterisk and one would not, and the one that would not would be provided that it's part of a ACLF or CCRC.

Okay, I don't have any other questions at this time of the applicant, but I would like to know what the conversion ratio is being as a proposal.

MR. ANDERSON: The W.H. is for warehouse. Immediately under that, that's a G.O. for general office. And then under that is M.O. for medical office. And that conversion factor is 1,000 square feet equals one dwelling unit, one room.

CHAIRMAN STRAIN: Okay. So for every room of CCR -- for any one of the -- by the way, you used dwelling unit and I'm concerned about that, because not all the units inside a ACLF or CCRC may be considered

dwelling unit.

But for every unit within an ALF or CCRC, you would reduce your warehouse capacity by 1,000 square feet.

MR. ANDERSON: Correct.

CHAIRMAN STRAIN: And for every seven units you would reduce it in general office by 1,000 square feet. And 15 for -- M.O. is?

MR. ANDERSON: Medical office.

CHAIRMAN STRAIN: Medical office.

Okay, based on -- and I'm assuming the trip generation relationship is higher for the medical to the room because the people who use the rooms probably use the medical there on-site and they would save trips on the road.

MR. ANDERSON: Right.

CHAIRMAN STRAIN: So it's -- okay.

Mr. Vigliotti, you had a question?

COMMISSIONER VIGLIOTTI: Yeah. Bruce, would you be willing to live with the stipulation that this doesn't go forward unless the Swamp Buggy gets its noise exemption?

MR. ANDERSON: I want to make sure I understand what you're asking. That --

COMMISSIONER VIGLIOTTI: Swamp Buggy is trying to get a noise exemption, okay. Would you have a problem holding this up until -- or make this subject to them getting their noise exemption?

MR. HOREAS: Tom Horeas, the Sembler Company, the applicant.

(Speaker was duly sworn.)

MR. HOREAS: Tom Horeas, Sembler Company, applicant.

At the beginning of our application process, it was suggested by staff and the commission body for us to, you know, work with Swamp Buggy and the associated neighboring groups, which is the Sembler standard, actually is what we do.

We've had several meetings, several conference calls and everything. And it was crystal clear to us that the noise issue was paramount for this application. That's why earlier this morning we would like to put that condition back in that staff had recommended, I think it was about a year ago or a little longer than that, about the 35 decibels requirement for the buildings.

Because we feel at the Sembler Company that our goal is to make our users, our constituents, our tenants, our folks who are using the property happy and content in addition to making the county happy and content and our neighboring neighbors, whether they be recreational facilities or independent units, single-family homes, condos, what have you. That is our goal at the Sembler Company. We felt as though putting a permanent solution to this problem is paramount.

Being a former architect, we thought it was key to put the construction specification into the building standards to keep all the noise out. Regardless if the exemption goes through or not with Swamp Buggy, we think that that's the prudent long-term pragmatic thing to do, based on all the input that we've received from this body, staff. Some staff's no longer here, unfortunately, but their comments were taken very seriously by the Sembler Company so -- and the neighbors, et cetera.

COMMISSIONER VIGLIOTTI: That -- okay. So you would agree to the stipulation?

MR. HOREAS: Agree to the stipulation?

COMMISSIONER VIGLIOTTI: That this doesn't move forward without their exemption for noise.

MR. HOREAS: I don't think we can. Because if the goal is -- if the goal I think is to control noise from a generating source which exists today, predated the Sembler Company and McMullen and Hammock Park, that problem's going to exist forever.

So we want a permanent solution. So we think that if by putting the decibel specifications, as staff has recommended last year, into the document, this protects everyone, the users, whether they're tenants or contract owners within the ALF facility. It protects Swamp Buggy, it protects the county, it protects everyone. We think that that is a prudent thing to do.

Because at the end of the day if the Swamp Buggy exemption doesn't get approved for whatever reasons, and I'm sure we can all guess on those, I don't know, but if it doesn't, you're still back to square one.

So in reference to time, which is very important to the Sembler Company to get this rezoning completed and this project on-line, it's a solution that I guess has to be dealt with, you know, really now, the here and now.

COMMISSIONER VIGLIOTTI: Well, as far as the construction and that's already agreed to. Everybody's going to do that. My question is --

CHAIRMAN STRAIN: Let me offer a suggestion. We don't know if the Swamp Buggy grounds request is going to be approved next week or not. Most likely it would be.

MR. KLATZKOW: It's not going to go on next week. It's been continued to the second meeting in February for the board to look at. And it won't get approved until probably the first meeting in March, if the board wants it.

CHAIRMAN STRAIN: Okay. In any case, this project wouldn't have its -- wouldn't be undertaken until that's resolved.

I'd suggest that why don't we add a stipulation in our voting that if the Swamp Buggy approval does not occur, then they have to in addition to what they would do regardless, which is the building code upgrades to the 35-decibel R level that was in the previous application, that they then add that sound wall that we discussed.

But if the Swamp Buggy criteria does get approved, the sound wall would not have to be added. And then that way there's -- it leaves a lot of encouragement for this development to make sure to help get that -- no concerns over that sound restriction getting approved.

And if it didn't get approved, we're right back where we started with a year ago anyway, which at that time staff had found to be sufficient, and I think it's the best we could probably do anyway.

COMMISSIONER VIGLIOTTI: My only concern is again the Swamp Buggy's been there for years and years and years. I'm worried that you're going to get people moving in, whether you call them residences, living, ALF, it's people. And my concern is they're going to complain about the Swamp Buggy that's been there for years and years and years. I just want to protect them, that's all.

MR. KLATZKOW: One thing we could do, and I'd have to work with Nick on this, we could bring this item to the board at the same time as the proposed ordinance goes to the board so they'll have both issues at the same time to deal with.

COMMISSIONER VIGLIOTTI: Okay, I think that's a good idea.

COMMISSIONER SCHIFFER: Question?

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Let's just kind of look at that sound reduction thing that you have. I mean, there's something called a sound level reduction. I'm not sure what that is. I certainly know what STCs are.

So what is it that you really intend to provide? And obviously for you to provide it is the benefit of your operation.

MR. HOREAS: I don't have all the specifications in front of me, but in order to meet the 35-decibel level, it could be done with different kinds of building materials, different assemblies of building materials, et cetera. I'd have to, you know, defer to, you know, an acoustical expert and all that.

But I know when you set a standard, though, of that decibel, there's different ways to meet it. And obviously you have to meet local codes on top of that.

COMMISSIONER SCHIFFER: My question, and maybe I can wait for staff, but what does a sound level reduction of 35 mean? First of all, you have to reduce it from something. So what is that, from an ambient noise? The code has no real requirement for exterior walls. They certainly do for interior walls, but --

MR. NADEAU: That's accurate, Commissioner.

Again for the record, Dwight Nadeau, RWA.

I did a little bit of research on noise levels. I am not a qualified expert witness, I'm just going to tell you what I read over the Internet. And that is that -- and my knowledge of the noise ordinance.

The Swamp Buggy grounds can currently enjoy a 100-decibel reading at the track. The noise ordinance I believe is going to reduce it potentially down to 70. If there was a 70 -- a very, very loud rock concert or a standing next to a jet airline is about 102 decibels.

As you come down into more of the ambient noise of 70 decibels, I can relate it to a refrigerator or dishwasher in your house runs at about 55 decibels as far as sound. So there would be a 35-decibel reduction from the ambient sound outside the building.

So if it were 100 db, it would bring it down to 65 db.

COMMISSIONER SCHIFFER: Well, the 65 is our essential code ambient that we're allowed.

Just worded, the reduction of 35 doesn't really make sense I think in terms of construction. If we establish an



STC rating, essentially what we would have to do is raise, you know, what the code would require between partitions. It's just a difficult thing for you to really do with a number here without -- I mean, what you were describing is you're going to take a very loud noise and you're going to have construction that would reduce a 100-decibel noise to --

MR. NADEAU: By 35 decibels.

COMMISSIONER SCHIFFER: -- 65? Okay, that might work.

CHAIRMAN STRAIN: Wouldn't it reduce any noise by 35?

MR. NADEAU: That's accurate, too, Commissioner.

CHAIRMAN STRAIN: So if you start with 65, you reduce down to 30.

MR. NADEAU: That's right.

MR. CASALANGUIDA: Why don't we look into this and get back to you. Because I think it's construction materials. In my experience, depending on what kind of construction materials, how much stucco you put on, what kind of insulation you put on between the inside wall and the outside wall would have that effect, so --

MR. NADEAU: Actually, the most important factor, Nick, is the glazing of the windows. So if you put up hurricane glass, which we intend to do, that eliminates the diaphragm effect of the window.

COMMISSIONER SCHIFFER: Well, you're going to find you're going to use double layer window.

But obviously you can build a hotel at an airport, so you can figure this out. But I don't think the way you describe it as a reduction is something that anybody's going to be able to hold anybody to.

CHAIRMAN STRAIN: Well, between now and consent we need language that it can be held to. And I'm sure that staff can draw that up.

Mr. Murray?

COMMISSIONER MURRAY: In actuality, the question I was going to ask was posed by Brad, so I'm comfortable with the answer, thank you.

CHAIRMAN STRAIN: Anybody else have any questions of the applicant at this time?

(No response.)

CHAIRMAN STRAIN: Okay, we'll take -- yes, sir?

MR. HOREAS: I think your suggestion, Chairman, is a very pragmatic suggestion with regards to conditioning with the wall and the berm in the event that the exemption does not get approved. I think that's a fair compromise that I think would make I think everyone happy, including the future residents there too. So we're willing to agree to that.

The -- one other thing I wanted to mention. With regards to the Good Turn PUD that was recently approved, was there acoustical standards and wall requirements in that PUD?

I just -- my concern is just for consistency, for my own edification, is the -- if a resident was there and they heard maybe a slightly drop in noise but the same kind of noise, and if they didn't have that requirement, I mean, how did the county handle that situation? I'm not being facetious by no means, I just -- for my own knowledge, that's all.

CHAIRMAN STRAIN: Well, I believe the difference between the two is that on this one the Swamp Buggy people realized it was coming through and got involved with it and posed the question. I'm not sure the question was even brought up in Good Turn. Had it been, I'm sure that it would have been considered more intensely then. It may have been our fault we didn't catch it, but we do reserve the right to get smarter as time goes on, so --

MR. HOREAS: Of course.

CHAIRMAN STRAIN: -- we're trying.

MR. HOREAS: My grandfather in Greek, I'll translate, used to say to me, that's why we put erasers on pencils, Tom. And I was like, good one.

COMMISSIONER MURRAY: Sir?

CHAIRMAN STRAIN: Mr. Murray.

MR. HOREAS: Thank you for answering that.

COMMISSIONER MURRAY: Before I would go with the 12-foot wall, there's a 25-foot setback, I believe.

MR. HOREAS: That's correct. Type B.

COMMISSIONER MURRAY: So somebody coming out of the unit would have 25 feet and 12 feet. Wouldn't there be --

MR. HOREAS: Well, I think there was a --

COMMISSIONER MURRAY: -- kind of a --

MR. HOREAS: Yeah, that's a good point.

COMMISSIONER MURRAY: Wouldn't that create kind of a penitentiary effect?

MR. HOREAS: Good point.

I thought there was a suggestion. I think it was by one of the staff members, that it was I think a six-foot high berm and then a six-foot high wall combination is how I interpreted it.

COMMISSIONER MURRAY: There's plenty of --

MR. HOREAS: Which I think would look better aesthetically, just my opinion, over the long-term, rather than a 12-foot high wall. Because you run into other problems with that wall. It looks penitentiary, structural issues supporting it. It's -- it looks like a DOT wall then getting that high.

CHAIRMAN STRAIN: The other point is, though, it would only go along the common property line between you and Swamp Buggy, which is only the far eastern line from --

MR. HOREAS: Correct.

CHAIRMAN STRAIN: -- what I'm reading here.

MR. HOREAS: Correct. That's how we interpret it.

CHAIRMAN STRAIN: In a risk assessment approach, your potential of putting that up is probably close to zero.

So Ms. Caron?

COMMISSIONER CARON: Yeah, just a couple of comments. One is that we judge each one of these petitions separately and distinctly. So whatever happened to Good Turn has no relation to what is happening --

MR. HOREAS: Sure, sure.

COMMISSIONER CARON: -- here now. Though Lord knows, we do try to be consistent.

Secondly, before the petitioner leaves, we haven't had any discussion at all of the market demand study, and I would like to hear from the people on that issue. Thank you.

CHAIRMAN STRAIN: Well, then we ought to get that before staff comes up. And if you have a question on the market study, looks like Mike's here to respond.

MR. BELLOWS: Yeah.

MR. TIMMERMAN: Good morning, Commissioners. For the record, Mike Timmerman, Fishkind and Associates.

We prepared the market demand study for the McMullen PUD. Our focus on it was the office space. We also did look at the assisted living and CCRC uses.

So the questions that really were raised when we did the original study were the amount of supply of existing office space that was in the market. We went through exhaustive lengths to go through and expand and identify those existing vacant spaces.

We looked at the space -- we looked at our subject site, McMullen PUD, and its influence by the hospital, and then looked at additional space from that five-mile radius, which is how we identified the existing space. Focused 100 percent of the use that's within that one-mile radius of the subject site as competing and influenced by the hospital. The further we got away from the property, there was less influence, therefore being less demand because of the generation of employment by the hospital.

There is an awful lot of space that's available up near the five-mile radius, which is near that intersection of Collier Boulevard and Davis Boulevard. That is more influenced obviously by the interstate. A lot of that space that had been built was built speculatively. But it doesn't have as much influence from a standpoint of the hospital and the existing medical space that's there right now.

COMMISSIONER CARON: But there's no actual commitment here for anything specific either. We have it may be an ALF, it may be medical office, it may be general, it may be contractors. So, I mean --

MR. TIMMERMAN: Well, the main thing we're looking at is the influence of the hospital. If you look at the other hospital sites, both NCH and North Collier, the majority of the space, office space that's built around there is medical in relation. The doctors like to be close to the hospital for calls and things of that nature. That's typically what ends up happening around hospitals, which is the reason we kind of focused our analysis of the influence of the employment center.

If the hospital were not built yet, and the hosp -- this was 10 years ago and we were talking about a hospital,

then there may be a little bit of difference. But the hospital's existing, it's growing, there's a tremendous amount of potential for residential development and growth over the next 15 to 20 years in this area. So we're looking at the existing hospital locations and saying well, that influence of that additional space, whether it be general office or medical office, the influence of the employment of the hospital is a main driver for that. And the further we get away from that, the less that influence is going to be affected.

COMMISSIONER CARON: Obviously staff has a different opinion.

MR. TIMMERMAN: Well, and we addressed staff's -- all of staff's questions.

Their questions, when we did the original study, were basically there's an awful lot of office space that's available in the marketplace, why do we want to add more.

COMMISSIONER CARON: And that is a true statement.

MR. TIMMERMAN: It is a true statement. And what we did is we went through and we looked at product within one, three and five-mile radius. And what we found was that the majority of the office space is available up near the interchange.

And as we see this area growing, there is going to be more of a need for office space. Obviously there's been a change. That majority of the use will be at senior housing's use, which we haven't seen a lot of that development occurring in Collier County for many, many years.

So again, the influence of the hospital, that general area and the amount of growth potential that's there, we felt that there was adequate demand for office space.

COMMISSIONER CARON: Is the medical office on the hospital grounds or right surrounding that?

MR. TIMMERMAN: That was included in our analysis.

COMMISSIONER CARON: And so that's 100 percent occupied?

MR. TIMMERMAN: I don't believe it's 100 percent occupied right now.

COMMISSIONER CARON: I don't think so either.

MR. TIMMERMAN: And again, we're looking at it from a standpoint of five, 10, 15 years. At some point in time that will be occupied. Obviously the existing space will be occupied first. And we're looking at it from a planning exercise. Developers are not obviously going to go ahead and develop something if there's not enough demand.

We have to look at this last five-year period as an anomaly in economics. There was a tremendous amount of speculation. When retailers develop retail space, they build it based upon the residential rooftops. And we were building a lot of residential rooftops. Well, what we didn't -- they didn't understand was the amount of speculation that was being built in the marketplace. And as we worked with retailers over the years, we would make discounts in those rooftop numbers to account for the speculative amount of inventory that was in the marketplace.

But many developers went through and speculated based upon the growth that they saw occurring. Personally and from the research that we had done many years ago over the last -- I've been here 27 years -- over the last 10-year period we were very concerned of the amount of speculation that was being done. However, we're not the ones that say you can't put it back, it's the market that really influences that.

COMMISSIONER CARON: Well, on Page 17 of your report you say that the data indicates that the county as a whole has higher levels of per capita --

MR. TIMMERMAN: Per capita.

COMMISSIONER CARON: It is catching today.

-- senior housing facility development than the five-mile radius. But then you exempted what was approved to the north of that. I mean, you made a special note of it, saying we exempted the 400-bed CCRC proposed north of this. Why?

MR. TIMMERMAN: Well, at that --

COMMISSIONER CARON: Because it was too close and would have conflicted with --

MR. TIMMERMAN: No.

COMMISSIONER CARON: -- with your figures? It says here the potential development's timing, funding and probability of completion of this proposed CCRC is not known at this time.

And I would submit to you, we don't know it for your project either. There have been zero commitments for timing or completion or anything. Or probability, actually.

MR. TIMMERMAN: From the research that we had done and talked with people, the probability of that

continuing to move forward as a CCRC was limited. And we made that note to say we're not sure if this is going to occur. From the research that we had done, we discounted it. We don't know if that's going to occur. We don't know what's going to happen in the future for anything. But this particular --

COMMISSIONER CARON: Right. We don't know about yours either.

MR. TIMMERMAN: We don't. But this particular piece of property, the CCRC that was planned there, there had been talks of changing that to multi-family and to other types of uses. So we weren't sure exactly what was going to end up happening there.

And the CCRC, I mean, we really haven't -- aren't building a lot of senior housing -- we haven't built a lot of seniors housing in Collier County for the last 10 years.

CHAIRMAN STRAIN: Well, you haven't been watching these meetings then, have you?

COMMISSIONER CARON: My point exactly.

MR. TIMMERMAN: We haven't built. We've been planning it, yes, but there hasn't been a lot of stuff that's been built.

So, I mean, obviously there's a lot more that's being added to the marketplace and that there's a demand for in the marketplace. So we're seeing that demand increase. As our population is aging, we're going through and seeing more of that demand in the marketplace.

COMMISSIONER CARON: What we're seeing is that apparently there's not that much of a demand or some of it would be coming out of the ground.

MR. TIMMERMAN: It all depends on the economics --

COMMISSIONER CARON: I mean, we keep approving and approving and approving.

MR. TIMMERMAN: Well, it depends on the economics of the business itself too. And that may be one of the reasons why you're not seeing as much of it being built.

CHAIRMAN STRAIN: Just a minute.

While this exhibit is up on the screen, I now remember Good Turn Center. It isn't contiguous to Swamp Buggy Days. That is a big difference between the McMullen PUD and Good Turn. Good Turn is separated by Swamp Buggy by over 20 acres or more in distance equal to your project.

So for the prior gentleman who had a question about why we didn't impose the restrictions on Good Turn, that's most likely why it never came up to question. It's quite a distance from Swamp Buggy Days, as comparison to this one that is contiguous.

So now that being said, I had a follow-up.

You had said there's a relationship between the hospital or hospitals and commercial such as this project?

MR. TIMMERMAN: Well, there's -- if you look at the concentration of office, medical space, it's -- there's more medical space that are around the hospitals, because the doctors, obviously if they are -- need to get to the hospital for rounds in the morning, they want to be able to get to their office close. So generally you find more concentration of medical office obviously around a hospital. That's not always the case, but many cases you do.

CHAIRMAN STRAIN: The reason is this is a sister facility, this hospital, to the one that was the Cleveland Clinic, it's now Physicians Regional on Pine Ridge.

Physicians Regional on Pine Ridge doesn't have any commercial except one little -- I mean, doesn't have any commercial generated by the hospital. They have the Vineyards Shopping Center that was there with the Vineyards DRI.

MR. TIMMERMAN: Right.

CHAIRMAN STRAIN: And then across the street from that they have a very small, I think maybe even less than a five-acre parcel, and that's the only medical in the area that I know of. So that hospital seems to be an exception to your statement.

MR. TIMMERMAN: At the point in time that that was built there, there wasn't a lot of land developed. Remember, we've got Golden Gate Estates to the south, which is all Estates zoned. There wasn't a lot of commercial that was planned there other than the retail shopping center.

The hospital, if you remember, that site was not really designed -- it was there, it was large, the hospital went to that particular site because it was close to the Interstate 75 and everything else. But if you look at North Collier and the main hospital, obviously you see there's a lot more land that's available for commercial development and there's been more of a concentration of office space and medical space around those.

And that's where this particular property's the same way. There's land that's available around for it and that will allow for more generation of medically related uses.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I think more for the edification of this board and certainly to help Commissioner Caron in that regard, I am currently the chairman of the Physicians Regional Hospital system and I can tell you that historically NCH, because of its being the sole provider here, had drawn to it proximate to it hospital offices and other ancillary activities. This will also occur with Physicians Regional and Collier.

The one that was bought up there, it became Cleveland Clinic, was a particular format that Cleveland Clinic likes to operate. And I think you can say with certainty, and I'll say it with certainty, that there will be additional medical office needs. Currently the Collier County -- Collier County with the 951 hospital is actually operating at census almost full and is contemplating additional beds. So there is a need, it will be growth, and I can say it with that degree of certainty.

I'm not trying to testify, but I am telling you what I am aware of.

CHAIRMAN STRAIN: Mr. Murray, you said you're chairman of the hospital?

COMMISSIONER MURRAY: I am, yes.

CHAIRMAN STRAIN: Of Regions Physician (sic) Hospital?

COMMISSIONER MURRAY: Yes, I am.

CHAIRMAN STRAIN: Okay. I didn't know that.

Do you have any conflict on this board?

COMMISSIONER MURRAY: I don't think so.

CHAIRMAN STRAIN: I didn't know you were chairman of the hospital. That's --

COMMISSIONER MURRAY: Well, there's no conflict. Because the matter is this organization trying to rezone some property to use it. I don't know what will be there. I don't have any activity with them. I don't see it as a conflict of interest whatsoever. I'm not a paid position being a chairman of the board.

CHAIRMAN STRAIN: Okay. Anybody else have any questions from the applicant, if any?

Go ahead, Mr. Anderson.

MR. ANDERSON: I just wanted to supplement Mr. Murray's remarks to remind you, a year ago when we were before you we had the CEO of Physicians Regional speak and ask you to approve it because they knew that they needed the doctors' office space. I just -- we may have forgotten about that and I just wanted to bring that up again.

CHAIRMAN STRAIN: Okay, thank you.

Anybody else?

(No response.)

CHAIRMAN STRAIN: If not, we'll ask for the staff report.

Thank you, Mike.

MR. TIMMERMAN: Thank you.

MS. GUNDLACH: Good morning, Commissioners. Staff is recommending approval of the McMullen petition. It is consistent with the Growth Management Plan and the LDC.

And if you have any questions, it's my pleasure to answer them this morning.

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Brad, go ahead.

COMMISSIONER SCHIFFER: Nancy, do you think it's still appropriate to call this a mixed use planned development? There's nothing mixing here.

MS. GUNDLACH: We contemplated that as staff. And because of the quasi commercial/residential use of the ALF, we still consider it a mixed use.

COMMISSIONER SCHIFFER: Wait a minute, we had a conversation last time where we caused residential to be mixed use by the ALF. So now an ALF can cause commercial to be mixed use too? That's a powerful trump card then, I guess.

Ray, remember our conversation that I asked at a prior hearing why it's a mixed use and you said because it has an ALF, which is a commercial use? So now it works the other way?

MR. BELLOWS: You can be a mixed use if you have two types of different land uses, such as residential or commercial. That's one type of mixed use. You can have a community facility in a commercial, which we would

deem community -- other community facilities like in the CF district, that could also be deemed a mixed use project.

Now, in regards to a PUD such as this where primarily and now a commercial project, if it limited it to an ALF, I think you could say because an ALF is also found -- is a use permitted in the commercial district that you can go with the commercial district.

It's just a designating nomenclature. I could see a case could be made for mixed use also. Because there are some other mixed uses that are more --

COMMISSIONER SCHIFFER: But I don't want to lose the real meaning of mixed use, you know, which this might blur. I think it should be removed. But your call.

The other question is, on this quarter mile radius, how do you determine when a building complies with that? In other words, if a building touches that, is anything in the building allowed, or do you actually go into the floor plan of the building and plot this radius and state that things on the north side of the building, for example, could not be medical, things on the south side could? How does that radius affect the building and the uses in it?

MS. GUNDLACH: I could ask the appropriate staff person. Thank you, David.

MR. WEEKS: I wanted to hear your answer.

MS. GUNDLACH: I have no idea.

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

I don't know that that situation has ever come about before. Based upon the language in the Future Land Use Element, the measurement for the qualifying property is from the -- wouldn't be inclusive of the boundaries of the support medical project.

So in this instance the presumption would be if they go to develop with medical office uses that they will in fact plat the property. And we would be -- the expectation would be that the entire platted lot or tract would fall within that quarter mile distance.

But your question is one we've never dealt with before. But that's certainly possible that the line cuts right across the lot.

COMMISSIONER SCHIFFER: Okay. And then you would -- so if a building was half in, half out of the line, half of the building would be available for medical, the other half would not.

MR. WEEKS: Ludicrous as it sounds, yes.

COMMISSIONER SCHIFFER: Ludicrous it does sound.

Okay, thank you.

CHAIRMAN STRAIN: Okay, any other questions of staff?

(No response.)

CHAIRMAN STRAIN: Thank you, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Nick, you've got a question of staff?

MR. CASALANGUIDA: Just a comment, sir.

I think Commissioner Schiffer asked how we would regulate that sound, decibel reduction. We have a section in the airport zone that talks about how to do that with the building standards. We'd reference that section and just say per this section with a 35-decibel reduction. And it talks about building construction standards and how to apply for that.

COMMISSIONER SCHIFFER: Okay, excellent. Good. Thank you.

MS. GUNDLACH: Commissioners, I have a request. If it's okay with all the parties involved. We were discussing the timing of the noise ordinance. And my request is if we could let the noise ordinance go forth the second week in February as originally planned. I just thought it would be nice to have that information for when I prepare my executive summary, which is due on March 13th.

CHAIRMAN STRAIN: I think if we put a stipulation in that's caveated upon the success or failure of that, that takes care of it.

MS. GUNDLACH: Okay.

CHAIRMAN STRAIN: I'm not sure that it becomes that necessary to run together, because the outcome is determined either way. It works either way --

MS. GUNDLACH: Okay.

CHAIRMAN STRAIN: -- I think, so -- okay, are there any public speakers, Ray?

MR. BELLOWS: Yeah, Randy Johns, but he spoke already. But he may want to speak again.

CHAIRMAN STRAIN: If anybody would like to speak on this matter, please raise your hand.

(No response.)

CHAIRMAN STRAIN: Okay, Bruce, do you want a rebuttal to nothing the staff said?

He's shaking his head no.

Okay, with that we'll close the -- oh, Ms. Caron?

COMMISSIONER CARON: Sorry. I would like Mr. Weeks to come back up and comment on the market demand study.

MR. WEEKS: As noted in the comprehensive planning department's staff memo dated January 21, 2010, on Pages 5 and 6 is where we discuss the market study.

And I first want to say -- before I get into any of that, I first want to say that the petitioner's comments, as I heard them, were mostly pertaining to medical office uses, and just to remind the Commission that a very small portion of the site is eligible for support medical uses.

This whole project site is different than your typical activity center. It goes back to how the comprehensive plan was amended to add this plus or minus 19-acre site. As you know from the presentation and your prior involvement with the petition, this quadrant is treated differently -- this portion of a quadrant is treated differently than the quadrant of any other activity center. Because at the time of the comprehensive plan amendment the applicant's position at that time, and that was not the people before you today, their position was that there is a need for more C-5 type commercial uses. We need more contractors' licensing -- contractors' offices, other C-5 types of uses.

They made their case and ultimately were successful in getting the plan amendment approved. And as you see, the language is very specific in the types of uses that are allowed.

This develop -- this property is not allowed to have your typical activity center commercial uses. You can't have your general office uses, you cannot have your retail, your neighborhood commercial, community shopping center. The types of things you usually see in activity centers are not allowed at this location.

I mention that specifically because I believe the context is important. Because this is within an activity center, mixed use activity center. One of the factors to be considered at the rezoning is in fact the market study, the types of commercial uses within a two-mile radius of the project site.

I believe that has far less relevance to this piece of the activity center than it would to any other activity center. Because it's not open to all of those general commercial types of uses.

Staff did take issue with some of the analysis, as noted in the memo I referenced. We were concerned that maybe some properties were excluded or discounted that should not have been. But ultimately, despite those misgivings in our opinion in the market demand study, we still came before you with a recommendation to find it consistent with the plan. And it really comes down to in short that context of the types of commercial uses that are being proposed and that are authorized by the Future Land Use Element versus other activity centers.

COMMISSIONER CARON: David, how do we reconcile? I mean, we were all here when that growth management plan amendment went through. How do we reconcile the fact that that was presented to us as a need for industrial, for C-5 uses, C-4 and C-5 uses. And now we want to mix up C-4 and C-5 uses with assisted living?

I mean, because they're telling us they could have both. They've shown us a conversion ratio. If they want to have both, that seems to be very poor planning, to allow industrial C-4 and C-5 uses on the same piece of property as an assisted living facility.

MR. WEEKS: Couple of comments. One, if their objective -- if they are at a level that they could make a commitment to only doing the continuing care retirement center -- I don't believe that's the case, but if they were, I question whether they would even need this rezoning. We might instead be looking at a conditional use or a rezoning to PUD but without all their commercial uses.

Without this rezoning, the property would -- the portion of it would still qualify for the support medical uses. The property would still qualify for the types of community facility uses that are allowed anywhere within the mixed use district. That includes the ALF use, the group housing, nursing home, those types of things are allowed by the FLUE without necessitating this rezoning.

But of course they are asking for the types of commercial uses they're allowed as well.

Staff did, in our consistency memo, did raise that concern about the mixture of uses, just as we had back when there was a residential component, that we have the highest intensity type of commercial uses allowed with the

lowest intensity of commercial or quasi residential.

But we do not take a position to say that this should not be allowed, and here's why: Jump to any other mixed use activity center quadrant and they allow the full array of commercial uses, C-1 through C-5, and they allow residential. So activity centers by design allow for a mixture of use.

The decision-making process is where we should evaluate is it appropriate to have a propos -- any given proposed mix of uses. Just because it's allowed by the comprehensive plan does not mean it's appropriate and should be approved. And I'm not suggesting this one shouldn't, but that's where we're coming from, from the staff perspective.

So they're allowed to have the C-5 type uses, but they're also allowed to have the community facility uses and the support medical.

The question is, for this body and the board ultimately, is should that mix of uses be allowed. And if it is, is it necessary to impose certain development parameters to ensure compatibility? Be it buffering, open space, setbacks between the uses, those types of things.

COMMISSIONER CARON: Thanks, David.

CHAIRMAN STRAIN: Okay, anybody else have any questions before we close the public hearing?

Ms. Homiak?

COMMISSIONER HOMIAK: I have one more.

On Exhibit A, on number 20 that I was questioning before, could it just simply -- if that is truly the intent, to just have the assisted living and nursing home and that type of thing, could it just simply say care units only, including, and leave out group housing -- group housing facilities and then start with the assisted living and continue the rest?

CHAIRMAN STRAIN: The State of Florida has a serious of statutes that address assisted living and they use a lot of different terminologies. The CCRCs are a unique animal, and I believe group housing -- they have definitions for group housing as well as ALFs. I'm not sure if everything's covered by leaving it out. I guess the applicant would know that better than anybody, unless staff has an opinion on that.

Heidi, are you getting up to address us?

MS. ASHTON-CICKO: No, not really. I'm just getting my Land Development Code because that's the definitions that we refer to in --

CHAIRMAN STRAIN: Okay. Bruce, do you know from a -- I guess from your applicant's viewpoint whether the group housing is something you need, or does a reference to a CCRC, which I believe covers -- by statute I think it covers everything. Would you be inclined to look at that, or not?

MR. ANDERSON: My recollection is that those are separate. A CCREC is different because that's aging in place. And an ALF is not as wide-ranging as a CCREC.

What we maybe should do, if this would be sufficient, is specifically exclude those uses that Ms. Homiak is raising.

CHAIRMAN STRAIN: I think that's what we previously agreed -- had stipulated. I was going to bring that up in a stipulation. But if that's not -- if there's an easier way, I think is what she --

COMMISSIONER HOMIAK: But it looks to me like the definition of care unit includes all of that anyway. It includes everything that's included in group housing or group care facilities.

CHAIRMAN STRAIN: Well, Bruce --

COMMISSIONER HOMIAK: Category 1 and 2. So it includes all of the -- it still includes all those things. But here you're listing it -- I mean, if it just says care units only including assisted living, independent living, community retirement, care retirement communities and nursing homes, all for persons over age 55, is that not what you're asking to allow here, all those --

CHAIRMAN STRAIN: Before we go too far, there might be a solution.

You know where the concerns are.

MR. ANDERSON: Yes, I do.

CHAIRMAN STRAIN: Okay. And staff knows where the concerns are. There's a lot of different language in both statute and even our code that addresses all the types of uses that everybody wants or doesn't want. And one of the stipulations I was going to suggest we make today was that the restrictions on this group housing language get cleaned up by the consent agenda. And that would give staff and the applicant time to make sure that they got legally



the right references there before anything is agreed to be taken out that may not necessarily address the issue you're concerned about.

Is that a solution that you think would work, Karen?

COMMISSIONER HOMIAK: That's fine.

CHAIRMAN STRAIN: Okay. Because I think if staff, if they had time to come back and look at the options they have and then come back with cleaner language, and we got it ahead enough that we could then look up those terms ourselves, rather than just guess on what they mean and try to take them out because we're not sure what they mean, that might be a better way to approach it.

Does that work for everybody?

MR. ANDERSON: Yes.

COMMISSIONER MURRAY: I think that's a good idea.

CHAIRMAN STRAIN: Okay, Ms. Caron?

COMMISSIONER MURRAY: That will do the job.

COMMISSIONER CARON: Yeah, onto another issue.

Since we are talking about the potential of C-5 uses, C-4 and C-5 uses next to assisted living facilities, what provisions have you made in your PUD to buffer and separate those uses?

MR. ANDERSON: What buffering development standards do you have to separate the ALF from any of the C-4 or C-5 uses? What do we have in the PUD for that?

MR. NADEAU: We don't have buffering standards, because there's going to be separate tracts that would be associated with the next to occur development order. The buffering would be established at that time through the Land Development Code provisions.

COMMISSIONER CARON: So you're going to rely on minimum code to do this?

MR. NADEAU: We're going to rely on our Land Development Code to put in the buffering, yes.

COMMISSIONER CARON: Okay, thank you.

CHAIRMAN STRAIN: Okay, does anybody have any other questions before we close the public hearing?  
(No response.)

CHAIRMAN STRAIN: Good. Public hearing's closed.

And let me -- I have as a suggestion some stipulations. Let's have some conversation before a motion.

I made notes, I'll read off what I've made, and then you all can decide what we want to do.

The first one would be that we add some restrictive language to the references to group housing. I think it was number 20 that we were focusing on.

We also add sound attenuation requirements for the building, similar to those that were in the prior PUD application, as recommended by the staff report.

Likewise, we add the requirement for the sound wall from that prior application, contingent upon the approval or lack of approval of the Swamp Buggy Days application be exempted from our sound ordinance. If they're exempted, then the wall doesn't need to be there. If they're not exempted, then the wall does need to be there.

Another item -- number four would be to add a notice of proximity as indicated by our County Attorney.

Number five, the 5,000 square foot limitation is missing from the accessory uses where it used to be in the original PUD. We want to put those back in.

Number six, for the C.A.T. contribution in the transportation section, change that to read it's going to be 100 percent of the cost of the facilities and design.

Number seven, we're going to clean up number 19. We may split it up into 19.A or B or whatever methodology staff and the applicant work out to address the quarter mile rule.

And number eight, add a conversion criteria that was previously displayed for those units -- not dwelling, just units -- developed under uses 19 or 20.

Those are the notes that I made. Does anybody have anything -- Mr. Schiffer, then Mr. Murray.

COMMISSIONER SCHIFFER: Mark, on number two, which was the sound thing, I thought the thing that Nick had was better, essentially referencing the airport zone and make it meet those requirements.

CHAIRMAN STRAIN: Right. Well, I wasn't trying to say -- I was just indicating something has to be added. He was going to come back on a consent with some definitive language. That's what I was --

COMMISSIONER SCHIFFER: And then the other question, number three was the berm. So if they do get

the berm waiver, in other words, their sound doesn't have to comply with the landscape code, I think you said do they need the berm then, or --

CHAIRMAN STRAIN: No.

COMMISSIONER SCHIFFER: -- do they not need the berm?

CHAIRMAN STRAIN: If Swamp Buggy gets the waiver, then there's no need for the wall.

COMMISSIONER SCHIFFER: But wouldn't it be the other way around? In other words, if the Swamp Buggy does get away with it, that means they can move the use closer. That means they don't have any concerns over sound. So shouldn't we be protecting the people under those circumstances? If they don't get the waiver, then we have the sound ordinance to protect us, thus no need of the berm.

CHAIRMAN STRAIN: Okay, the way this was originally set up in the original application, Swamp Buggy's waiver wasn't applied for. So this was to protect the facility if Swamp Buggy didn't get the waiver. And they were also going to do the sound attenuation.

But your point earlier I thought was a good one.

COMMISSIONER SCHIFFER: Yeah, it's not going to work.

CHAIRMAN STRAIN: You said a 12-foot berm or wall combination's going to do no good to a 50-foot high building.

COMMISSIONER SCHIFFER: So why don't we just --

CHAIRMAN STRAIN: And so I'm thinking that -- well, because I think there needs to be some kind of incentive for this organi -- for them to help make sure that Swamp Buggy gets approved, and that would certainly provide it.

But if it's not -- I mean, it's not a do or die situation from my perspective. I don't think it's going to help as much. I think it will help the lower floor, whatever that may be, but I don't think it's going to do much good for the overall building.

COMMISSIONER SCHIFFER: I don't think the berms should be a requirement at all. But if -- the place where it would be a requirement is if the Swamp Buggy gets the approval and that means they can do anything they want.

Now, I think what you're saying is you want, by causing the removal of the berm if they don't get the approval, to inspire these people to help them get the approval. I think they've said they'd do that.

But in other words, I would think the berm would be necessary if the Swamp Buggy does get the approval. Because that means they're able to then make more noise and there's no control on it.

I do think first of all the berm isn't necessary at all, because it's --

CHAIRMAN STRAIN: Well, are you suggesting we change stipulation number three so the sound wall is required if the Swamp Buggy gets the exemption -- or does not get -- yeah, either way then. You're basically saying no matter what, it's required.

COMMISSIONER SCHIFFER: Well, no, what I'm saying is the way you first worded it is if they get the exemption, which means they have no -- there's no community control over their sound, then they had the -- they didn't have to build the wall. And I'm saying that's when they really would need the wall.

CHAIRMAN STRAIN: Okay. And that's fine, I don't have a -- I understand what you're arguing. It makes sense. I'm not debating it, so --

COMMISSIONER SCHIFFER: Personally, I think I'd like to just get rid of the berm entirely. That's -- and a berm -- you know, sound, as it comes through the air, especially from a distance, it's just going to redevelop on the top of that wall anyway. So you're really wasting money on that berm, money that could be spent on the windows.

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

COMMISSIONER MURRAY: Yeah, Mark, just to avoid any possible ambiguity that might result from -- you said in number two similar to what was in the original PUD for sound attenuation. Would you -- I know you're being gentle in the language in assuming that they would work together on that, but is there anything that you wouldn't want to see from that one? In other words, take it from -- reinstate it as it is.

CHAIRMAN STRAIN: Well, I think Brad's earlier point questioning what it really means in relationship to sound was a good one, and then Nick offered a suggestion to clean it up. So I was leaving it open enough so they could insert --

COMMISSIONER MURRAY: That's what you meant by similar to.

CHAIRMAN STRAIN: -- those -- yeah.

COMMISSIONER MURRAY: And I'm good with that. I just wanted to be sure we're not going to get into ambiguity. Okay.

CHAIRMAN STRAIN: Mr. Vigliotti?

COMMISSIONER VIGLIOTTI: Yeah, I have a question. We discussed a possible stipulation that this doesn't go forward unless the Swamp Buggy does get its noise exemption.

CHAIRMAN STRAIN: No, they have a right to develop their property. I mean, I don't know -- we could discuss it. But my thought would be they have a GMP amendment that says they can do certain things, they have a right to do them.

Whether Swamp Buggy gets the exemption or not should not prevent someone's property rights from developing. Now, what we should do is try to make sure the best protection we can provide is in there, and I think that's where the debate might want to focus.

COMMISSIONER VIGLIOTTI: Yeah, I'd like to hear from the board of any other suggestions.

CHAIRMAN STRAIN: Well, I've read off eight stipulations. We talked about two of them. We're down to one that seems to be we want to make sure we all understand it, and that's the sound wall.

Originally the sound wall was going to be an if/or situation or not at all. Brad's point about a 50-foot high building being protected by a 12-foot potential sound wall is really reasonable. It's really requiring somebody to do something that's going to cost money that may not have the effect out of it. So I'm wondering if he's not right -- right from the get-go why do we even need to bother with it.

COMMISSIONER VIGLIOTTI: Jeff, do you have something you can do to help me feel comfortable here?

MR. KLATZKOW: Yeah, I think that the effort that the Planning Commission is undergoing to reduce the actual noise is the right approach. Because the Swamp Buggy's there. It's a permitted activity. And even if the board doesn't pass that exemption, I don't know how from a code standpoint you're going to be able to hold somebody doing something that they've been permitted to do and have been doing for years from not doing. I mean, it would be a mess from a code enforcement standpoint.

So irrespective of what the board does with the exemption, I don't really think there's going to be a negative impact to the Swamp Buggy for when you get the surrounding area developing around it.

So the right approach really is to ameliorate the noise to the expected community by using the sound walls and architectural features and what have you. I do think that's a good approach by this Commission.

COMMISSIONER VIGLIOTTI: That's fine then, thank you.

CHAIRMAN STRAIN: Anybody else have any discussion?

Go ahead, Nancy.

MS. GUNDLACH: I just wanted to share with you, there was some concern about what the minimum code buffering is between the intense commercial and the ALF.

And depending on who comes in first, somebody -- one of the parties is going to have to put in a 15-foot wide Type B buffer, and the other party would have to put in a 10-foot wide Type A buffer.

CHAIRMAN STRAIN: Okay. And just for our enlightenment, the buffer that would have to be -- let's say the sound issue never came up. What buffer would be required between this PUD and Swamp Buggy grounds?

MS. GUNDLACH: Well, currently there's a preserve. And that -- so long as it acts as a Type B buffer, that would be sufficient. And a B buffer, just to let you know, trees are 25 feet on center and there is a required six-foot; it could be either hedge or fence or wall.

CHAIRMAN STRAIN: Okay. You said there's a -- now, the Swamp Buggy grounds is on the east side of the property. There's a preserve along the north side. I don't --

MS. GUNDLACH: Oh, sorry about that. Okay, along the east side there's an access road. And on the other side access road is currently some Swamp Buggy land.

CHAIRMAN STRAIN: Right.

MS. GUNDLACH: It would just be a D buffer, a 20-foot wide Type D buffer as you see depicted on the master plan. And a D is trees 30 feet on center and a hedge that's 24 inches high of planting.

CHAIRMAN STRAIN: Okay. There was another buffer with a requirement of a fence or a wall.

MS. GUNDLACH: That was your B buffer, B as in boy.

CHAIRMAN STRAIN: When would that kick in?

MS. GUNDLACH: That kicks in when we have like a -- what we were describing earlier, which would be the ALF next to a C-4, C-5 type use.

CHAIRMAN STRAIN: Internal to the site with a higher intensity use next to a lower intensity use.

MS. GUNDLACH: Correct.

CHAIRMAN STRAIN: And this potential project being an ALF has a higher intensity use potentially next -- or low intensity use next door to a high intensity use.

MS. GUNDLACH: Correct.

CHAIRMAN STRAIN: So wouldn't we be better off suggesting that if they go with the ALF or group housing of some type on the area that -- on the property adjacent to Swamp Buggy that the buffer between that and Swamp Buggy be elevated to the higher buffer?

MS. GUNDLACH: You know, there is a higher buffer in the minimum code that might help us, and that's the Type C buffer.

CHAIRMAN STRAIN: And what is --

MS. GUNDLACH: And that is different from the B in that it has a double row of trees planted 25 feet on center.

CHAIRMAN STRAIN: And Type B though has a fence or a wall.

MS. GUNDLACH: So does the C.

CHAIRMAN STRAIN: Okay. So if we were looking at a Type C buffer with the -- right from the get-go, and if they went -- because no matter what they have there it's most likely going to be in conflict about whatever the future is for the Swamp Buggy Days area. Type C just means more plantings.

But if they go with an ALF, they would be required to put a wall in. I'm not saying a sound attenuation wall, but a wall. And that just might suffice to give at least a medium level of assistance for sound rather than none at all.

Just throwing it out on the table for discussion.

COMMISSIONER MURRAY: I think it's a good idea where you're going.

CHAIRMAN STRAIN: Brad, you seem to dwell on these issues a lot --

COMMISSIONER SCHIFFER: Yeah, I mean --

CHAIRMAN STRAIN: -- so I like your input.

COMMISSIONER SCHIFFER: I think so. And actually, the smartest thing is if they ever did any C-4 uses that they would put it on the eastern property line. Let them become a buffer too. But I think they're not going to put C-4 uses, at least that's not the expressed intent, so let's not waste a lot of time on that.

But if everything, all their plans fell through, it would be nice if the C-5's occurred on the eastern boundary. And then you would have them plus a buffer.

But I think you're right, if you put a C buffer along the eastern boundary, that's probably the best we can do by default.

CHAIRMAN STRAIN: Okay. Well, then -- yes, sir?

MR. HOREAS: I just wanted to interject a couple of things.

One, since you have a code in place for the acoustical around an airport, which I think is wonderful, obviously -- I'm sure the airport's been there many decades -- there's probably good factual information with regards to whatever decibel levels that are required there and how well they work in terms of absorbing sound.

So I just offer the suggestion that maybe staff would look into the criteria that's already established there and try to match that with this situation for the long-term solution, to make sure that the sound is, you know, completely encapsulated, or whatever the appropriate word is, or blocked into the facility I think would be a good suggestion.

And as a developer/owner of the property, I think it would be -- we would rather -- you had mentioned, Commissioner Schiffer, that -- about the berm and the wall being away. I couldn't agree with you more, being a former architect. Because if the goal is to block sound at the -- all levels of the facility, which I think is the intent of the board, I know it's Sembler's intent and our consultants, to do that effectively long-term, I would rather channel resources, money, talent, designs, specifications into the building for the -- you know, for an ideal acoustical-treatment to keep the sound out of all those buildings forever so we never really have to ever visit this again for this property is my suggestion.

Another suggestion I have too is with regards to Swamp Buggy, I know it's been there quite so many years, and there could be a possibility in the future that that facility gets relocated somewhere else, for whatever reasons I

might not be aware of. But that event happens. And we'd like the condition on whatever you all decide with regards to a wall, a berm, and acousticals, that that's required only in the event that the Swamp Buggy facility exists as a loud decibel-generating I think activity center, what have you.

CHAIRMAN STRAIN: Thank you, sir.

COMMISSIONER SCHIFFER: Mark, one --

CHAIRMAN STRAIN: Nick, you've been waiting patiently, and then Brad.

MR. CASALANGUIDA: I gave the advice to the applicant after reviewing our sound code around airports, I think applying the money to the building structure requirements as written in our airport code to the strict standards that are there is a much more beneficial use of the money than a berm and a wall.

COMMISSIONER SCHIFFER: Right. And also --

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

COMMISSIONER SCHIFFER: And also, you'll get the added use that it will prevent the noise of 951, which will be somewhat loud. So you're going to benefit wrapping your building in sound protection.

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: Yeah, I'm just concerned that we're not micromanaging from this planning board. The one who has all the incentive is the developer himself so that he doesn't create something that's a problem for his residents.

CHAIRMAN STRAIN: Well, the only problem is in the past when we don't micromanage we find it comes back to bite us, so sometimes it's better to be overly cautious than under, so -- then let's suggest dropping the reference to the sound wall that was previously suggested and replace it with language to the effect: The eastern property line will have a Type C buffer.

And now as far as any type of wall goes, because the Type B standard, for example, has a wall, is anybody concerned in pursuing that or just dropping the wall reference altogether?

COMMISSIONER MURRAY: How tall is the wall?

CHAIRMAN STRAIN: Well, Type B buffer I think is only six feet.

COMMISSIONER SCHIFFER: Drop the wall.

COMMISSIONER MURRAY: Yeah.

COMMISSIONER VIGLIOTTI: I'd rather see tall trees, more trees than the wall.

CHAIRMAN STRAIN: Okay. Then let's just leave the -- eastern property sign will have a -- eastern property line will have a Type C buffer.

Ms. Caron?

COMMISSIONER CARON: If I'm not mistaken, I think Nancy said that there's a wall involved in a C as well, so --

MS. GUNDLACH: They have the option of a wall or a six-foot tall hedge.

COMMISSIONER CARON: Okay. All right, thank you.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Mr. Kolflat's --

CHAIRMAN STRAIN: Tor?

COMMISSIONER KOLFLAT: No, no.

CHAIRMAN STRAIN: Okay. Now, we've read all the stipulations. I can read them again, if you'd like, if it's not clear to anybody.

Staff, are you clear on where we're at? The nod of the head seems to say yes.

So is everybody on the Planning Commission clear enough to make a motion? If so, I'll call for a motion.

Mr. Murray?

COMMISSIONER MURRAY: PUDZ-2007-AR-11320, McMullen Mixed Use Planned Unit Development. I move that it be recommended for approval, with the stipulations as offered by the Chair.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER WOLFLEY: Second.

CHAIRMAN STRAIN: Mr. Wolfley seconded it.

Is there any discussion?

COMMISSIONER CARON: Also by staff, there were some staff stipulations.

COMMISSIONER MURRAY: Okay. Well, if I hadn't said that, I assume that was intrinsic to it, but fine.

By staff and --

COMMISSIONER CARON: Oh, there was nothing on this one? I'm sorry.

CHAIRMAN STRAIN: Yeah, there isn't any on this one. It just says recommendation of approval. There's no staff stipulation, so -- okay, motion's made to approve with stipulations previously discussed. It was 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. It took all morning. Thank you, Bruce. Kind of predicted that, though.

Okay, it's 11:24. The Planning Commission usually breaks for an hour for lunch. We can either start on a new one and get 15 minutes into it and break or we can break now and come back at 12:30.

COMMISSIONER VIGLIOTTI: Break now.

CHAIRMAN STRAIN: Okay, we will break now and be back here at 12:30 to resume.

(Luncheon recess.)

(Commissioner Wolfley is absent from boardroom.)

CHAIRMAN STRAIN: Okay, everybody, welcome back from the lunch break. We'll kind of resume where we left off. We were going into a new petition before we left. It was the first of two Sembler -- both of them are Sembler, but we'll take them one at a time.

Item #9C

PETITION: PUDZ-A-PL2009-437, SARECINO RPUD

It's Item C, Petition PUDZA-PL-2009-437, the Sarecino, LLC. That's on Radio Road near Davis. Formerly the Triad RPUD.

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

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Disclosures on the part of Planning Commission?

(No response.)

CHAIRMAN STRAIN: Okay, I had a conversation yesterday with Mr. Nadeau, and we will be going over all the issues today.

Okay, Dwight, it's all yours.

MR. NADEAU: Commissioners, here we are in the afternoon. Moving forward our next petition for Sarecino RPUD. It's your planning number 437, represented by Sarecino LLC.

Just as a housecleaning matter, we had some disclosure of interest information handed out to you in advance of today's hearing. I also have a modified Covenant of Unified Control that had a typo in the name. That has been corrected, provided to staff. I can put it on the visualizer, if you'd like to see that, or we can just let that go.

CHAIRMAN STRAIN: You had a correction of a name? Which name was corrected?

MR. NADEAU: The -- if I may, this was the Covenant of Unified Control. Little bit down, Ray. Pull down. Not that way, that's up.

CHAIRMAN STRAIN: Oh, you're talking about the folio number that I --

MR. NADEAU: Yeah, the folio number and the name of the development. We made those corrections. There was one folio number that had an extra zero on it.

CHAIRMAN STRAIN: Right.

MR. NADEAU: So that's all been corrected and provided to staff.

CHAIRMAN STRAIN: Thank you.

MR. NADEAU: Subject property is located in the northeast quadrant of the intersection of Radio Lane and Palm Springs Boulevard. It's called Radio Lane. It was the former Radio Road right-of-way. But when they created the intersection of Davis Boulevard with Radio Road, Radio Road turned into Radio Lane east of that intersection.

Property is 10.75 acres. I was the petitioner's agent for the former Triad RPUD amendment. And that converted the property from C-1 to a PUD with a limitation of 86 dwelling units.

This petition is in no way changing the density that was approved, and in fact this is going to be a senior housing project. It's going to include both 40 independent living cottages, as well as an opportunity for an assisted living facility of up to 100 bedrooms on approximately a 2.8-acre property, parcel. The property is intended to be platted. And I guess I'll get right into some of the pictures.

This is the master plan for the PUD. We've allocated all of the land uses. We have a residential tract. We have an assisted living facility tract and a recreation tract.

That's the schematic view. I'm going to put up a picture of what the actual development may look like. I don't want to be held to it. It just shows the layout of the cottages and the footprint of the building.

So you can see the cottage arrangement in the northern portion, with access off of Palm Springs Boulevard. And the ALF facility is the institutional sized looking building to the south portion.

We have some artistic conceptualizations of what we think the ALF is going to look like, and if I may show you that. It's too bad we can't get a brightness control on here, because that's a little dull. It's a very vibrant picture.

So there's going to be articulation in the front. It's almost going to look like an enclave of homes, but it will be an institutional assisted living facility.

In attendance with me is Mr. Lloyd Chapman, who is a -- probably the potential operator of this facility and has some explanation for you on the operations. We'll bring him up when the time is appropriate, or if there's any other questions.

Now, switching over to the independent living cottages, this is an artist rendering of what they could look like. This is the character of the units that we're trying to portray. And it's going to be set along the streetscape. These are small little cottages for independent senior living. They are all attached, but they're attached in a means where it provides a street front with articulated fronts. I'll show you the streetscape.

Again, it's dark.

COMMISSIONER MURRAY: Maybe if you took the others away, it might --

MR. NADEAU: So we're trying to attempt to achieve a neo-traditional design where things are more compact. We want to do a fee simple conveyance.

As you probably know, there are recent changes in the lending laws. Federal lending laws have made it virtually impossible to get a loan for a condominium. Fannie Mae and Freddie Mac are requiring that a condominium project be turned over or have 90 percent of the units sold and have a solvent association before they would lend to individuals. That's why it's essential these days now to be able to go through platting processes, so we can have fee simple ownership and deal with homeowners associations. Just wanted to provide that as a side bar.

Now, I'm going to show you a rendering of what the floor plan for the cottages may look like.

So there are going to be no less than 750 square feet. There's going to be a one car garage that would be entered into. And there is a 34-foot driveway that would provide for the second vehicle for this particular unit.

To illustrate this, I took one of the figures from the PUD document and I've highlighted the geometry of the units, how they're back-to-back. And the curser is actually on the 34-foot dimension from the face of the garage; therefore there's adequate room to park a car and not be over the sidewalk.

Additionally, there may be some questions about how setbacks are applied. Because we are going to be

creating lot lines in here, there will be zero setback between the attached units. There would be a minimum five-yard side yard setback for end units, and then the minimum distance between structures of being 12 feet. That's to identify these separations between the multiple buildings that are throughout the site.

Now, there was some concern expressed related to the preserve for this particular property. When I did the Triad rezoning, we had a site plan that would provide for a 1.62-acre preserve. That preserve was specifically articulated in 2.13, native vegetation requirements from that Triad Ordinance 05-11.

And I'll put this on the visualizer, but I just want to read the crux of the material that's in here. It says, pursuant to Policy 611 of the Conservation Element, a minimum of 1.34 acres, 15 percent of the native vegetation on-site is required to be retained and replanted.

The RPUD master plan depicts one preserve area, the 1.62-acre preserve depicted as retained native vegetation. This is due to the fact that of the 10.75-acre site, only 8.92 acres of the site is native. So the required 15 percent of the 8.92 would be the minimum of 1.34 identified in the paragraph above.

The final paragraph is which provided the latitude. It says, the minimum width of the preserve shall be an average of 30 feet but not less than 20 feet in width. The design, area and configuration of the native preserves may be modified from the depiction on the RPUD master plan. However, the remaining native preserves shall not be decreased below 3. -- 1.34 acres in total area.

Thus we have a conservation area. It's been recorded with South Florida Water Management District and was approved through the site development plan process with Collier County as a 1.36-acre preserve, a little bit larger than what the requirement is.

If you'd like, I'll put this language on the visualizer. It's the last paragraph that's the operative.

Now, another item I'd like to discuss with you is in our workings with the neighborhood there was a number of requests that were made of us. We had several, several meetings in addition to the neighborhood information meeting. Ms. Cathy Gorman in the neighborhood was very happy to allow us into her home on three or four occasions where she brought in some of the neighborhood interested parties. And you'll also find in your package that there's a letter of support for the petition.

One of the requests that was made at a late date was the opportunity to be able to put a service access for the assisted living facility not having to travel on Palm Springs Boulevard.

So to that end I coordinated with the transportation department and I've come up with a little schematic of what this may look like. And if I may, this is the simplest version for you to see. We would just put an arrow on the master plan and say proposed service entrance. The service entrance would actually be very similar to looking like this, where we would be coming off of Radio Lane generally centralized with the ALF, we'd provide the 24-foot apron -- or the 24-foot wide pavement surface, the required 50-foot setback to the control gate. And not having an SDP in process, we merely got a yeah, it looks all right from transportation. So I just wanted to bring that to your attention. And that is a request that we would like to make today to try and help the residents of the neighborhood.

At this time I'd like to -- well, no, I need to probably go through a few document changes.

There were some concerns that were voiced related to some of the accessory uses associated with the assisted living -- the assisted living tract and the recreation area tract. I have those suggested changes here in a strike and underline version I'll put on the visualizer. If you could zoom in on those.

Now, this has been provided to staff. And the petitioner has taken a look at this. There's a little clarification I need to make. But the -- in the assisted living tract, the accessory uses customarily associated with principal uses, including but not limited to dining halls, swimming pools, other internal amenity activities such as exercise rooms and administrative offices. Now, I've also put language in there that no commercial land uses are permitted. Well, what's that really meant to mean is that usually in these ALF facilities there's an internal beauty salon where they can get their hair done, there may be some vending machines, those sorts of uses that are for the exclusive use of the ALF residents, they may be permitted. But from the overall perspective, no commercial land uses open to the general public would be permitted in the ALF tract.

Secondly, in tract RA, the outdoor recreation facilities, in addition to the private clubhouse, could include a community swimming pool and deck, activity courts and bathroom facilities. So that's really all that would be going in this amenity center that would be just north of the ALF track.

And as far as the accessory uses to the recreation facilities, they would be limited to maintenance storage, shelter and equipment rooms. So we hope that this clarifies some of the concerns that may have been made -- been



identified.

There was a -- some concern about some development standards in table one. We've gone ahead and made a few changes in here. Most particularly to the clubhouse recreation buildings where the accessory -- the number of stories and the building heights are consistent with the principal structure building heights and number of stories. So hopefully that resolves that concern.

And then finally --

COMMISSIONER CARON: Wait, will you put that back up there again?

MR. NADEAU: Of course.

CHAIRMAN STRAIN: Well, the point of the correction was missed.

Would you scan -- pull out on that so we can see the top bar?

So under single-family independent living you can have a -- you have a one-story maximum height zoned of 24 feet, maximum building height actual 30 feet. But if you build an accessory structure, you can build a two-story accessory structure at 35 feet high and 45 feet actual. Now, why would you want to do that?

MR. NADEAU: A one-story not to exceed 24 feet and two-story not to exceed -- they should be consistent with the principal use building heights. I will make that correction.

CHAIRMAN STRAIN: There's going to be a lot more, so I'll wait until we get the rest of it, thank you.

MR. NADEAU: And then finally there was some question related to the planning conditions that are in Exhibit F of the instrument. Many of these came as a result of our negotiations with the neighbors. And we've been talking with legal staff as well as the petitioner and Kay about how to try and address these. I've made some suggestions here.

The first item relates to limitation on rental units to only those persons 55 or older. It was in the former Triad PUD that it would be enforceable by the lot owners.

Legal staff has requested that it be the responsibility of the county to ensure that there's language restricting it -- any rental to 55 or older. And the evidence of this disclosure language would be provided prior to approval of the first development order. So that type of disclosure language would be included in the SDP -- in the plat materials.

Secondly, number three is redundant with the development standards table and so that has been removed.

Number four, as far as limitations on the square footage of the independent senior living units, that's in the development standards, and that has been removed, given the redundancy.

Number five, is regarding the controlled access to the development. And we would put that in a separate agreement with the neighbors.

Number seven is the construction of a fence. The residents had some concern about some of the residents to the east traveling through the subdivision, using it as shortcut to get to the Circle K and get to the bowling alley, and the developer has kindly said that he's going to facilitate the permitting and construction of a fence to try and prohibit or limit the amount of people walking through the subdivision. And that would be in a separate agreement with the neighborhood.

And then finally eight is the developer would work with the neighborhood to approach the transportation staff as far as making any changes to the interconnections of, let's say, Radio Lane within Davis Boulevard. We're willing to try and set up some meetings, sit down with staff, come to that. But that would be in a separate agreement.

With that, Commissioners, I'll conclude my presentation, and I'd be happy to take questions. But I do know that we'd like to bring up Mr. Chapman and the petitioner, Scott Gillespie of WXZ.

May we do that, or do you want to do questions?

CHAIRMAN STRAIN: Before we leave this picture you have on here --

MR. NADEAU: Yes, sir.

CHAIRMAN STRAIN: -- I have some serious concerns about what you've proposed.

But Mr. Murray has a question, then I'm certainly going to --

COMMISSIONER MURRAY: I'm certain they're the same serious concerns.

CHAIRMAN STRAIN: Well, first of all, you got this approved in '05.

MR. NADEAU: Yes.

CHAIRMAN STRAIN: Five years ago. And the language here says you'll work it out with the neighborhood. You've not done that in the last five years.

MR. NADEAU: Well, that was a different developer. That was Triad.

CHAIRMAN STRAIN: Same issue, though. Same issue. Walls and other things with the development. The developers -- or the neighborhood is proceeding here in non-objection because they're probably relying on the language that used to be under this section that really shouldn't have been here, because it didn't say anything. It just said you shall work. And evidence of that is you didn't for five years.

So where is the agreement? Do you have an agreement with you?

MR. NADEAU: The original PUD?

CHAIRMAN STRAIN: Do you have --

MR. NADEAU: No, I --

CHAIRMAN STRAIN: -- an agreement worked out with the neighborhood with you today?

MR. NADEAU: No, I do not. We learned of this concern yesterday morning at about 11:00. But we can get an agreement for you for the consent hearing.

CHAIRMAN STRAIN: Well, I think we'd want to read it and weigh in on it and have the neighborhood's opportunity. And in a consent we can't have public testimony like we do under the time that we come for a vote. In the consent it's all done with.

Part of the problem in pointing all this out was that there are some things that should have been sewn up and buttoned up and taken care of before this was scheduled, especially now that you know some of these in the manner in which they are presented to you.

The fact that you need something with the neighborhood and the neighborhood had an NIM and wrote a letter liking your project and the fact that a lot of these things were in here and never addressed I think is serious. I think you need to address these before this project were to change its position that you want it changed to today.

MR. NADEAU: Well, in actuality, during the SDP process for Triad, it was called the Sarecino SDP, there were some discussions and some improvements were proposed, but that SDP was never acted upon. So this new developer came in and is willing to make these commitments.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Well, I can tell you from this person's point of view, any arrangement with the neighborhood, and we'd have to know who the neighborhood was anyway, will be the predicate for anything that follows. Because you're not ready. You may be up to the starting line, but your shorts are hanging on your knees. So you're not ready to run, in my opinion. That's a very open issue here. Several of them, so --

CHAIRMAN STRAIN: I think what we need to do is go through the issues we have and before we vote today you may want to consider requesting a continuance to come back with the answers that I'm sure -- I know I have a slew of answers -- questions over this whole proposal. And I think others are going to have the same, if not more.

So why don't we go through the process, you'll understand what our concerns are, and you may want to consider before a vote to ask for a continuance to come back and answer the concerns that we have.

MR. NADEAU: Understood.

May I bring some folks up to talk about the --

CHAIRMAN STRAIN: Is Mr. Chapman, Shaker Heights, Ohio. Is that L. Chapman or R. Chapman?

MR. CHAPMAN: L. Chapman.

CHAIRMAN STRAIN: Who's R. Chapman?

MR. CHAPMAN: I don't know. I'm Lloyd R. Chapman.

CHAIRMAN STRAIN: Right, I understand. I just -- there's a couple of Chapmans up in that area.

MR. GILLESPIE: I'm not a Chapman at all.

CHAIRMAN STRAIN: But you got up when I asked for Chapman, so that's good.

MR. GILLESPIE: You looked at me.

CHAIRMAN STRAIN: Mr. Chapman, go ahead in whatever you were planning to say.

MR. CHAPMAN: Thank you very much. My name is Lloyd Chapman. I spent 15 years in Florida as a director of nursing in two hospitals and an administrator of another. Moved to Cleveland Ohio to be an administrator for two hospitals there back in 1988. And in 1996 built my first assisted living center in Mentor, Ohio. Operated it myself. And in 2001 I built a second assisted living center in Mayfield Village, Ohio. Operated that assisted living center and then formed Senior Living Solutions Group.

And at Senior Living Solutions Group we help others develop assisted living centers. Sometimes we manage

those for them and sometimes we help them find folks to manage those facilities who are local and well-known, good, strong operators.

I've had the privilege of serving these folks who are planning the Sarecino project for a period of the last seven or eight months to help them work with their planners to design a project that is very consistent with the market study that we commissioned several months ago.

We see a fairly significant need for assisted living for the elderly, people who typically are 86 years old or so on average at the time of move-in. People who typically need help with two or three or more activities of daily living, such as bathing or dressing or medication reminders.

Our staffing standards are excellent industry-wide. And it's been our privilege to participate in the process thus far.

I'll stand by Mr. Gillespie and see if you have any questions from me regarding the operation or the intended operation of the building as the Commission considers the project further today.

CHAIRMAN STRAIN: I have a question. Have you ever heard of a company called Senior Housing Solutions?

MR. CHAPMAN: Yes.

CHAIRMAN STRAIN: And that is?

MR. CHAPMAN: That was a prior organization that I owned as well. I changed the name of it to Senior Living Solutions when I became the only principal in the company. There used to be two.

CHAIRMAN STRAIN: Okay. The address you -- that's on the letterhead that you provided, you ever hear of RDL Architects?

MR. CHAPMAN: Yes.

CHAIRMAN STRAIN: They're your neighbor?

MR. CHAPMAN: Yes. I lease my office space in the same building that RDL is located in.

CHAIRMAN STRAIN: Okay. Because I was trying to understand your background. You've provided a good understanding of it today. Thank you. I didn't know you'd be here. But in trying to understand who you were, I found a lot of questions as to the address provided. The phone number is a cell phone out of Atlanta, Georgia, not of the neighborhood. 404-539-1000?

MR. CHAPMAN: It's actually 440-539-1000.

CHAIRMAN STRAIN: Oh, okay, well --

MR. CHAPMAN: And I typically put my cell phone on my business card because I work in six different states and it's kind of hard for people to track me down otherwise.

CHAIRMAN STRAIN: Well, it's kind of hard to nail down your, I guess, criteria in order to determine if your letter was coming from a position of experience. It seems like you've got the experience.

Are you also the intended operator of this facility?

MR. CHAPMAN: My company will either operate the facility or will help the developer select an operator for the facility. We haven't decided yet.

I'm interviewing a couple of different parties over a period of the next two or three months to try to decide if we'll bring in a regional operator from this area or whether I'll hire people that live here and operate it myself.

CHAIRMAN STRAIN: In the reduction of parking spaces, how does the space request of reduction here compare to other places where you've -- and where have you obtained the same reduction?

MR. CHAPMAN: Excellent question. We've retained that reduction in Mentor, Ohio, we've retained that reduction in Mayfield Village, Ohio, and we're requesting that same reduction in three other projects that I'm working on currently.

We got that parking standard from ALFA, the Assisted Living Facilities Association of America. At 86 years old, with 100 individuals potentially living in the unit, we typically see four people with automobiles. The balance are our staff. And we've carefully counted the number of staff individuals. And the national standard as we see it now is one-half space per unit.

CHAIRMAN STRAIN: Can you provide -- assuming this comes back through a continuance, and even if it doesn't, then who knows how it will survive -- the reference that you just had from the ALFA?

MR. CHAPMAN: I'll be happy to.

CHAIRMAN STRAIN: And not -- I'd prefer it not be in a letter format, but in some document format where

it's a printed matter.

MR. CHAPMAN: From ALFA. Sure, be happy to do that. And I'd be happy to provide my own resume and background and further detail as well in writing, if you'd like.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Also the market study that he mentioned as well.

MR. CHAPMAN: Be delighted to provide that as well. That was performed by a company called VWB Research who do about 900 senior housing focus market studies per year. They're quite excellent.

CHAIRMAN STRAIN: The problem with the parking standard that you're asking about, we've learned very quickly that if we provide something to one, it becomes to all. An example for it is the FAR that's being used for these kind of facilities now is .45 in our code. But we deviated once a long time ago to .60 for one particular applicant. That applicant's attorney was hired by numerous other applicants, and before you know it they were all asking for .60.

I'm not saying that's bad, but we've got to be very sure that the demonstration of its validity is provided. A letter from you who is the potential operator of the facility doesn't carry a lot of weight.

MR. CHAPMAN: I understand.

CHAIRMAN STRAIN: So your backup's going to be crucial.

MR. CHAPMAN: You bet. That makes good sense, sir.

CHAIRMAN STRAIN: Anybody else have any questions of Mr. Chapman?

Go ahead, Ms. Caron.

COMMISSIONER CARON: Well, just a comment too on that whole parking standard.

You said that you took it into account the fact that most of your residents would not have cars and that the rest of the parking would be for staff. I think you make a grave mistake in not including visitors.

MR. CHAPMAN: Oh, I understand. And we do in our fuller calculation. I was just a little nervous and --

COMMISSIONER CARON: Okay, thank you.

MR. CHAPMAN: -- should have mentioned that.

COMMISSIONER CARON: Thank you. Because that becomes critical.

MR. CHAPMAN: It really is critical. And we have a pretty good idea on any given day at any given hour how many visitors are in the building at a certain point in time as well. That will be addressed in the stuff that you get in writing too. Thank you.

CHAIRMAN STRAIN: Okay, anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Thank you, sir.

Did you have something you wanted to throw in or are you just standing there because we're looking at you?

Okay, I guess that wraps up the presentation.

MR. GILLESPIE: The only thing I might add is on the --

CHAIRMAN STRAIN: And for the record, your name?

MR. GILLESPIE: Scott Gillespie. I'm the development director for WXZ Development. We are the general partners operating -- development manager for this community.

And I just wanted to mention on the neighborhood items, in working with Dwight and the neighborhood group that was assembled through Mrs. Gorman's assistance, as Dwight mentioned, our goal here was to be proactive. And as he mentioned, we had the original neighborhood -- the NIM meeting I believe you call it -- and we followed up with about three other meetings with that group. And they were very positive. I've done this for many, many years and I try to be very receptive to the things that we can deliver.

And we felt that all of these items were for the most part legitimate requests, and that's why we put it in this format. If the format is incorrect, obviously we're going to make the correction as necessary.

But I did want you to know that it was basically just an attempt to do the right thing with the neighborhood so we weren't coming into a situation where they would be opposed to some particular element.

CHAIRMAN STRAIN: One of the concerns this board has, whatever goes in the PUD document is a public document, controlled by code enforcement at the county. There were certain statements in this planning questionnaire, planning statements that weren't really enforceable. Especially things where it says, the developer shall work with the neighborhood. That doesn't really say a lot. It just says you're going to work with them, it doesn't say how far. It doesn't help to have that in a public document.

But if you have a separate agreement with the neighborhood that shows that these issues were worked out and the neighborhood still supports your project, well, that kind of seals up all the holes and makes it a lot more viable, so

MR. GILLESPIE: I understand.

CHAIRMAN STRAIN: -- that's a switch, so -- Bob?

COMMISSIONER MURRAY: I'd like to invite Dwight to come back up, please. Dwight, go back to that document where you referred to commercial uses, please.

MR. NADEAU: Yes.

COMMISSIONER MURRAY: I'm going to make a suggestion that's just preliminary. I'm sure others might have further thoughts on it.

MR. NADEAU: Of course.

COMMISSIONER MURRAY: But to the extent that it might be appropriate to put something there, you might entertain the possibility of saying something like commercial land uses, if any, are permitted for the sole benefit of the persons living there, however you want to phrase it. And I'm sure it can get tighter than that, but that was just something that I thought you might want to put in there to avoid having a question at some other point.

Do you intend -- is it within your design, your plan, to have room set aside for the purpose -- like a little beauty parlor and so forth. And I think that's very common. So then I think that is appropriate to say that otherwise code may one day come in and give you a bad time, so --

MR. NADEAU: Exactly.

COMMISSIONER MURRAY: All right. You might want to think about making that even tighter, but that was the thought.

MR. NADEAU: That's an excellent suggestion. We can use the -- some terminology similar to commercial uses aren't permitted -- public commercial uses aren't permitted, but those associated with the facility, for the exclusive use of the residents, something to that effect. Yes, thank you, commissioner.

COMMISSIONER MURRAY: Okay.

CHAIRMAN STRAIN: Okay, are there --

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: -- we're going to be doing applicant questions now. Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah, Dwight, a couple things. One thing is looking at your map, your -- I'm not sure what exhibit -- Exhibit C. Would you do me a favor, again, put "R"s in all the little squares. The way you draw this it looks like Tract R might be only the center one. But would you have a problem doing that, adding Rs into all the other tracts?

You know, there is -- there's a lot of lines here that can get confusing. And just to make sure that the ones adjoining the ALF are in fact Rs, not ALF's, okay? Do you know what I mean?

MR. NADEAU: I do know what you mean, Commissioner. I'm trying to see -- virtually everything outside the ALF tract, the tract R and -- excuse me, the tract RA is all R. So the lakes and the residential, except for the preserve tract, are all R.

I can put as many R's on their as you'd like, Commissioner.

COMMISSIONER SCHIFFER: Well, it just -- you know, you define a boundary, call it R, you define another boundary, call it ALF, and I'm just worried about the ones that are in between, to make sure that you assign which one they are.

MR. NADEAU: Of course.

COMMISSIONER SCHIFFER: Which is fine. Okay.

The -- do you have a -- I guess maybe describe how you're going to build these things. Because these little guys, you're calling them single-family, but they're really not, they're multi-family units in our code.

MR. NADEAU: By definition any time you have three or more units attached within a single building it's a multi-family. However, because we have the opportunity to plat attached single-family, similar to a townhome, that's where we enter into this issue related to setbacks.

COMMISSIONER SCHIFFER: Okay, but what are you considering these, single-family or multi-family?

MR. NADEAU: They're considered attached single-family.

COMMISSIONER SCHIFFER: Okay. I mean, first of all you're going to get -- you can't take that into the building code with that logic. What would make these not be attached buildings, just because there's a lot line between them?

MR. NADEAU: Well, they will be attached buildings, but the lot line will run between the common wall.

COMMISSIONER SCHIFFER: Will you have double wall there or will it be a party wall structure?

MR. NADEAU: I don't know the construction techniques. I'm not even sure my client knows, because it's in the design stage. But more than likely it will be very similar to a townhome. And there may need to be those fire walls that separate the units.

It will be a double wall I understand from the petitioner.

COMMISSIONER SCHIFFER: Because I think the only way -- I mean, you're going to have trouble with the building code, seriously, I mean, that these buildings not be considered attached. And they're not going to be townhouses, because our code defines -- or the building code defines a townhouse, it has to have two open sides to it.

But anyway, so what construction do you imagine this to be? Are they wood frame, are they --

MR. GILLESPIE: They'll be both CMU and wood frame. The -- I don't want to tell you that all of the first floor is going to be CMU and that the roof section will be trusses, but it will be a -- if it is a wood frame -- and we haven't gotten that far to actually define the specific construction standard that it's going to be under -- it would be a double wall, if it's a wood frame. And if it's a concrete masonry unit wall, it would be a single wall between each unit.

And as far as the townhouse, and I haven't -- I'm not familiar with the code and how deep it goes into definition, but it would be open on two sides. There's a side kind of courtyard with each one and then there's an opening on the front as well. So I don't know if that plays into the townhouse definition or not, but --

COMMISSIONER SCHIFFER: I don't think it will. But, you know, we don't want to solve building code issues here.

But you're going to really -- you're considering these single-family units and they'll be constructed as independent single-family units.

MR. GILLESPIE: Yes.

COMMISSIONER SCHIFFER: You're going to have an interesting time with the code, but you can go that way.

MR. GILLESPIE: Okay.

Dwight, a question on table one.

MR. NADEAU: Yes, Commissioner.

COMMISSIONER SCHIFFER: And some of this, I mean, you have a minimum floor area and a minimum of lot area that are identical. I mean, obviously we know what your intent is. And you're always going to have to have a lot area bigger than that.

MR. NADEAU: That is accurate, sir.

COMMISSIONER SCHIFFER: Right, so I'm not going to focus on that.

On the minimum side yard where it says zero feet when attached.

MR. NADEAU: Yes.

COMMISSIONER SCHIFFER: Could you change that to put zero feet where attached? And the only reason I'm pointing that is if a unit is attached, I don't want the other setbacks like that driveway to start getting narrower. In other words, so theoretically you could stagger one foot, two foot, you could do something pretty weird. And you're going to have enough fun with the fire separation on this already. So would that be okay?

MR. NADEAU: Not a problem at all, Commissioner.

COMMISSIONER SCHIFFER: So just change it where attached, so the intent is that when you touch, you can touch at zero.

MR. NADEAU: Would that apply also to rear yard?

COMMISSIONER SCHIFFER: Yes.

Let me see if there's any other -- I think, you know, I too have questions about the parking. You -- do you have a plan that actually shows the whole site plan as you propose it or -- where are you in other processes in the county. Have you gone in for SDP or anything like that?

MR. NADEAU: We have not. We have not. We're in for our ERP permit because mod. because this was permitted through the Water Management District.

But I don't -- did you bring any ERP plans that may show driveways?

COMMISSIONER SCHIFFER: Well, just curious how much parking you really are providing. I mean, we've only gotten a tiny glimpse of it when you did the gate. We know there's some opposite the gate there.

And if the project's not that far thought out, feel free to let that be the answer.

MR. NADEAU: No, I actually don't have a site plan. I thought I did, but -- no, I don't have a site plan that shows the specifics of the parking around the ALF building. We did have this -- we did have this exhibit that shows some of the parking arrangement where we had parking in here, along here and around the porte-cochere.

COMMISSIONER SCHIFFER: That's good. That looks nice. You'll make it happen that way.

MR. NADEAU: Very good, thank you.

COMMISSIONER SCHIFFER: All right, thanks. I'm done.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: On your plan here, Tract R in the lake?

MR. NADEAU: Yes. The water management facility would be permitted in Tract R. Just like --

COMMISSIONER CARON: It would?

MR. NADEAU: Yes, the water management facilities would be located in Tract R. It's standard practice. Some of the roadways --

COMMISSIONER CARON: So is the converse true?

MR. NADEAU: Well, no, you typically don't put residential units in a water management tract.

COMMISSIONER CARON: Well, but I'm just saying, is that your water management area or not?

MR. NADEAU: Yes, it is.

COMMISSIONER CARON: Okay. I don't think it should be labeled residential then. I think it should be labeled water management. Storm -- you know, lake water management.

MR. NADEAU: We could do that. But it would fall within Tract R. And we could call water management lake; that would be simple enough.

COMMISSIONER SCHIFFER: Mark, let me --

CHAIRMAN STRAIN: Yes, sir, Mr. Schiffer.

COMMISSIONER SCHIFFER: Yeah, and I -- remember I was asking you to put R in, and I notice there's another one that does have Rs in it.

What other difference is there between the one in staff report and the other exhibits here? Are they pretty much the same except for that, or what else does --

MR. NADEAU: They're pretty much the same. Actually, Ms. Deselem just highlighted all of the tracts. Let me put this up here.

COMMISSIONER SCHIFFER: Yeah. Because what I was asking you to do this actually has done already, so -- but I just wondered now, because I only looked at the other one.

MR. NADEAU: Sure. This particular exhibit has the ALF tract, the RA tract, all of the Tract R around. We can put this in Tract R but just say water management lake for Commissioner Caron's concern.

I'm not so sure that any additional labeling for tract Rs would be necessary, unless you wanted it to bleed over into some of the roadways, like in here maybe or --

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: Why don't you just take the Tract R off and leave the word lake. Because you are actually asking for a deviation pursuant to that lake and its location. And if you leave Tract R on there with the unstated attempt to possibly move it into residential and move the lake somewhere else, it's going to cause other concerns other where. So why don't you just take the reference to Tract R off of it.

MR. NADEAU: I can do that as well.

CHAIRMAN STRAIN: Okay.

MR. NADEAU: It will be built within the Tract R -- within Tract R, but I'll take the label off.

COMMISSIONER SCHIFFER: And one other thing I thought of. The lining of the road coming out of this thing, is it perfectly in line with the property on the other side? I would --

MR. NADEAU: Yes, sir.

COMMISSIONER SCHIFFER: -- assume so.

Okay, thank you.

CHAIRMAN STRAIN: Okay, anybody else have any questions of the applicant?

(No response.)

CHAIRMAN STRAIN: I do. Ray, it's going to start with you, though.

If there's a deviation or a change from an accepted standard in a PUD for acreage, how much of the acreage has to change before it has to come back through the public process? Say if you had 20 acres and they changed it to 22 or to 18.

MR. BELLOWS: A designated tract?

CHAIRMAN STRAIN: Yeah.

MR. BELLOWS: Well, the Land Development Code allows for minor changes to tract locations and sizes, unless it affects a preserve tract. Then that would trigger an amendment.

CHAIRMAN STRAIN: Okay. If you -- in the old PUD there was table one called projected land use tracts. And under Tract P, preserve, it showed acreage 1.6.

In the old PUD under 2.13, which was up on the prior board, the master plan depicts one preserve area. The 1.62-acre preserve depicted will be retained native vegetation.

And then if you turn to the master plan attached to the old PUD, it has a table on the master plan in which 1.62 is again the number for the preserve.

Now, I know why they changed it. Because they put a catchall phrase under 2.13 that was up on the screen earlier. And I'm just wondering if that's -- if they're intending to tell us one thing but put catchall phrases in to come back with another lesser item, I don't particularly think that's a good process to have.

If we said 1.62, it was approved at 1.62 in three different locations and the catchall phrase allows you to go to 1.34, which is what you went to anyway, why don't you say 1.34 was what you were going to provide us in the beginning?

MR. NADEAU: In actuality, Commissioner, the developer at that time had a specific product that he was looking for in the rezoning. I was being generous with the native preservation, because he said he didn't need the land.

He subsequently after zoning changed his building footprint and the design slightly, and with that the staff found that the changes following the caveats in Section 2.13 were consistent with the Land Development Code and the SDP was issued.

CHAIRMAN STRAIN: Well, in 2.13 it does not say the applicant can reduce below the 1.62. It just says, if there's any changes, they won't go below 1.34. And it doesn't say that if there's any changes from the 1.62 the applicant doesn't have to go back through the public process to get there.

So I don't know why staff gave that permission of approval in the first place. So I'm a little disappointed that this board was presented something back five years ago, we voted based on what was presented to us, and a catchall phrase changed it, which looks like it was changed outside the due process that was supposed to be provided to the public.

And Cherie, I'll slow down.

But that leads to more of my conclusions, that this thing better get wrapped up right before we vote on it. Because lacking those agreements and other things, this document needs to be done much tighter than it is from what we've seen from the history.

And I certainly am going to go through a lot of issues that I have with it. That having been one.

In the deviation number two, you're talking about the necessity use of access easements. Yet you're intending to plat tracts in which the -- I shouldn't say tracts -- lots in which the units are going to be I assume sold, fee simple?

MR. NADEAU: That is accurate.

CHAIRMAN STRAIN: How do you plan to provide platted access to those lots?

MR. NADEAU: Through the access easements.

MR. GILLESPIE: It's not intended in the -- let me put it this way: In the original -- our concept of what this community's all about is to sell them from day one. This is going to be part of a rental community associated with the services provided by the ALF to serve independent seniors.

We are platting them for the anticipation that down the road if we see that there's a market to individually sell those units, that would be part of the reason for having those platted.

But the intention and the original scope is to be to rent those units.



CHAIRMAN STRAIN: Okay. And that's fine. Whether you rent them or sell them, I understand your need. How are you intending on the plat to designate the roadways?

MR. NADEAU: Via access easements, Commissioner. With utility easements on the outside, the access easements will allow me to define my front yards -- define my yards.

CHAIRMAN STRAIN: Okay. I've done a lot of plats. I've never done one the way you're suggesting. I'm trying to understand it.

MR. NADEAU: I realize that. I've coordinated extensively with Mr. Holdsworth, we've got e-mail communications, and he doesn't find any issue with that.

Correct me if I'm wrong, Kay.

MS. DESELEM: For the record --

CHAIRMAN STRAIN: Well, that's okay, Kay, you're going to be up here soon enough. If I need Kay's correction or comment for the record, I'd ask for it.

Has the County Attorney's Office reviewed the proposed plat in reference to how this is all going to fit together?

MS. ASHTON-CICKO: No, we haven't reviewed the plat. I think what he's telling you is if he does a platted access easement then he's got a different setback. Because he can put the public utility easement outside of the access easement.

Is that what you're trying to say?

MR. NADEAU: That is accurate.

MS. ASHTON-CICKO: Whereas if you plat it --

MR. NADEAU: A right-of-way tract, it has a tendency to use more land, which removes the efficiency in the traditional neighborhood design opportunities that this plan provides for by being able to plat with access easements.

MS. ASHTON: So you could do a more narrow --

MR. NADEAU: Yes.

MS. ASHTON-CICKO: -- easement with the public access easement and put the public utility easement on the outside and then it would still be measured from the access easement --

MR. NADEAU: Correct.

MS. ASHTON-CICKO: -- as far as the setback.

MR. NADEAU: Correct.

CHAIRMAN STRAIN: I'm going to make the assumption in all my questioning today that we're preparing for this to come back to us in a better format. Because if you push the vote today, I can tell you where mine's going to be, and you can --

COMMISSIONER MURRAY: And mine.

CHAIRMAN STRAIN: -- make the assumption.

So under that premise, I would suggest you draft a format of the plat you intend to use and get it to the County Attorney's Office so that when it comes back to us we can have a legal knowledge that it's sufficient and going to be sufficient.

You're asking for a hybrid concept here, one I haven't particularly seen before. I'm not saying it's bad. I'm certainly not against these retirement communities, they're needed. But I want to get us there in a manner that sets a precedent that doesn't disrupt other parts of other projects that we're going to be seeing as it comes down the road. And I think it's careful (sic) we tread as carefully as possible from here on out.

Mr. Murray?

COMMISSIONER MURRAY: I'd like to explore how, using the easements, how narrow would it be? How narrow a road would you make it?

MR. NADEAU: Oh, well, it would be a minimum standard county road, 24 feet. Then there would be curb and gutter on the outside.

COMMISSIONER MURRAY: Okay. Because I had this vision of 86-year-olds driving in a really narrow road.

MR. NADEAU: No, no, no, no.

CHAIRMAN STRAIN: Okay. In your actual PUD you've addressed the issue of accessory. There's going to be some cleanup language in that.

On the RA tract, are you going to be using food service, restaurants and stuff there? Was that RA tract addressed as well, or not? Did you think about addressing that as far as additional descriptions go?

MR. NADEAU: Oh, here it is. The RA permitted uses, I had on the visualizer no change to A-1. It was private clubhouses intended to provide social and recreation space.

A-2 kept the same first phraseology, outdoor recreation facilities such as community, swimming pool and deck --

CHAIRMAN STRAIN: Okay.

MR. NADEAU: -- activity courts and bathroom facilities, period.

CHAIRMAN STRAIN: Okay, I remember it, yeah, you had both of them up there. That's fine.

MR. NADEAU: Yes, sir.

CHAIRMAN STRAIN: On your table one, I know you've got the corrections now for the accessory heights. We talked and Brad pointed out a change in the zero foot. When you talk to minimum front yard, you have 16 feet from BOC.

MR. NADEAU: From back of curb, yes, sir.

CHAIRMAN STRAIN: We have a standard for 23 feet to front opening garages. And while that doesn't -- not be the unit, 16 feet to the unit's fine. But you need to put the clarification or the caveat that I know you're familiar enough with because we've had it in other PUDs.

MR. NADEAU: Of course.

CHAIRMAN STRAIN: So that should go in here.

How do you -- your minimum distance between structures are 12 feet. That's between unattached structures. So if you have attached single-family, that doesn't apply. And your example showed it between buildings more or less.

MR. NADEAU: Building to building.

CHAIRMAN STRAIN: Okay. The parking in the garage, you're looking at one car garages?

MR. NADEAU: The parking for the cottages was a one car garage with a 34-foot long driveway --

CHAIRMAN STRAIN: Right, so --

MR. NADEAU: -- for a second car.

CHAIRMAN STRAIN: Yeah, you could have two cars there.

MR. NADEAU: That is accurate.

CHAIRMAN STRAIN: Your relief from the parking that you're trying to seek is just for the ALF?

MR. NADEAU: Just for the ALF, that's accurate.

CHAIRMAN STRAIN: On your Exhibit E, your list of requested deviations from the LDC, your deviation number one you had previously indicated this was part of the prior PUD. I don't believe that's accurate. 5.03.02.A.9 I believe is a new reference. It may be the same language it's referring to, I didn't check this and staff will probably tell us when they came up. 5.03.02.B was what was referenced last time, so that's the only change. There's two sections of that fencing section in the code --

MR. NADEAU: Of course.

CHAIRMAN STRAIN: -- and I can't remember the language right now but I have them written down here. They are two different pieces. Was that intentional?

MR. NADEAU: No, we were using the same standards that were in the prior Land Development Code, using the same citation. But it did move through the revisions of the LDC.

All this does, Commissioner, is allow us to put a fence on top of a berm. The current code requires the fence to be measured from existing grade. This allows us to measure the fence height from the finished grade of the berm.

CHAIRMAN STRAIN: Let me see where else I have you. You cleared up a lot of questions that I know staff had forwarded to you.

COMMISSIONER CARON: While he's looking --

CHAIRMAN STRAIN: Go ahead, Ms. Caron.

COMMISSIONER CARON: -- at that, Dwight, could I ask you a question on -- let's see, where is it here.

Page 2 of 10 here on your Exhibit A under RA tract, permitted uses and --

MR. NADEAU: Yes.

COMMISSIONER CARON: -- accessory uses.

MR. NADEAU: Yes.

COMMISSIONER CARON: The very last line says, including structures constructed for purposes of maintenance, storage or shelter.

What kind of shelter? I was just curious, because I've never seen that. I mean, I understand why you need maintenance and storage. I mean, is it like a bus shelter?

MR. NADEAU: Is this --

COMMISSIONER CARON: I just don't know what it is.

COMMISSIONER MURRAY: Dog shelter.

COMMISSIONER CARON: Yeah.

MR. NADEAU: Could you please direct me to where I'm looking at? I'm in Exhibit --

COMMISSIONER CARON: Your development standards.

MR. NADEAU: Yes.

COMMISSIONER CARON: And it is Tract RA, 4.B.

COMMISSIONER VIGLIOTTI: Page 2, last word?

COMMISSIONER CARON: Yeah.

MR. NADEAU: Yeah, okay, the stuff I just changed.

Please proceed.

COMMISSIONER CARON: I just wanted to know what shelter was.

MR. NADEAU: Oh, if it were just to be a pavilion that were outside, provide shelter from the rain, so you come off the pool deck and you can stand under the shelter. That's all that is.

COMMISSIONER CARON: All right. No, I just wondered what that was.

MR. NADEAU: No, it's not a hurricane shelter.

CHAIRMAN STRAIN: Okay, anybody else have any other questions --

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: -- at this time?

Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah, and Dwight, since you're going to come back, you know, reviewing the platting and stuff, have somebody check out the code issues on this, okay? Because first of all, I'm concerned about that one building which does have the rears touching. That's similar to some, you know, dec. statements that have come before the fire tac. for the Building Commission which I sit on, and we've denied that to be townhouses. So that really is a -- you know, going to be a mixed use building -- or I'm sorry, a multi-family unit, which would take it from R-3 to R-2.

I think you're going to have a tough time making these R-3, which is what you want. And once you -- if you fail to make them R-3s, the code requirements on separation and fire resistance and openings are going to be a tough battle. So kind of take a look at that to see if -- because you may want to make them R2s, which these driveways now become courtyards, they're not separation from building and stuff.

So since you're going to look at code, look at, you know, the building codes too to see if that alters anything.

MR. NADEAU: Very good, thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: I have one final thing. The relationship between the cottages and the ALF, what is that?

MR. NADEAU: The relationship between the cottages and the ALF are that there will be a menu of services to -- offered from the ALF facility. It might be a concierge service. There will be opportunities for monitoring the senior living people in independent units where if they need to press a button to say I've fallen and I can't get up or if they haven't taken their meds as required, there's going to be this multimedia system available to them to interact with the facilities and the ALF. If they need to have dinner brought to them, they'll golf cart it over.

So the independent units will have the opportunity to use all of the facilities of the ALF but there'll be a menu of selections that they can choose from.

COMMISSIONER CARON: Okay, good. Thank you.

CHAIRMAN STRAIN: Any other questions of the applicant at that time?

Jeff?

MR. KLATZKOW: I take it that this development is based on an existing development?

MR. NADEAU: The appropriateness of the development?

MR. KLATZKOW: No, I take it that this type of development has already been built by the applicant elsewhere? I mean, going through his website, this is their business. So my guess is that you've built substantially similar residential communities like this elsewhere?

MR. GILLESPIE: Of one variation or another, yes. But of this exact combination with this layout of cottages to the ALF, we haven't done that. I'm not going to say that that exact configuration's been done. We have built many independent living cottages, we have been involved in the construction of ALFs and senior housing.

MR. KLATZKOW: Could you get me an example --

MR. GILLESPIE: Sure.

MR. KLATZKOW: -- actual photos of developments you've actually put into the ground?

MR. GILLESPIE: Absolutely.

MR. KLATZKOW: Because this is pretty new for me anyway, I don't know for you guys.

CHAIRMAN STRAIN: No, it's --

MR. KLATZKOW: I'm thinking that they've done this before and it would be nice to see what it looks like.

MR. GILLESPIE: I can give you also some examples here in town of this same kind of independent living cottage configuration with assisted living facilities. There are some examples that are in the area that I'll also include.

MR. KLATZKOW: Thank you.

CHAIRMAN STRAIN: Okay, any other questions of the applicant before we go to staff presentation.

(No response.)

CHAIRMAN STRAIN: Okay, thank you.

Kay?

MS. DESELEM: Good afternoon. For the record, Kay Deselem, with the Zoning section of the Community Development and Environmental Services Division.

You have in your information a staff report last revised 1/15/10. The staff report goes into detail as to who the agent is, who the owner is, the requested action, the location, a brief description of the project. Explains both pictorially and in writing the surrounding land uses in zonings. It has an analysis of the growth management issues that are applicable to this project. And it goes into PUD findings and rezone findings in support of staff's recommendation. Also discusses the deviations and provides staff's recommendation for those deviations.

In summary, staff is recommending approval of all three deviations, and we are recommending approval of the rezoned PUD amendment petition.

And I'm available for any questions you might have.

I have looked at the proposed new PUD document, and I don't have any questions as far as what's proposed, with the exception that I would ask since it came up that there is going to be a relationship between the independent living units and the ALF units, I think there needs to be some reference to that within the Tract ALF permitted uses.

Because originally we were talking about making some limitation of commercial uses to only residents of the ALF. And it sounds as though those might also be available to the independent living unit residents as well. So I just wanted to make sure that we get something in there that clarifies that relationship so they don't run into problems down the road when they try to implement that.

CHAIRMAN STRAIN: Good point. Thank you.

Any questions of staff?

(No response.)

CHAIRMAN STRAIN: Kay, the deviation number two -- three on the parking where that -- it talks about the petitioner has demonstrated that the element may be waived.

Now, I know that their letter isn't enough demonstration, at least from my concerns. If you find any further information on examples of where that's occurred that you know of, would you please make sure you provide it by the next Planning Commission meeting?

MS. DESELEM: Most certainly. I'll look into it and see what more I can find.

There is a reference to Lee County regulations and --

CHAIRMAN STRAIN: Right.

MS. DESELEM: -- what they have. And I'll look further to see what else I can find as far as county or

municipal regulations. And I assume the applicant's going to be providing something from the private sector. Is that basically what you're asking me to do?

CHAIRMAN STRAIN: Yes.

MS. DESELEM: Okay.

CHAIRMAN STRAIN: And the reason, if this happens, if this occurs, it will set a precedent. And as you know, there's going to be probably a lot of others following in. I don't want us to jump into this without the thorough research that it hasn't caused a bigger problem somewhere else if we do that.

MS. DESELEM: I would note that in Lee County's regulation, although they have a lesser amount per unit, they do have a specific amount, that 10 percent that they want to set aside, which assumes a visitor population. So you could go something like that where you have half of per unit plus some percentage that would address a visitor population.

CHAIRMAN STRAIN: And I agree, we should be looking at conditions. Lee County has other conditions too in the way they define the unit and how they count them. I think those are all important considerations and I think that in order to be properly demonstrated, staff needs to participate in understanding some language that is used. Now, it won't be part of our code, but just like the .60 FAR is not part of our code, it becomes part of what everybody's going to be asking for most likely here on out.

And I have read some books because the issue is becoming personally relevant to me -- not because of myself, by the way. And one of them complaints about many of the retirement communities is that they don't have enough parking. And I don't want us to get into that trap. So I don't mind moving forward, but we've just got to be sure that we're moving on the right foot.

MS. DESELEM: I'd be more than happy to look into it.

CHAIRMAN STRAIN: Thank you.

Anybody else have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Are there any public speakers on this one?

MR. BELLOWS: No speakers.

CHAIRMAN STRAIN: Does the applicant wish to ask for a continuance before we vote on this today?

Before you speak, I might suggest to you that the parking issue needs to be resolved. There needs to be a neighborhood agreement that is now referenced or going to be referenced. The tables need to be corrected. The proposed plat needs to be seen. And there are some miscellaneous language changes that would be better done with us receiving the documents ahead of time rather than doing it on the fly.

With that in mind, do you want to continue this?

COMMISSIONER CARON: And market studies that were going to be provided.

CHAIRMAN STRAIN: Oh, yeah, there's a market study that Ms. Caron had asked about as well.

COMMISSIONER CARON: The ALF parking.

CHAIRMAN STRAIN: Reference -- yeah, that's the parking issue.

MR. NADEAU: Oh, the parking study, of course.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yeah, as far as the neighborhood agreements, I don't really want to see proposed agreements, I'd like to see some evidence that there's an -- I'd love to see an agreement. But in the absence of that and seeing testimony from those who represent the neighborhood coming in indicating that they are very pro for something that whatever minor matters have to be worked out.

MR. NADEAU: Of course.

The Gormans own Gorman's Auto down on Marco Island. They're working twelve hours a day. Many folks in the neighborhood, our meetings occurred after 5:00. It may be difficult, but maybe we can get some other written testimony rather than asking them to come into the chambers.

COMMISSIONER MURRAY: I don't have to have anybody stand on their head to get achievement, but I do have to feel comfortable. And I wondering, who all are the neighborhood? Is there an association, are there more than one? Who are representing those folks? Because they're going to live with this for the rest of time.

MR. NADEAU: That's very true. They don't have -- they are not organized. They have some neighborhood leaders that are vocal in issues, most particularly the C.A.T. transfer station. They were all riled up about that.

But we've been working with that same group in listening to their problems. They didn't have -- I don't need to go into this, but they really didn't have --

COMMISSIONER MURRAY: Yeah, you do.

MR. NADEAU: -- a problem with the project, they had a problem with things that were outside of the project that they wanted our help with. And we were more than happy to help them.

COMMISSIONER MURRAY: Yeah, but Dwight, if you're going to come in and you're going to have subject to, subject to, subject to, you're going to be subject to my no vote. So that's it.

CHAIRMAN STRAIN: And I think you've demonstrated part of the frustration or problem we have. If you're striking deals with the neighborhood, I think it's to your best interest to get the neighborhood defined. Then come back in with the neighborhood's best I guess recognition that your -- you and them have worked these matters out. Because as it stands now, we don't have any way of knowing any better who the neighborhood is than you are, so --

MR. NADEAU: Very good.

And for the record, not having to jeopardize the project, it's a valuable project, the petitioner has accepted a continuance. We don't know how far our advertising's going to carry us. May affect our board date, so --

CHAIRMAN STRAIN: You're requesting an indefinite continuance, is that --

MR. NADEAU: Requesting an indefinite continuance.

CHAIRMAN STRAIN: Okay, from the Planning Commission's perspective, is there a motion to accept their request for an indefinite continuance?

Mr. Murray?

COMMISSIONER MURRAY: I will make that motion.

COMMISSIONER VIGLIOTTI: I will second.

CHAIRMAN STRAIN: Seconded by Mr. Vigliotti.

Is there any 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 VIGLIOTTI: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Let the record reflect that, by the way, Mr. Wolfley left at noontime.

I think for -- out of -- we should go through the Radio Lane development. I'm not -- we'll just walk through that one and see where we stand with that one as we go through it.

MR. NADEAU: Of course. If you'll just bear with me for a moment, I need to go get those materials.

COMMISSIONER SCHIFFER: Mark, remember at lunch you said you sent something out. Is this what you sent out?

CHAIRMAN STRAIN: No. In fact, Ray, I had sent an LDC cut and paste document that I had done in response to the Immokalee area deviations coming up on the LDC amendments on February 26th. There's 44 pages on the Phase II request for LDC amendments. And Bob Mulhere received a copy, as well as Susan and a few others. Bob was going to distribute that to the Planning Commission members. I didn't want to do it myself, so I sent it to Bob for distribution.

Would you follow up and find out if someone's going to get that out to everybody so they can read it? Not now, but I mean sometime between now and our next meeting.

MR. BELLOWS: Do you want them dropped off today if they're ready?

CHAIRMAN STRAIN: If they have them. But I think Bob was going to distribute it, because he's the applicant. So I was trying to not put the burden on the county staff.

MR. BELLOWS: We'll definitely do that. If he gives them to us, we'll drop them off.

CHAIRMAN STRAIN: Okay, thank you.

Oh, and Nick.

MR. CASALANGUIDA: Yes, sir.

CHAIRMAN STRAIN: For the record, we don't need the Vanderbilt Beach extension.

MR. CASALANGUIDA: Commissioner, for the record, we absolutely do.

I would worry about you getting into one of these ALF's if you keep bringing it up all the time.

CHAIRMAN STRAIN: Okay, thank you.

Dwight, are you ready?

MR. NADEAU: I am indeed.

Item #9D

PETITION: PUDZ-A-PL2009-734, TOFINO RPUD

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Again, good afternoon, Commissioners. For the record, my name is Dwight Nadeau. I'm planning manager for RWA. I'm representing this petition, Tofino RPUD, which is planning No. 734. I'm representing Radio Lane LLC.

This particular piece of property lies across the street from Palm Springs Boulevard. This particular piece of property is owned by a different entity, which is the Radio Lane LLC, although there's some crossover between some of the ownership entities that --

MR. BELLOWS: Excuse me, I think we need to be sworn in on this item too.

MR. NADEAU: Oh, probably.

CHAIRMAN STRAIN: Oh, that's right, we should do them both. I'm sorry. Thank you, Kay, that was a very good point.

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

(Speakers were duly sworn.)

CHAIRMAN STRAIN: I'm used to dealing with the same crowd so I didn't -- I completely forgot.

This is Petition PUDZA-PL-2009-734, Radio Lane Development LLC. That will be known as the Tofino RPUD.

Any Planning Commission members have any disclosures?

(No response.)

CHAIRMAN STRAIN: I think I spoke to Dwight about both of them at the same time, so I can't tell if the discussion overlapped, but so be it, we'll go forward. Thank you.

MR. NADEAU: Very good.

Again, this is another 10.75-acre parcel. It was previously rezoned from C-1 to the MAC PUD. It was approved for 86 dwelling units. Again, this petition is not intending to change the density on the site, nor change the preserve from what was originally approved.

There was a site development plan issued for the Tofino SDP. And the impact fees were never paid and picked up. But that process was completed.

This particular project is going to be very similar to the Sarecino project in that we're looking to plat, we're looking to use attached single-family homes, but this is residential. This residential development plan looks like this. And as you can see, there's yellow enclaves throughout where the clustering of the buildings will occur. There is a recreation area tract, and we do have a lake in Tract R. However, we can make that correction as well, Commissioner Caron.

There was a question about what that little yellow box is down next to the detention area. That actually is a two-unit building. And for illustrative purposes, but I don't want to be held to it, I want to show you how the actual layout looks from the conceptual site plan.

COMMISSIONER MURRAY: That's good and busy.

MR. NADEAU: Yes, it's a compact design and it provides for the access easements.

In this instance, though, these are really unique, because the fronts of the units are actually the rear of the units. So there won't be any cars parking in the -- near the front door of the units. There's a green paseo that would be a pedestrian access that would have canopy vegetation shielded and will provide more of a, you know, a park feeling between the units.

These also will be articulated so that they'll be a very pleasant streetscape. And they'll be served by motor courts in the rear of the units. And you look, they're these areas in here where each unit will have its own two car garage.

So what we're trying to do we're trying to eliminate the visibility of vehicles on the road. We do have some guest parking. And if you're interested, they're going to be very unique kind of Key West style cottages that are two-story but they're really a mezzanine type of a two-story where you walk up to your front porch, step up to the inside, or you can step down to the lower level where the garage is and there's a living level above. I'll show you a little bit of a -- probably what I'll do is I'll show you a cross-section and then what the floor plan kind of looks like.

Again, these are in design stages, and we wouldn't want to be held to these. But this is the character and what the intent is for the development.

This is a cross-sectional view of how the houses would be constructed. As you see, you come in from the front porch, you walk upstairs into the main living area, or you could walk downstairs to the mother-in-law's apartment and the garage.

This will give you a perspective from the floor plan view where up in living room up in here, master bath, and then downstairs are the two bedrooms, some utilities and the two car garage behind. Those two car garages occur off of the motor courts.

There were -- I'm going to move on now to some of the changes to the document. There were some requests for -- or there were some concerns that were brought up yesterday. And I just wanted to try and identify these upfront. Maybe they can alleviate some of those concerns here today.

Most particularly there was some concern that the provision for multi-family on this site may not be appropriate because we weren't identifying a multi-family tract. So what the developer has agreed to do, or the petitioner, excuse me, is to go ahead and remove reference to multi-family from Tract R, permitted uses, as well as to remove the development standards attendant to the multi-family uses in table two -- table one, I'm sorry.

COMMISSIONER MURRAY: How did you do that, Ray?

MR. NADEAU: It's still a little dark. I'll play with it later.

So that would be the removal of the multi-family uses.

Also, there was some identification that the recreation development standards were again -- or the accessory structures were higher than what was permitted for the clubhouse buildings. Those have been corrected to be consistent.

COMMISSIONER CARON: Again, Dwight, all the way across on that.

MR. NADEAU: Yes, Commissioner, thank you.

CHAIRMAN STRAIN: By all the way across, you're referring to the fact that it's missed again on the single-family, right?

COMMISSIONER CARON: Yes, sorry.

MR. NADEAU: I can get into the layout, the various layouts of the building. I've showed you the overall master plan. I've also included some typical figures within the PUD to show the definitiveness of how we're proposing to move forward.

This is one of the scenarios where we would have the single-family attached units across but not attached in the rear. This would provide for a front yard off of the alley, side yards off of the access easement, and these being the rear yards separated from the paseo.

The common lines would be -- the line running between the units just six inches off the sidewalk and up to the access easement would be the defined lot that would be intended for fee simple sale.

COMMISSIONER MURRAY: Question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Dwight, on the paseo, I can't visualize, but you did describe earlier that there's going to be floral and perhaps some structure supporting the floral. I think that's what you said, some --



MR. NADEAU: Yeah, there will be some latticework, and there may be some canopy vegetation. It's supposed to look like a garden.

COMMISSIONER MURRAY: Who's responsible? Is that common property, or is that --

MR. NADEAU: That would be common property. It would be installed by the developer and most likely maintained by the association, yes.

COMMISSIONER MURRAY: And those are -- are we limiting it to lattice? In other words, there's no structural consequence? I'm trying to figure out where the burden begins for a homeowner relative to where the common property is and what the implications of that will be in the future.

MR. NADEAU: Of course. I think the only burden to the property owner is going to be the maintenance cost that would be out of the association dues. The developer will be installing all of the floral materials, any bench seating, any latticework, any paving -- paver bricks, the treatment for marketing purposes. And the association would maintain those common areas.

COMMISSIONER MURRAY: What level of income are we shooting for in this particular program?

MR. NADEAU: Well, I think I'd have to defer to my client on that, which I will be bringing him up. And I can do so right now or you can continue with your questioning --

COMMISSIONER MURRAY: Well, where I'm going with this, it could be answered later. But as long as we get to it at some point. And I'm not trying to micromanage this, but certainly I think it's important.

It could be very nice. But with all the adornment, we also see a potential future expense. And, you know, we could over-fix something, and the people who occupy can then end up in some trouble. So I'm trying to get a sense of where we're going.

It's very busy, very tight, compact operation. And I'd just like to know more about it before I'm comfortable. Thank you.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Yes, Dwight, to start out, what's the open space on this?

MR. NADEAU: It would be a required 60 percent open space.

COMMISSIONER SCHIFFER: And you're going to hit that okay?

MR. NADEAU: And we will hit that.

COMMISSIONER SCHIFFER: Okay. These alleys are a little tight. How does the person at the end get out of it? Does he back, can he turn? He's kind of in a tough spot. But I guess he can go, you know, up to the garage door on one side and come around. But he's --

MR. NADEAU: Well, the end unit would be able to back out of the driveway and proceed out in this fashion. And we're going to -- just like anytime you back up in a parking lot, you need to make sure nobody behind you is doing the same thing.

COMMISSIONER SCHIFFER: I'm sorry, I should -- I'm more worried about the dead-end alley, that one.

MR. NADEAU: The dead-end alley?

COMMISSIONER SCHIFFER: And whatever you do, don't make that distance greater than 150 feet from the --

MR. NADEAU: Oh, no, we would not.

COMMISSIONER SCHIFFER: -- curb or you will get a wrath of hell like you didn't believe.

MR. NADEAU: Yeah, it would be difficult to put a cul-de-sac in here.

So the actual units would be -- because there's a driveway along here. We would be able to back out --

COMMISSIONER SCHIFFER: I'm not worried about him. I'm worried about the two of you that went straight in. I assume that's what happens. If I lived on those long units to the far right.

MR. NADEAU: There.

COMMISSIONER SCHIFFER: Yeah.

MR. NADEAU: They are going to have to back out and probably do a three-point turn to come out.

COMMISSIONER SCHIFFER: Okay. But you're right, if they've ever visited Key West, this will be easy. One thing, we got to really be careful with the code work on this. That little slot you have on the side to bring light into the room steeper in, how wide is that? And is it like --

MR. NADEAU: Well, we were looking at the sidewalk. Maybe it's five or so feet, six feet.

COMMISSIONER SCHIFFER: You've got to get your architect to look at the Florida versions of the

International Building Code. First of all, we have a default four-hour firewall. I've tried to change it. The vote last failed six-four. Two more people, we got rid of that. So there's a massive firewall requirement in Florida that other states don't have.

The fire protection, if you do prevail keeping these as independents, which my prediction is you won't. But then there would be so much rating alongside those walls, all the windows are going to have to be protected. I mean, you're going to have a sprinkler system. You're probably going to have to bring it up to a full 13 to maybe fight off some of that protection.

But I think before -- if we're going to do the same thing on this one, you come back, really make sure the architect has seriously looked at Florida's version of the codes and all the weirdness that might be in there.

Because I think first of all in Florida any time you have more than three buildings attached, this is the State Attorney's, you know, word, it becomes a multi-family building.

MR. NADEAU: I got --

COMMISSIONER SCHIFFER: So you do -- you're going to lose R-3 in the building code. Whether we keep zoning -- calling it a single-family, I don't know.

So just really be careful on that. Or really look into it. Because I'm not sure you have.

And it is important to keep these as independent properties. All of these would qualify as townhouses, but unfortunately in Florida a townhouse with three units becomes multi-family again.

MR. NADEAU: Indeed. But we have worked with county staff where we can go through the platting process for these types of uses.

And the commentary that you're referring related to the construction techniques is being recognized and I'm sure logged in by the developer.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Anybody else have any questions?

COMMISSIONER SCHIFFER: One question in terms of landscaping. Again, this alley, there's no place for a tree or anything in there. So what kind of landscaping are these things going to have? I like the look, I like what you're doing, but unfortunately your drawings show trees. I mean, what is going to happen for vegetation in that alley? It's your front setback. So I assume that's your porch is going to be on that side? Or where would the sitting porch in this unit be?

MR. NADEAU: The sitting porches would be off of --

COMMISSIONER SCHIFFER: The rear?

MR. NADEAU: -- off of the fronts in here. There's opportunities for landscaping in these little terminal islands that are common between --

COMMISSIONER SCHIFFER: Well, they're five feet -- the landscape code doesn't allow anything that narrow.

MR. NADEAU: The landscape code doesn't require anything --

COMMISSIONER SCHIFFER: In other words, we do an island in a parking lot it's got to be greater than five feet. So, I mean, that's something staff will review.

In other words, I'm just concerned that that could end up looking like a pretty -- not as nice as your drawing of the single unit.

MR. GILLESPIE: The -- I might add for clarification, and I'm going to admit to a lot of the modeling here came from Ole', the way that the courtyards -- auto courts work there, as well as his description of the interior courtyard spaces and how the floral and the lattice and those sorts of things. So I'll be happy to -- we have a whole series of photography from those areas that I think clearly defines.

That was we actually hired the designer that did that for Stock to help us create this neo-traditional -- or T&D approach to the layout. And I'll bring photos for the next meeting of that example.

COMMISSIONER SCHIFFER: I'm done.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: The people and residents to this facility are limited to 55 and over?

MR. NADEAU: It's all -- no, I'm sorry, these are not age restricted.

MR. GILLESPIE: No, these are not age restricted.

CHAIRMAN STRAIN: Okay.

COMMISSIONER MURRAY: Did you want to find out the price points?

MR. NADEAU: Oh, yes.

MR. GILLESPIE: Price points are going to start in -- the hoped for price point is going to be in the -- starting in the 230's and go up to the low 300's.

COMMISSIONER MURRAY: Thank you.

CHAIRMAN STRAIN: Okay, thank you.

We need to provide Cherie' with a break, especially as fast as I've been talking today. So why don't we take a break till 2:15 and we'll resume at that time.

(Recess.)

CHAIRMAN STRAIN: Thank you, sir. Welcome back from the break. When we left we were off -- we left off on questions of the applicant. And I think I'd asked everybody if they had any more questions.

I'll ask one more time, does anybody have questions?

(No response.)

CHAIRMAN STRAIN: Okay, I have a couple. One of them will be of staff, so let's move on from that.

On the table, Dwight, you already acknowledged that multi-family's coming off. We've got the height corrected. This 16 feet from back of curb. You need to change -- correct that with a footnote like we typically do for the 23 feet if the garage on the front. And it's a front opening garage, if you remember that language.

MR. NADEAU: Of course.

CHAIRMAN STRAIN: Okay. Back of curve. Do we know that all the streets are going to be curbed?

MR. NADEAU: The streets will all be curbed and guttered? Valley gutter.

CHAIRMAN STRAIN: Well, usually it's the back of curb or edge of pavement. You might want to -- whichever -- if there's a curb present, it's back of curb, if not, it's edge of pavement. You may want to put some clarification in there so you've got that covered in case there isn't any curb.

MR. NADEAU: Of course.

CHAIRMAN STRAIN: With these units being part of the -- described as much as they are in the PUD and with the concerns that Brad Schiffer's got, he is a state licensed Florida architect, he's on numerous architectural and fire boards, you guys may have a real serious problem about your design. And if you do, it would be to your best interest to get that fixed before you put it back in this document. Otherwise you're going to be coming back to a public process to change the document.

And I would suggest that whoever you've got working on this real carefully go over what the concerns were following up to Brad's expressions, because he certainly has a lot more knowledge of the building code than any of us up here, I would think.

In the planning stipulations that were in the PUD, the prior PUD had several paragraphs that required you working -- again, working with the owners of the Palm Springs neighborhood. None of that got carried over into this new PUD. Do you know why? Did you get -- do you have an agreement then that exists where you've worked that out with the neighborhood?

MR. NADEAU: Actually, no, we don't have the agreement. Similar to the Sarecino project we spoke about, the Tofino project is not one that is going to be initiating development sooner than Sarecino.

Therefore, through the discussions with the neighborhood, we took their concerns that were attendant to the MAC PUD and applied them all to Sarecino so they could be implemented sooner.

CHAIRMAN STRAIN: Well, I think you need to get -- because you're dropping off those references to what you were going to do for the neighborhood from the prior PUD to this PUD, they become issues. You need to get those resolved I would think with that neighborhood the same way you're going to get the first one resolved.

MR. NADEAU: Very good.

CHAIRMAN STRAIN: So -- and that's the only questions I have. Does anybody else have any others?

(No response.)

CHAIRMAN STRAIN: Staff report then. Thank you.

MS. DESELEM: Good afternoon again. For the record, Kay Deselem, Principal Planner with the zoning section of Collier County, Community Development and Environmental Services Division.

Again, you have the staff report with a revised date of 1/15. The staff report does explain who the property

owner and agents are; the requested action; the geographic location; a brief description of the purpose and project description. Provides the surrounding land use and zoning, both in written form and pictorially in the aerial photograph. Goes into the Growth Management Plan analysis that includes both the transportation element and the Future Land Use Element.

The analysis from staff begins on Page 5 with the various staff members involved in the review of the project included. It does show the stipulations that have been proposed to address environmental review's concerns, as well as transportation concerns.

Going over onto Page 6 of the staff report, it continues with the other staff members' review comments, columating (sic) with -- comu -- yeah, ending with.

CHAIRMAN STRAIN: We've all got that affliction today, Kay.

MS. DESELEM: Thank God there's other words.

-- ending with the zoning review comments and a brief analysis of this project in relationship to the heights of the surrounding area.

Beginning on Page 7 you have the PUD findings. And going on you have the rezone findings on Page 8, continuing through the staff report. These are made in support of staff's recommendation of approval.

You do have a deviation discussion in the staff report. And again, similar to the previous petition, staff is recommending approval of the deviations and is recommending that the petition be found consistent with the Growth Management Plan, and we are recommending approval of the overall PUD rezone amendment petition.

And I'm available if you have any questions.

CHAIRMAN STRAIN: Anybody have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Kay, I've got two. On Page 15 of your staff report -- actually, maybe three -- the one on top is really going to be of I guess the county transportation department. But John, don't get up and hobble up here. Let me see if Kay can answer it first. Or Nick. Will that carry that far?

Do a test, John.

MR. PODCZERWINSKY: Test, test.

CHAIRMAN STRAIN: The only answer I'm trying to get is on the top of Page 15, it says, the project is still under review by the Collier County Transportation Department and Comprehensive Planning Department who does the growth management analysis.

Is it still under review?

MR. PODCZERWINSKY: I've got to tell you, I'm unfamiliar with the language that you're referring to at the moment.

MS. DESELEM: Excuse me, if I may? For the record, Kay Deselem.

Let me get him the staff report so he can be looking at the same language and respond.

CHAIRMAN STRAIN: And this is concerning traffic congestion on Palm Springs Boulevard.

MR. PODCZERWINSKY: One moment.

For the record, John Podczerwinsky.

CHAIRMAN STRAIN: You know, it's too bad Kady's not here today. I bet someone's having a great time trying to catch you on camera.

MR. PODCZERWINSKY: That's okay.

Sorry about the delay. For the record, John Podczerwinsky, Transportation Planning.

This is not under review at the moment, but traffic calming is an ongoing issue that may still be under review. You know, it's not that it's under review, that it's something that will be addressed through the NTMP process that's on-line.

CHAIRMAN STRAIN: Does it need to be addressed through the PUD process?

MR. PODCZERWINSKY: I don't believe it does. There's a separate process for that that can be addressed at the time of SDP.

CHAIRMAN STRAIN: Okay. There's also a reference here to working with the county to improve the drainage between I-75 and Magnolia Pond Drive. I'm not sure what all that has to do with this project, but it's in the staff report.

Is that you -- since drainage is under transportation, is that something you can respond to?

MR. PODCZERWINSKY: Yes, sir, it is.

I've been working a little bit with the stormwater department, Jerry Kurtz, the director over there -- I'm sorry, manager over there. And one of the initiatives that we're looking at is improving drainage for the entire basin that these two PUDs, the one prior to this one and this PUD both sit within.

Each of these PUDs has offered a proportionate share of drainage improvements that will benefit the entire basin. And that's essentially I think \$7,500 of contribution from each one. And that's going to benefit both of those.

It also -- those monies are to be contributed towards a portion of the MGG-15 canal, it's called, which is on the north side of I-75. Basically it drains the basin all the way over to Davis Boulevard and 951, that corner. It takes drainage all the way from there and takes it all the way up to Golden Gate main canal, north of the highway.

CHAIRMAN STRAIN: So the solution to the statement that they will be working with the county to improve drainage, that basically has been worked out?

MR. PODCZERWINSKY: Very true, yes.

CHAIRMAN STRAIN: Okay. At the time this was written, apparently it hadn't been.

MR. PODCZERWINSKY: Correct.

CHAIRMAN STRAIN: That's all I needed to bother for hobbling up here with. Thank you. Appreciate it, John.

MR. PODCZERWINSKY: Sure.

COMMISSIONER SCHIFFER: Mark, I have a --

CHAIRMAN STRAIN: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: Kay, one thing I noticed in the preap., that the fire department wasn't there. I think it would be wise if the applicant went by the fire department and reviewed it. I think they've got radiuses okay, but there is the ability to have fire department access to sides of a building. The ultimate result is what kind of construction you could build that building.

So again, in the things to do, I think since they weren't at the preap., and, you know, I would kind of go by and visit them and make sure everything is happening cool.

MS. DESELEM: For the record again, Kay Deselem.

We do invite the fire department staff to attend the preaps. Most often in the case of a PUD, they opt not to attend because their comment is generally that they'll address it at SDP or plat.

But they are invited. But yes, I'll give the applicant the required information that they need to know who to contact.

COMMISSIONER SCHIFFER: Yeah, I think they should visit, in case there's any concerns. Because this -- what you're doing is really tight and tight. And I really like what you're doing, don't ever misunderstand that. But really, you've got to be careful because, you know, you're pushing yourself to the edge, to the edge, to the edge, and you want to make sure you're comfortable there.

I'm done.

CHAIRMAN STRAIN: Okay, anybody else have any questions of staff?

(No response.)

CHAIRMAN STRAIN: Okay, Ray, are there any public speakers?

COMMISSIONER MURRAY: Yeah --

CHAIRMAN STRAIN: Oh, Mr. Murray?

COMMISSIONER MURRAY: Yeah, this is just for clarification.

On your Page 15, the sentence is confusing me a little bit. It's the -- well, let's -- from the bottom of one, two, three, fourth one up. And where in the second sentence Mr. Nadeau quoted from the MAC PUD ordinance which stated that the development will contribute 50 percent of the construction cost of the fence or construct 50 percent of the length of the fence.

Which 50 percent are we talking -- I don't understand what that means exactly.

MS. DESELEM: Since it was Mr. Nadeau's statement, I will let him try to explain to you. But it does come out of the old PUD language. And I won't say that it was crystal clear at the time either, so -- but I'll let him respond, if that's appropriate for you.

CHAIRMAN STRAIN: And Bob, that is one of the items that was in that old language I asked them to come back and have that agreement worked out before they came back to us.

COMMISSIONER MURRAY: Oh, good, so then it's moot.

CHAIRMAN STRAIN: Right.

MS. DESELEM: Yes, that's what I was saying, it's from the old PUD document --

COMMISSIONER MURRAY: Fine, it just didn't make any sense.

CHAIRMAN STRAIN: Okay, any other questions?

(No response.)

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

MR. BELLOWS: No speakers.

CHAIRMAN STRAIN: Okay, with that, I need to ask the applicant how they want to proceed. We're missing three items. Obviously the example -- the plat, proposed plat as we had talked about in the previous one; the neighborhood agreement, as we talked about in the previous one; and there's numerous issues regarding references to multi-family and other language and table changes that need to be done to tighten this up.

I would suggest you may request a continuance indefinitely like you did in the last one until these matters are clarified. Along with I think for your own benefit to take a closer look at the units you've designed to see -- to make sure they work.

MR. NADEAU: With regard to the Southern Standard Building Code, I presume?

CHAIRMAN STRAIN: With regard to all the issues discussed here today. I'm not going to --

MR. NADEAU: Very good.

CHAIRMAN STRAIN: -- nitpick over code. Brad's much better than that, and you don't want to go up against him on that issue either.

MR. NADEAU: No, sir, I don't.

CHAIRMAN STRAIN: Okay.

MR. NADEAU: On behalf of the petitioner, we would like to request an indefinite continuance on this to be able to work out our specific agreement with the neighbors, to provide a schematic subdivision plat, as well as to address the changes to the document, look at the construction methodologies for the proposed buildings to ensure that they can comply with the matters that were discussed today. I humbly request that continuance.

CHAIRMAN STRAIN: Is there a motion for a continuance?

COMMISSIONER SCHIFFER: I'll make the motion.

CHAIRMAN STRAIN: Mr. Schiffer. Seconded by?

COMMISSIONER MURRAY: (Indicating.)

CHAIRMAN STRAIN: Mr. Murray.

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 VIGLIOTTI: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

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

COMMISSIONER SCHIFFER: Let me make one comment, Dwight. You know, PUDs do creative and new types of development. I think this is the first time we actually really had something that was creative, so --

MR. NADEAU: Thank you.

COMMISSIONER SCHIFFER: -- don't take our comments to mean to not --

MR. NADEAU: Thank you very much.

COMMISSIONER SCHIFFER: We just want it to work for everybody.

Item #10

OLD BUSINESS

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CHAIRMAN STRAIN: Okay, with that, we don't have any old business scheduled and we have no new business scheduled. Oh, Ms. Caron?

COMMISSIONER CARON: Excuse me. Under old business, which I'm pretty confident that Nick isn't prepared, but I just wanted to remind him --

CHAIRMAN STRAIN: At all? For anything?

COMMISSIONER VIGLIOTTI: You're going to blindside him?

COMMISSIONER CARON: -- that there were a couple of issues that got brought up at the last CCPC meeting that he was going to get back to us on. One was the roadway width of 50 to 60 feet and the planting requirements in the smaller spaces.

MR. CASALANGUIDA: I have the roadway width question. It would be a good discussion to have at the Planning Commission for five or 10 minutes, if you'd like.

COMMISSIONER CARON: Yeah. Well, I'm not sure, are we trying to make a deadline here to get out?

CHAIRMAN STRAIN: No, I don't care. We can add it to an item for the future or we can discuss it at this meeting, it's up to you all.

COMMISSIONER CARON: It's fine either say by me.

MR. CASALANGUIDA: Sure. On the roadway width, we can discuss it now.

Mr. Mulhere, I spoke with him on the phone, he's coming down with those LDC. He should be here shortly. He called about 20 minutes ago, said he was on his way.

CHAIRMAN STRAIN: Okay, good.

MR. CASALANGUIDA: So the right-of-way width. We have a typical standard that we hold and we say this is kind of like the idea of what we'd like you to build.

What happens is you can see this PUD was a good example where they're doing access easements. The idea for us to have a standard is based on MUTCD AASHTO guidelines, you know, FDOT guidelines as well too.

Most of the applicants will take a look at that and they become creative. They put a multi-use pathway on the back of the houses, we've seen on one development. This one has a paseo and an easement.

So you have a standard in the LDC. 60, 80 percent of the time when they get creative they change those standards. It is a deviation that is there all the time. And I think even in one of the PUDs I read last time it said we encourage you to come up with something more creative and we will support the deviation if it's there. But we have to come up with a standard as a kind of go-by, and then that way we have something to start from.

But that's the reason it's there. And you see that deviation quite a bit, because part of our goal is to encourage alternative design through the PUD process.

COMMISSIONER CARON: And I don't have any problem with being creative and doing alternative designs. My question related to just the fact are we just making it rote and for none of those reasons, that we're just -- we'll take that out because that allows us over our entire PUD to shove a few more units in because we can get away without this roadway width.

So that was all. I have no problem if we are genuinely being creative, if we are genuinely doing something else that helps, like pathways.

MR. CASALANGUIDA: Sure.

COMMISSIONER CARON: That makes all the sense in the world to me. But it's just been sort of a check box, okay, well, it's supposed to be 60, but we'll deviate to 50 --

MR. CASALANGUIDA: Sure.

COMMISSIONER CARON: -- without any explanation really as to why or what is it that the community is getting a benefit from from having them do that.

MR. CASALANGUIDA: Some of those things too as I looked at them are also the underground utilities. They have spacing requirements. And some designs will take those utilities and put them in the utility easement or tie them together differently.

So that typical design you see in many subdivisions, that 60-foot standard, when the designer comes in, he says I can move the utilities, I can put the pathway in the back, I can shrink the roadway width by doing these things, that's where you get those deviations.

So you will see a number of them. I think it's a good point to ask them why have you done it, what creative thing have you done, and maybe it's staff's to -- us to point out to you what's there.

COMMISSIONER CARON: Yeah, I think that's all I'm asking is obviously there can be reasons, and very creative reasons. And I think it should be explained to this board what is the public getting for this gift to these people. Because there should be something, some benefit to the overall community.

MR. CASALANGUIDA: Agreed.

COMMISSIONER CARON: Or the neighborhood, whatever.

MR. CASALANGUIDA: I think we will take note to point it out to you when there is a deviation, what benefit does that deviation derive, what is the alternative design that's been done to drive that.

And that other one you had wanted to talk to me about was the landscape or the trees?

COMMISSIONER CARON: Yeah.

MR. CASALANGUIDA: Yeah, I have that down.

COMMISSIONER CARON: Okay. Next time.

CHAIRMAN STRAIN: Okay, is there any other old or new business?

(No response.)

Item #12

PUBLIC COMMENT ITEM

CHAIRMAN STRAIN: Public comment. There's no -- anybody in the public have a comment? There's very few left.

(No response.)

CHAIRMAN STRAIN: Is there a motion to adjourn?

COMMISSIONER VIGLIOTTI: So moved.

CHAIRMAN STRAIN: Mr. Vigliotti. Seconded by?

COMMISSIONER SCHIFFER: I'll do it.

CHAIRMAN STRAIN: Mr. Schiffer.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KOLFLAT: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER VIGLIOTTI: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

We are adjourned.

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February 4, 2010

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 2:39 p.m.

COLLIER COUNTY  
PLANNING COMMISSION

  
\_\_\_\_\_  
MARK STRAIN, Chairman

These minutes approved by the board on 3-4-10 as presented  or as corrected \_\_\_\_\_.

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

