

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, March 17, 2011

LET IT BE REMEMBERED, that the Collier County Planning Commission, in and for the County of Collier, having conducted business herein, met on this date at 8:30 a.m., in REGULAR SESSION in Building "F" of the Government Complex, East Naples, Florida, with the following members present:

CHAIRMAN: Mark P. Strain
Melissa Ahern
Brad Schiffer
Paul Midney
Donna Reed Caron
Karen Homiak
Bob Murray
Diane Ebert
Barry Klein

ALSO PRESENT:

Raymond V. Bellows, Planning Manager, Zoning
Nick Casalanguida, Growth Management Division
Jeff Klatzkow, County Attorney's Office
Tom Eastman, School Board Member

CHAIRMAN STRAIN: Okay. Good morning, everyone. Happy St. Patrick's Day. To the left is the Irish on the board; to the right is obviously the not. And I had to remain kind of neutral because I'm the chairman, so my pants are green.

And the other thing today that's unique is we started at 9 o'clock. I've been here since a little after 8:00 because I thought we started at 8:30. It's going to be a hectic day.

With that, if you'll all please rise for pledge of allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Ms. Homiak, could you do the roll call, please.

COMMISSIONER HOMIAK: Mr. Eastman?

CHAIRMAN STRAIN: He's here.

MR. EASTMAN: Oh, here.

COMMISSIONER HOMIAK: You're here.

Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: Here.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Caron?

COMMISSIONER CARON: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Mr. Murray?

COMMISSIONER MURRAY: Yes.

COMMISSIONER HOMIAK: Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: And Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN STRAIN: Okay. Thank you.

The addenda to the agenda, we had a revised agenda sent out approximately the same day the other one came, and it was to put the Naples Daily News item first, and I'm -- that was continued from a prior meeting.

Then we'll be into -- that won't hopefully take too long, then we'll move into Olde Cypress, the three issues in Olde Cypress after that, and we'll round out the day with the Grace Romanian Baptist Church, and then the old business will be the Watershed Management Plan update.

Planning Commission absences. Our next meeting is our -- Ray, what is -- what's our schedule like for the first meeting in April? I know you sent an email out in which a bunch of meetings didn't have anything scheduled. Do we have a -- how's our first April meeting look?

MR. BELLOWS: Yeah. We have items scheduled for both meetings in April.

CHAIRMAN STRAIN: Okay. What's the date of that April meeting?

MR. BELLOWS: Seventh.

CHAIRMAN STRAIN: Okay. Anybody know if they can't make it on April 7th?

(No response.)

CHAIRMAN STRAIN: Looks good.

Approval of the minutes. We have two sets of minutes. We have February 3rd. We'll take that first. If there's no changes, is there a motion to approve?

COMMISSIONER CARON: Motion to approve.

CHAIRMAN STRAIN: Ms. Homiak?

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Second by Ms. Ebert.

All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.
COMMISSIONER SCHIFFER: Aye.
COMMISSIONER MIDNEY: Aye.
COMMISSIONER CARON: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER MURRAY: Aye.
COMMISSIONER EBERT: Aye.
COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?
(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

The second set of minutes is February 17, 2011. Is there a motion to approve?

COMMISSIONER HOMIAK: Motion to approve?

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah. I have a correction. I'll make a motion to approve, but I do have a correction. It's on Page 18 of 90. And the text says, "freed elms," and it's -- the word should be "freedoms," not "freed elms."

So thank you. And I'll make a motion to approve.

CHAIRMAN STRAIN: Subject to that correction, seconded by Ms. Homiak.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Okay. Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Thank you, Ms. Caron.

BCC reports. Ray?

MR. BELLOWS: Yes. On March 8th, the Board of County Commissioners heard the variance for the Schneller, that was the variance from the riparian line for a boat dock. That was approved by the board 5-0 subject to the Planning Commission recommendations.

CHAIRMAN STRAIN: Okay. Thank you.

Chairman's report, well, just that I forgot what day it was today, obviously, so we will -- and Mr. Casalanguida, with that -- such a last Irish name, I notice all the green you're wearing too.

MR. CASALANGUIDA: Like you, Commissioner, I have my green below.

CHAIRMAN STRAIN: Yeah.

***Okay. Consent agenda items. First up, first item on the consent agenda is PUDZ-2009-AR-14425. This is the Addie's Corners MPUD. Does anybody have any problems with the language in the -- what was sent to us as far as the corrections go and stipulations for that item?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to approve on the consent agenda?

COMMISSIONER SCHIFFER: I'll make a motion, Mark.

COMMISSIONER HOMIAK: Approve.

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

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

***Second item up is CP2008-5. It's the amendments to the Immokalee Area Master Plan and Immokalee Area Master Plan Future Land Use Map.

Any items there that need to be corrected, amended, or changed? If not, is there a motion to approve the consent item?

Mr. Midney?

COMMISSIONER MIDNEY: I so move.

CHAIRMAN STRAIN: Made by Mr. Midney. Seconded by?

COMMISSIONER EBERT: I second.

CHAIRMAN STRAIN: Ms. Ebert.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Motion carries 9-0.

***Which takes us into our regular agenda items. First one up is the advertised public hearing, and it's for PUDA-PL2010-854, Naples Daily News BPPUD on 1100 Immokalee Road.

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

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

CHAIRMAN STRAIN: Disclosures on the part of the Planning Commission? I guess I'll be the only one. When this came to us a couple years ago -- I don't remember when it first did -- I abstained from voting at that time and participating because of a perceived conflict of interest, because I do write for a subsidiary of the newspaper. I will take the same position today out of a perception of a conflict of interest and will not be participating or voting on this item.

I will continue to chair the meeting. I've already turned in my disclosure statement to the court reporter for the record.

And with that, we'll proceed.

Mr. Anderson?

MR. ANDERSON: Good morning. My name is Bruce Anderson from the law firm of Roetzel & Andress, and I'm here today on behalf of the Naples Daily News.

This is a request to amend their PUD which was approved in 2006. When the PUD was first approved, detailed negotiations were conducted with the neighboring owners, one of which was the Bay Colony neighborhood, and one of the details ironed out was the specifics, very specifics, of the landscape buffer that was to exist between the PUD and the Bay Colony neighborhood in Pelican Marsh.

I want to show you where the landscape buffer is to the extent we can see it on this photograph. The amendment, as I said, is to change the type of plant material specified to be planted. This is being done at the request of the Bay Colony Golf Club by the Naples Daily News to be a good neighbor.

And with that, I'll answer any questions or turn it over to Nancy, who is a landscape architect.

CHAIRMAN STRAIN: Are there any questions of the applicant at this time from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: If not -- okay, Nancy.

MS. GUNDLACH: Good morning, Commissioners. I'm Nancy Gundlach, principal planner, and I'm also a landscape architect for the Department of Land Development Services.

And staff is recommending approval of this amendment.

CHAIRMAN STRAIN: Okay. That's short and sweet.

Any questions of Nancy or the applicant on this item? Ms. Caron?

COMMISSIONER CARON: Yeah. It seems like we killed a lot of trees for something that probably could have been a one-pager and this exhibit that we're seeing right now. Maybe we want to rethink on some of these things that are requests by -- as long as there's no issue with staff, that maybe we don't have to go through an entire process like this. It seems a little excessive.

Anyway, I'll make a motion to approve.

CHAIRMAN STRAIN: Well, we've got to make sure -- just one moment. Are there any public speakers, Ray?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: Any members of the public here wishing to address this issue?

(No response.)

CHAIRMAN STRAIN: Okay. With that we'll close the public meeting. And Ms. Caron made a motion to approve.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Seconded by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: (No response.)

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

MS. GUNDLACH: Thank you.

CHAIRMAN STRAIN: Opposed? And I'll note that I'm abstaining.

Okay, thank you. And, Bruce, when I responded to you and I said to you, this shouldn't even have come up, what I was suggesting is staff should have handled this if they could have found a way, and if they haven't found a

way, recommendations for the future ought to be made so that staff can find (sic) a way not to waste money and time coming before a public process for something as minor as this when all parties are in agreement, that meaning staff, your neighbors, and yourselves. It just seemed -- it just is a complete waste of time, but --

MR. CASALANGUIDA: Mr. Chairman, I couldn't agree with you more, and we're looking at things like that. That's the things as far as the administrative code, administrative variance process. Any way we can look at things like this and make them simpler, we are.

CHAIRMAN STRAIN: Okay. But this board had asked two years ago -- and before your time, so it's not your fault -- that minor issues, that we get a list of them brought to us so that we can look at a way to expedite things and maybe staff could have some more -- a little more latitude. This would have been perfect.

MR. CASALANGUIDA: Great example.

CHAIRMAN STRAIN: So anyway. With that being said, thank you, Bruce, appreciate it.

And we'll move on to the next item up.

***This one is not going to go as quickly, but I certainly will try to figure out how we can approach it. There are three items involving the same pieces of property. And so what I'd like to do is, like we did last time, we'll discuss all three concurrently and then vote on them separately.

I'll read off the three of them so you know which ones we are talking about, and then we'll go into the discussions that we picked up from last time. And we had spent five hours or so on this at the last meeting, and today's, I believe, is going to be more of a clean-up meeting as to those outstanding issues we had from last time.

The items we'll be discussing are: PUDA-PL2010-388, the Olde Cypress Development, LTD. This is for a PUD amendment. Item DOA-PL2010-1052, the Olde Cypress Development, LTD, and Vita Pima, LLC; this is for a DRI NOPC. And the third item is PUDZ-PL2010-1054, the Vita Pima, LLC; this is for a PUD within the DRI, all in the same vicinity, all involving the same, more or less, DRI. So we'll discuss them concurrently.

And, Mr. Yovanovich, before we start, are there any disclosures on the part of the Planning Commission?
Ms. Caron?

COMMISSIONER CARON: Yes. I had a conversation with Mr. Yovanovich, and we've received emails.

CHAIRMAN STRAIN: Okay. Ms. Homiak?

COMMISSIONER HOMIAK: I spoke with Mr. Yovanovich also, and emails.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Many emails. No contact otherwise.

CHAIRMAN STRAIN: Ms. Ebert?

COMMISSIONER EBERT: Many emails. I did talk to a couple neighbors and a few staff --

CHAIRMAN STRAIN: Okay. Any other --

COMMISSIONER EBERT: -- but I would like one more thing --

CHAIRMAN STRAIN: Yes, go ahead.

COMMISSIONER EBERT: -- in today.

Commissioner Strain, I was approved to have -- to be able to work on this item, participate in today's hearings; however, because of a possible perception of a conflict of interest, I will abstain from voting today. I will participate in the discussion, but I will abstain from voting.

CHAIRMAN STRAIN: Okay. And Ms. Ahern?

COMMISSIONER AHERN: Emails.

CHAIRMAN STRAIN: Emails. Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: I had a conversation -- a meeting with Mr. Yovanovich, and I've received numerous emails, all of which I have passed on to staff to have distributed as they would normally distribute them in issues like this.

So the next item, anybody wishing to participate in this item, please rise to be sworn in by the court reporter.
(The speakers were duly sworn and indicated in the affirmative.)

CHAIRMAN STRAIN: Okay, thank you.

Mr. Yovanovich, it's all yours.

MR. YOVANOVICH: Yes. Good morning. For the record, Rich Yovanovich on behalf of the various petitions.

With me also today to answer questions are Brian Stock and Keith Gelder with Stock Development, and Chris Mitchell with Waldrop.

Mr. Chairman, we made a list of roughly 14 or so items that needed to be addressed based on the last meeting, and what I thought I would do is kind of go through that list and show you where we addressed them in the documents you received, which I hope will be an orderly way to go through this.

And what I -- what I would like to start with, really, is the HD Development PUD, since that had the most changes to it. And I know that's probably the last item in your book. But we would start with the HD Development PUD documents, and then -- and go from there if that's acceptable to the County Commission.

CHAIRMAN STRAIN: That's Item 9C.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: So if you want to turn in our books, you'll find an Item 9C.

MR. YOVANOVICH: And if I missed anything, let me know in my list. But I hope we covered it all, because we looked at the -- we looked at the tape of the meeting when we prepared this.

CHAIRMAN STRAIN: What I'd like to do to keep it as simple as possible, and orderly, is that after you get done with your presentation on just that PUD, we'll ask questions of that --

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: -- new material --

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: -- and then move into the next one after that if that --

MR. YOVANOVICH: Great. The first item we had on our list was to update the list of permitted uses to make it clear that multifamily is only allowed on Tract A, and we addressed that on Page 1 of 11 of the PUD documents. You can see under A2, it references limited to Tract A for multifamily.

The next item I had on my list was to modify the development standards table to change the side setback from 5 feet to 6 feet, and you can see that on Page -- Page 5 -- I'm sorry, Page 3 of 11 that we made that change to -- the side-yard setbacks for single-family is now 6 feet versus the 5 feet we originally had.

And then there was an -- also there needed to be a rewording of Footnote No. 2 in the development standards table to address the side yard -- side-loaded garage setback to make it clear that you could park two cars within 23 feet. And what we did is we basically took the LDC language and incorporated that into Footnote No. 2, and that's on Page 4 of 11 in your -- in your materials.

The next item was in Exhibit E, which was we had a deviation request for the lakes, and we have withdrawn that requested deviation, so you will no longer see that in Exhibit E.

On the master plan -- I'll put it on the visualizer for the viewing public. You have this in your packet. Again, we were asked to define the multifamily tract as Tract A, and we have done so in the lower right-hand corner. And I've identified that as Tract A to address that comment.

And then we were asked to look at construction access for the project and see if we can come up with something different than what was originally proposed with both ingress and egress off Treeline. As you can see in the lower left-hand corner of the master plan, we will get our construction access through the Olde Cypress driving range. That will be our ingress point. And then our ingress -- I'm sorry -- our egress point will be up at the project entrance.

So loaded trucks will come through the driving range. Empty trucks will only use Treeline. So we've addressed the construction access issues that way.

To kind of add a little wrinkle to previous discussions, we had committed to the residents that we were going to make improvements to the fitness center and we were going to make improvements to the landscaping in Logan and that we were going to -- those were -- those were the primary commitments we made.

And in your package is a draft agreement we submitted to the master property owners' association with those commitments in there, together with the commitment that the R tracts, which I'll get to later, around the aqua range would remain green open space, and then also the construction access.

We've addressed construction access on the master plan. There was a meeting on Monday, I believe it was, with the master property owners' association, and they have requested that instead of a separate agreement with them, they wanted those commitments to be placed in the PUD documents.

And since the improvements to the fitness center and the improvements to the landscaping we believe fit

better in the HD Development project as far as project commitments, we would like to move those commitments exactly as you have seen them in the agreement into the development commitments of the HD Development PUD.

Now, you don't have that in front of you, but I do have copies for everybody to hand out to show you how we've done that, together with the exhibits you've previously seen, as part of the agreements in your backup. So you've seen all of this information. It's where you'll find it that we're proposing to change in response to a request from the association.

So if I can -- I'll have Alexis hand those out, and I'll kind of walk you through that, and then I think that would conclude the changes we would propose making to the HD Development PUD.

CHAIRMAN STRAIN: Richard, while you're paused for a moment.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: You're talking about taking the parts and pieces of the agreement and adding them to the commitment page within the PUD.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: In the past we have taken agreements -- and the one that sticks out is the one at Lely Barefoot Beach with the Conservancy -- and we've attached those as exhibits to the back of the PUD. Is there a preference either way, or does it -- does staff -- and I guess I'll ask this --

MR. YOVANOVICH: Well, some of the provisions really are not PUD worthy, if you will, and the association would prefer not to have an agreement between itself and us. They'd rather it just be in the PUD so it's in agreement with the entire community.

So I don't know that the agreement would -- it would -- it would make sense to attach it to the PUD because it would only be signed, really, by us. So we thought it would be better to go ahead and put it in the PUD.

And if you'll go to Page 9 of 26 of what we just handed out, if you'll look at Item No. 4, we labeled these changes "General Commitments," and we've added Items A, B, and C. And you can see that Item A is the fitness center expansion, and then there's the exhibit that goes with the fitness center expansion that shows you exactly what we've agreed to do, and that would become Exhibit I to the PUD.

Then we have the entry landscaping upgrades, and, again, that's the same paragraph we had in the agreement. And, again, we attached as Exhibit J the entry -- the proposed changes to the landscaping.

And then, finally, something came up, that wasn't in the agreement, was the concern of if we did damage to Treeline Drive as part of our construction activities, we agreed to make sure that when we -- when we go forward and bond our subdivision improvements, we provide adequate subdivision security for cost related to potential damage to Treeline Drive related to construction traffic.

So that's where Item C came from. It's not something that was in the agreement but came up as further discussions occurred with the community. So we added that as Development Commitment No. C, or Letter C, to address that concern.

So with that, I think that addressed all the comments related to the petition for the HD Development PUD amendment, and we're able to answer any questions you might have regarding how we addressed the comments from our last meeting.

CHAIRMAN STRAIN: Before we ask questions, I just want to make sure, the paper you just passed out, the only changes on that paper are the ones on Page 9 to add four general -- the No. 4, general commitment to that; is that the only additions to the PUD document?

MR. YOVANOVICH: Together with the exhibits, yes.

CHAIRMAN STRAIN: Right, I understand.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: So there's been no other verbal changes?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: Okay. Questions from the Planning Commission on the HD Development portion on this at this time?

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes, go ahead, Ms. Ebert.

COMMISSIONER EBERT: You know, this is so intertwined that it's kind of difficult. Is this the HD where they are going to add this property in and these are the commitments for them? Because I -- to be honest with you, I

was going to start out by doing a little bit of history, because we had a month to go through this -- and a little of the history on how this DRI originally was started.

And it was very interesting, because it was SFWMD that I had the hardest thing getting information from. And when this was approved 28 years ago --

CHAIRMAN STRAIN: Okay. Now you asked a question to begin with, but you didn't give me a chance to answer it.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: So this is not the DRI portion of the hearing. This is the -- purely the PUD portion for HD, which is the small project that you know as Vita something or other.

COMMISSIONER EBERT: Tuscana.

CHAIRMAN STRAIN: Vita Tuscana on the south side of the site.

COMMISSIONER EBERT: And these were going to be the 50-foot lots?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: That's what this one's about. You want to -- I mean, you could --

COMMISSIONER EBERT: I do need to go into something then different right now, but it's important. I think you know --

CHAIRMAN STRAIN: That's quite all right. Go right ahead.

COMMISSIONER EBERT: Well, last time in just going through the notes -- this is difficult because it's my community. In going through the notes, it was noted that Da Vinci should have -- might have been brought into the DRI. And Rich was saying, well, there was no common ownership, there was nothing.

Well, I have a friend that lives in Da Vinci, and I have a book here that was done in the year 2000, and it says da Vinci Estates Homeowners' Association and the Olde Cypress Master Property Owners' Association.

They made -- and I'll just go right to the amendments, because it's important. They made that agreement in 2000. It was marketed with Olde Cypress. And in just reading, I did not realize that before, because I was also wondering, why weren't they, you know, really put in here? And this should have been put into the DRI in 2000.

So I called the regional planning. They said, "We have nothing." They did not add it in there. And so then all of a sudden -- and I started going through our other amendments. And I'm going, what is going on here?

Let me just read some of these amendments for you. There were --

CHAIRMAN STRAIN: And, Diane, could you pull that mike a little closer to you.

COMMISSIONER EBERT: Sure.

CHAIRMAN STRAIN: There you go. Thank you.

COMMISSIONER EBERT: Terri can hear.

CHAIRMAN STRAIN: Well, I'm worried about the public listening on television and stuff like that.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER EBERT: The last DRI change was in 5/23 of 2000, until this change now, okay. So there was nothing.

And then Mr. Trescott said no one let him know or the DCA know. These -- this is an amendment that was signed September of 2000, and this is where they put Da Vinci Estates onto our master. So they were incorporated right away into our master.

And I could not find this, and it wasn't in my -- our documents that I could first find. I found it in this book. The people in Da Vinci have this. We did not have it in with ours.

CHAIRMAN STRAIN: Could you -- I mean, it would be nice to know --

COMMISSIONER EBERT: Absolutely.

CHAIRMAN STRAIN: Could you put it on the overhead, someone, just so we can see what document it is that Ms. Ebert's talking about.

COMMISSIONER EBERT: Yes.

MR. BELLOWS: First page?

CHAIRMAN STRAIN: Well, let's start with the first page.

COMMISSIONER EBERT: That's the Da Vinci Estates, and I -- I just always -- I always just knew they

were really kind of part of us, but I never gave it much thought until I went and said, "Do you have documents?" It happens to be the Olde Cypress master documents that is in that book.

CHAIRMAN STRAIN: Okay. And what you are saying and --

COMMISSIONER EBERT: That this should have been put into the DRI in 2000.

CHAIRMAN STRAIN: Wait a minute. Before you jump there, I want to understand the relevance of this document. This document is a document referring to the covenants, restrictions of Olde Cypress. Now, those are private deed restrictions. Is this also covering Da Vinci Estates; is that what you're trying to tell us?

COMMISSIONER EBERT: They are in -- Da Vinci Estates belongs to our club. They pay the master. Everything is the same as the rest of us in there that is in the DRI.

CHAIRMAN STRAIN: Okay. But what I'm trying to understand is what -- how does this document link to Da Vinci Estates? That's what I'm trying to understand.

COMMISSIONER EBERT: How does it link to it?

CHAIRMAN STRAIN: Yeah. What does Da Vinci Estates have to do with this document? Because this is a document for the Olde Cypress development, which would -- I -- unless it says Da Vinci Estates, does it -- are you telling us this includes Da Vinci Estates as well?

COMMISSIONER EBERT: Well, this is something that was signed -- I mean, this is --

CHAIRMAN STRAIN: And, Diane, I just want to make sure the record's clear. If this is a document that involves Da Vinci Estates and you're offering it as evidence that it ties Da Vinci Estates to Olde Cypress, I want to see how it does that.

COMMISSIONER EBERT: Okay. Then let me go on -- let me just -- because, would you believe a lot of these things are kind of tied together, and it's important. These are all our documents now. These are amendments to our Declaration of Covenants, Restrictions, and Easements.

CHAIRMAN STRAIN: I understand. And I've written these myself for projects I've been involved with.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: And I know that in writing them you have to have those applied by recorded document against the properties to which the developer wishes them to apply to.

COMMISSIONER EBERT: Yeah. And I did find the easement.

CHAIRMAN STRAIN: And I'm asking you, have these been applied/recorded against the Da Vinci Estates properties? That's the key question.

COMMISSIONER MURRAY: Where does it show in the document?

MR. YOVANOVICH: Can I help, at the -- I can help Ms. Ebert if she would like me to.

CHAIRMAN STRAIN: I mean, you're more than welcome to speak if you're going to --

MR. YOVANOVICH: To answer your --

CHAIRMAN STRAIN: -- help up get to a --

MR. YOVANOVICH: -- question, Mr. Strain --

COMMISSIONER STRAIN: Yeah.

MR. YOVANOVICH: The PUD was adopted in, I believe it was, March of 2000.

CHAIRMAN STRAIN: Which PUD?

MR. YOVANOVICH: The Da Vinci Estates PUD was adopted in March of 2000 with a separate developer. There was -- since it was the hole in the doughnut, there was an agreement reached between the developer of Olde Cypress and the developer of Da Vinci Estates to incorporate Da Vinci Estates into the master association, and I believe that's what Ms. Ebert is referring to. Since there was a hole in the doughnut, they were using the access roads of Olde Cypress. It made sense to both to share in the costs of maintaining the infrastructure and allow the residents of Da Vinci Estates to become members of the community and the golf course. That's the document she's referring to.

CHAIRMAN STRAIN: Okay. But I think we showed that last meeting.

MR. YOVANOVICH: Yes, we did.

CHAIRMAN STRAIN: What I'm trying to understand is, did you spread their covenants over Da Vinci Estates, the same covenants that were spread over Olde Cypress?

COMMISSIONER EBERT: Yes.

MR. YOVANOVICH: Yes, subsequent to the adoption of the PUD, subsequent -- of the Da Vinci Estates PUD. Okay. There was a -- there's a timing lag in there. At the time the PUD was adopted, this -- these covenants

did not exist. Later on, there's no question that, yes, those covenants apply to Da Vinci Estates.

CHAIRMAN STRAIN: Okay. And that means the individual owners of Da Vinci Estates have these recorded against their individual --

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: -- condominiums, lots, and parcels?

COMMISSIONER EBERT: Yes, single.

MR. YOVANOVICH: Yeah. They're single-family homes in there, yes; yes, sir.

CHAIRMAN STRAIN: Okay. That's what I needed. That's what I was trying to get to.

COMMISSIONER EBERT: So is that okay? I mean --

CHAIRMAN STRAIN: Well, it doesn't matter whether it's okay or not. You can do that. But I think it goes to your point.

COMMISSIONER EBERT: But it goes to the aggregation rules you were kind of talking about, and he said he was going to wait because he didn't -- Richard said he didn't think that was a big deal, and he'll just put that in later. It should have been done in 2000 is really when it should have been done, when this was signed, because it really was brought into Olde Cypress to be part of Olde Cypress.

But I'm just going to go on with these amendments because --

CHAIRMAN STRAIN: No, go right ahead.

COMMISSIONER EBERT: -- I feel they're very important.

CHAIRMAN STRAIN: And, Diane, what I was trying to get at is, I want to make sure that this board and any members of the public who are watching understand the link between the documents you're presenting, and that's what I was trying to get to with this.

COMMISSIONER EBERT: Right, yeah. And there also was common marketing. There was common marketing among them also.

Then our first amendment came up in -- March 9th of 2001, and it said -- it was the amendment to the single-family community which Olde Cypress is. And it just says that they're adding all of Unit 3 to the Olde Cypress documents, which is fine.

But then there's the second amendment, and the second amendment says, gee, there was a scrivener's error. And I'm going, so they're writing this to correct a scrivener's error. And I'm thinking, boy, that sounds familiar.

And so the second amendment says that they're going to modify things to correct it, and it says that -- and I'm going to use -- and I'm only going to use -- it has nothing against Stock. He was in this from the beginning, so I'm just going to use that name so we can continue with the discussion -- that he shall add the Exhibit A, because before it was not done, it was less A, which was the doughnut hole, and now he's saying in there that was a scrivener's error, and he wants to add it back into there, and he said the first amendment to the covenants.

Well, this -- and it was Page 2729, which is the one that I just gave Ray, and that was -- that was never in our document things. So something isn't -- and then what they did was they also removed the golf course property from there, which is perfectly fine, but then they added Da Vinci back in there.

And we never had anything recorded for that.

CHAIRMAN STRAIN: Okay. So let me understand it. You said there was -- the original approval of whatever that document is did not include Da Vinci Estates, and then they said there was a scrivener's error by omitting Da Vinci Estates, and then added it to a scrivener's error process?

COMMISSIONER EBERT: And then bringing it here. But they're saying it was the first amendment. The first -- that was not the first amendment. The first amendment was Unit 3 of Olde Cypress being brought in.

CHAIRMAN STRAIN: Okay. Now, which document is it you're looking at?

COMMISSIONER EBERT: I'm looking at the second amendment.

CHAIRMAN STRAIN: Okay. To the covenants?

COMMISSIONER EBERT: Yes, and restrictions where they can add property, and that was -- and it made sense they take out the golf course, but then they put Da Vinci back in there. They said it was a scrivener's error.

Now, this is the one that I went, wow. This is the third amendment. And the reason I said -- say that is because there were revisions to the DRI to annex this property, which was 28.69 acres.

CHAIRMAN STRAIN: This property referring to --

COMMISSIONER EBERT: This property is what we call Amberton today, and it was annexed in. It says

right here that they sought revisions to the approved DRI, and -- but not to decorate (sic) -- that they want an annex of Bay West Property, and it was approved by the Board of Commissioners. But here is the -- it says, "Whereas, the development order is up to 1100 residential units." And upon the project Bay West Property -- Bay West property -- it was the intention of the parties at the time they entered into their agreement to incorporate lands, that upon approval of the revised DRI, Stock would convey its right to construct 400 residential units to the Bay West Property, leaving the balance of 700 residents to Olde Cypress.

And in here, it says, "Now, therefore, Stock does hereby amend the declaration so that the project shall be restricted to 700 units, residential units for Olde Cypress."

CHAIRMAN STRAIN: Okay. Now, that document -- again, that's an amendment to the covenants, right?

COMMISSIONER EBERT: Uh-huh.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: But we're adding units and --

CHAIRMAN STRAIN: Well -- but there's a -- one thing that we have to -- and that's why I keep asking what the documents are. If the documents were to have run through the county and it's a public issue, that's different than a private deed restriction. And I want to make sure we understand where the changes are happening.

They're not happening in the PUD. The PUD didn't change those numbers. Those numbers are being changed by a developer's commitment and the private covenants he has with the community.

COMMISSIONER EBERT: Right.

CHAIRMAN STRAIN: Okay. That's what I want to understand.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: I mean, because had that document been something that the county staff had received as part of a process for either a PUD and SDP or one of the other normal processes they have to go through, then it would have been in conflict with the approved document, and they would have had to come back through through an approval process to get those densities locked in in the manner in which they're doing it by the covenants.

But the covenants are not a public document in regards to the county's review. The covenants are a private document done within the community itself. So there's a big difference there, and that's why I'm trying to understand each document you bring forward to understand its --

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: -- understand its -- how much weight it will have on the issue you're trying to describe.

COMMISSIONER EBERT: Well, I think it did, because in looking at this, they said Olde Cypress will never have more than 700 units, according to their information, that we are restricted to that.

Amberton is a private community which is a condo community. They are a gated community. The one next to them also is the preserve, which was -- started out as an apartment building. And it was in the good times. It got filled up quite quickly, and someone from the East Coast came and bought it and turned it into condos, which is also a gated community, which -- those two communities, even though they're in the PUD, they do not belong to our master; they do not belong to the club. They have really -- other than having property there, they have nothing to do with us. They're really separate.

The fourth amendment had to do with the turnover. Then, the fifth amendment that is in -- which would be Vita Tuscana now, this is where the property -- and it was -- the fifth amendment was done where they accepted property, and this was when Custer and HD had it. And in this, on the legal description it says, "Less and except the 1.5 acres," which is the multifamily units. And Stock does not own that. And this never included that in there. This said it was never in there.

So I'm thinking, well, how can they put -- keep the number 33 there and not own the property -- and they know they don't -- but how do you use that number 33? I mean, that to me is -- and when you start adding up the numbers --

CHAIRMAN STRAIN: That document you just pulled of yours is the -- did you say is the fifth amendment?

COMMISSIONER EBERT: Uh-huh.

CHAIRMAN STRAIN: Okay. But it's an amendment to the covenants?

COMMISSIONER EBERT: They're all amendments to the covenants. So, in other words, they mean nothing?

CHAIRMAN STRAIN: No. I think you got two levels of approach. They -- first of all, they can't -- they can't weigh in on a zoning matter because it's a civil issue, but they could be offered as evidence that there's unified control for an aggregation point, meaning it helps to support the fact these properties should have been aggregated in the past.

So I understand where you're -- I understand that part of it, and I just want to make sure we keep the documents straight, because this board is a zoning board subject to the LDC and the GMP, and we've got to keep those issues somewhat straight in how we get to our findings.

COMMISSIONER EBERT: Well -- and then when he's doing the PUD on the multifamily units on the 1.42 acres, Exhibit A, they said that that's where the 33 units that he wants to keep in there is going to be and that they could put up a clubhouse, a reception area -- you know, clubhouse, recreation uses, and they really -- they would not belong to Olde Cypress, per se, as we know it, but it could include swimming pools, tennis courts, fishing docks, walking -- on one-and-a-quarter acres? I just --

CHAIRMAN STRAIN: Well, I mean, if there was a way to fit it and they wanted to, they could, but, I mean, that's strictly an option that they have by the way it's written. And I don't think in a practical world they're going to be able to do something -- do all those necessarily, but if the community wanted a community pool and they could fit one in, they could do it. It wouldn't hurt anything.

COMMISSIONER EBERT: With the 33 units and parking? Okay.

And then the seventh amendment, they just put in Tract N, which is a little bit of a conservation easement over towards the clubhouse, and that -- they did that two days before turning that over. And I thought, when you add all these up, there are 1,100 units that were okayed through the DRI, and if you take away the 400 that they promised the other people, and you minus the 366 from Olde Cypress -- because that is the Olde Cypress single-family residence -- then you -- you're going to have to put in -- Da Vinci in this because -- I'm going, wait a minute. If they -- had they done this in 2000, that traffic report, it might have changed some things then.

And you're supposed to let (sic) -- the people at DCA and regional when you change stuff like this, is what I was told.

So anyway, that comes up to -- when you add Da Vinci, that comes up to 274, then you put in the preserve estates, that's 264, that leaves 10 lots according to their thing that you can build on in Vita Tuscana, and it just didn't add up.

CHAIRMAN STRAIN: And I think the additions you're using are from the covenants, which are different than what the PUD's saying they're going to split their lots up to, and they can do that, but one is the civil matter and the other is something that the -- can be done through the public process and challenged through appeals publicly. I think that's where your discrepancy in the units come.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: You're speaking of what they're allocated from a civil matter, which is your covenants, not necessarily what's been allocated by the PUD as a whole. They didn't break it up in the PUD like they have in the covenants from what you've described.

COMMISSIONER EBERT: Well, I was going by the count of 1,100 for the whole --

CHAIRMAN STRAIN: Right.

COMMISSIONER EBERT: -- DRI is really where I was going from.

CHAIRMAN STRAIN: Okay. Well, that's good information, especially in regards to aggregation, which we'll have that discussion when we get to the DRI portion of the -- of today's meeting, so --

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Is that all you've got for now, Diane?

COMMISSIONER EBERT: Yes, for right now, yes.

CHAIRMAN STRAIN: Okay. Does anybody else have anything involving the HD PUD portion? Heidi?

MS. ASHTON: There are some legal issues here. And as I've previously stated to the board, we don't like to put private commitments in the PUD for the very reason of the landscape issue that we had on the Naples Daily News PUD.

With that said, if we go forward, there are a few things that would have to occur if we were to keep the language in. One would be that both Mr. Yovanovich and the HOA president would have to verbally state that these provisions are provided at the request of both entities, the HOA as well as the owner. Some of the provisions would

need to be changed, for example, because these are -- most of these are conditions that are off site of the PUD.

So under, for example, 4A, I would change it to "renovation to fitness center at Olde Cypress," and then say, "owner of project excluding Tract A shall permit," because Tract A is not a party. That's the multifamily parcel.

And then any time they refer to developer, I would change it to "owner of project excluding Tract A," and under Item B, where it references Olde Cypress, that needs to be changed to "the owner." That's on Section B, the second to last -- well, the third-to-the-last line.

Then under C, Treeline Drive, I believe that -- I don't believe that the county would want to amend the construction maintenance agreement to provide the security. I don't know whether the county's been consulted. Perhaps one of the staff could --

MR. YOVANOVICH: We frequently bond off-site improvements as part of the subdivision approval process. That's not unusual for us to bond off-site improvements that are approved as part of the plat.

MS. ASHTON: Okay. Well, I guess that would be Nick's call, because we have had to call on security and actually construct, so I guess Nick would have to chime in.

MR. CASALANGUIDA: I have a couple concerns. And, you know, when is the clubhouse going to be constructed? I'm going to verify costs of the landscape improvements; staff's going to be doing that? I mean, these are -- you know, you get into private agreements, and asking the staff to verify the total cost of landscaping improvements. It's a PUD commitment. That concerns me a little bit.

MS. ASHTON: I mean, my preference would be the performance security goes to the HOA. And then the last sentence of 4C would be removed so the county's out of that picture.

MR. CASALANGUIDA: In Section B it talks about total verified costs of landscape irrigation improvements invoiced by the landscape contractor.

MS. ASHTON: Oh.

CHAIRMAN STRAIN: Well, I can tell you this is posing more questions than answers, and today was supposed to be a day of answers, not questions. I don't know what fell apart between the last month, but this -- these are the kind of items that I would have expected to be resolved before we got to today's meeting.

What have you got -- Richard, it doesn't -- we're not going in the right direction here so far, so --

MR. YOVANOVICH: Well, right now we've made the commitments. The association has requested that the commitments go into the PUD, so it's a PUD-level commitment and enforceable by the county.

We're happy -- we are committed either way. We're -- we will sign an agreement with the association including all of these terms, or we'll include it in the PUD document. We want to do what makes the residents happy to make sure they get the improvements we committed to.

Obviously, we had anticipated an agreement; that's why we gave you a copy of the agreement. However, their preference is that it become part of the PUD. We'll do -- we'll do whatever is the right thing to make sure that these commitments are codified, even if it means we just state them on the record and they don't become part of the PUD, and we'll just have to do them.

I mean, we'll do -- I mean, Brian is a reputable contractor -- or developer. He's made these commitments. He's willing to put them in writing and state them on the record. I don't think enforcement's going to be an issue. Whatever the format is we're at -- is at the discretion of the Planning Commission.

CHAIRMAN STRAIN: Okay. It's the mechanics of the issue that we're going to have to resolve.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: And as an example, if it becomes too cumbersome to put these in the PUD because of reasons that Nick and Heidi both stated -- Heidi, is there a -- is it reasonable that if we accepted the HD Development, we wanted to stipulate that prior to the board hearing that they would have an agreement signed by the association addressing the concerns -- or stipulations that the association has, is that a -- is that one way to approach it if we so desire?

MS. ASHTON: Well, there are some outstanding issues, I believe, that this board has raised in the previous hearing, so my answer would be yes, that it could be done.

CHAIRMAN STRAIN: I'm not even there yet. We're --

MS. ASHTON: I know, but I'm just saying that based on the fact that there were some outstanding issues that would be addressed in the -- an agreement between the parties, that you could condition it upon the board's, you know, receipt of a copy of an executed agreement between the parties for the --

CHAIRMAN STRAIN: Okay. I'm just trying to figure out how we get the mechanics here done today. We still haven't got into the substance of all the issues. I have questions that I haven't got to yet, but I always defer to the board members first to make sure they've gotten theirs on the table.

COMMISSIONER EBERT: I do have something else.

CHAIRMAN STRAIN: Go ahead. Go right ahead.

COMMISSIONER EBERT: I just -- I'm going to give this to -- if you'd put this on the overhead. This was the very first thing I was given. I was just elected to the Board of the Planning Commission, and this draft was given out. I would like you to just kind of look at this, because it upset me tremendously. I immediately called the Collier County attorney, and he said it's fine. It is public record now. But it was this Landscape Beautification Plan.

CHAIRMAN STRAIN: Where's this document from, Diane, so we know?

COMMISSIONER EBERT: Oh, this document was something that was given to me from the master association, and they wanted my opinion on it. And I said, "You know, I do belong to the Planning Commission now," and they said, that's all right. You" -- your -- have you been involved. You know what's going on, you know, so we just want your opinion.

This is probably the worst letter I have seen, and it was my very first piece of paper I ever received as a Planning Commissioner.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: This landscape beautification -- I'm just going to go right down here where it says, "The master HOA will permit the landscape and within 30 days Stock will give them \$100,000," but what that really says is down below -- can you push it up just a little bit, Ray, please, where it's all yellowed out -- support of applications. The HOA will not oppose the Olde Cypress PUD amendment. The Olde Cypress DRI amendment and the Vita Tuscana rezone PUD, collectively, the land-use petitions, and will not support any individuals or groups in opposing the land-use approvals. The HOA will send a representative to all the county meetings including, but not limited to, the Collier County Planning Commission hearings, the Board of -- BCC, and speak in favor of the land-use petitions. In addition, the HOA will send an attached letter hereto incorporated to Collier County.

The next page it does say that the terms of this agreement are to be maintained in strict confidence by the parties, which would have meant the master and Olde Cypress, and they wanted them to sign that agreement.

That did not sit well, Mark, on -- I felt just terrible that they would try and do a backroom deal. To me that's what it was.

Do you have the next one?

CHAIRMAN STRAIN: Diane -- before we go --

MR. YOVANOVICH: Can I make a --

CHAIRMAN STRAIN: -- too far, I'd like to know where this agreement came from. You said you got it as you --

COMMISSIONER EBERT: I got it --

CHAIRMAN STRAIN: -- after you were appointed to the Planning Commission. Did you get it from staff?

COMMISSIONER EBERT: No. I got it from the master association.

CHAIRMAN STRAIN: Okay. Where did they get it from?

COMMISSIONER EBERT: They --

MR. YOVANOVICH: It's in your packet. It's in your packet.

CHAIRMAN STRAIN: Well, fine, Rich. I haven't got -- I can't recall -- I've got --

MR. YOVANOVICH: That's the agreement I referred to earlier on.

CHAIRMAN STRAIN: I've got 300 pages in my packet. I don't remember every page.

COMMISSIONER EBERT: But you have to understand they found out that I called the county attorney, and they knew they couldn't keep it secret.

MR. YOVANOVICH: That's not true. Now --

CHAIRMAN STRAIN: You guys, you both can't be talking at once. Diane, you've got the floor. Continue.

COMMISSIONER EBERT: Thank you. Along with that -- it was just stuff did -- was not kosher going forward. And the community became very divided. That is very upsetting to me, because I am one of Stock's biggest supporters.

But on August 30th, from the master association there was a letter to the people of Olde Cypress, and it's

because -- I had found out about the other agreements, so they decided they better talk about it. And at the meeting they said they had pictorial views of the potential landscape beautification along the front boulevard and leading up to the guardhouse and agreeing to spend \$100,000 to enhance and beautify the mentioned area. Stock was hoping to discontinue a neighborhood talk about a park and walking trail. And I'm going, why -- why would you do this? And then, he --

MS. ASHTON: Excuse me, Mr. Chair?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON: May I recommend that we focus a little bit more on the criteria in the staff report?

CHAIRMAN STRAIN: Well, I thought they just acknowledged this was in the staff report.

MS. ASHTON: Yeah, the agreement's in the staff report. Yeah, I guess.

CHAIRMAN STRAIN: Okay. Well -- so I'm kind of stuck -- if you've included it as a document that this board is to review, then we certainly have -- it's open for discussion.

MR. YOVANOVICH: I don't have an objection to discussing an agreement we proposed. I do have objections as to how it was characterized that this became public in the first place.

CHAIRMAN STRAIN: Richard, you'll have time to cross --

MR. YOVANOVICH: I don't want to cross.

CHAIRMAN STRAIN: Not cross. You'll have time to counter.

MR. YOVANOVICH: I understand, I understand. I'm just not used to this level of testimony from a Planning Commission member as part of a hearing.

CHAIRMAN STRAIN: Well, Richard, I think under Robert's Rules, when a member of the board has the floor, she has the floor. There's not much that can be done about it until she exhausts her position, and then we'll move on. She doesn't have to be recognized again, but then at the same time, this board have gone above and beyond in courtesy to everybody that wants to speak. So I'm not one to cut anybody off.

Diane, you can continue.

COMMISSIONER EBERT: Well, I only have a couple more things, and it was -- it's stuff -- and I can give it to the county because it is public records because it was sent to everyone in Olde Cypress from the master board where it said that Brian Stock was going to have a town hall meeting. And I asked staff, I said, is this -- "Is this normal that you have a town hall meeting before a NIM meeting?" And they said, "No, it's not normal, but we can't stop them."

So September, they had -- September 22nd they did have the town hall meeting, and they just kind of wanted to find out where people were on the park issue, and it -- the park and the walking trail issue, and they said Brian will -- he intends to specifically address the issues surrounding the park and walking trail. And it's become a very big thing with them on this.

And at that meeting there were more people at the town hall meeting than were at the NIM meeting, which was a little disappointing.

I never said a word because I knew I was on the Planning Commission, and I would -- was not going to tip my hat one way or the other, because I was looking at this whole thing from the legality standpoint. What did the DRI require? How is this being put together?

And then we got -- then there was something where they wanted to take the count of how many people wanted a park, and they misrepresented it at first because they said the CCPC wanted it. We didn't. It was something that Horseshoe county staff wanted. I think they were surprised there was 207 people responding to the poll; 105 wanted a park. And this came out February 10th, and -- which surprised them that so many people wanted a park.

On the next day -- and you do have this letter.

CHAIRMAN STRAIN: Now, you're getting into issues, by the way, we haven't got into for discussion yet here today. Just -- we're working still on the original HD PUD.

COMMISSIONER EBERT: Okay. This was -- this was the last one, which we do have, and I just -- it's sad to see a community divided, because now they're saying if we need to put a park in here, we'll put it on this portion of the golf course. They're doing the same thing they did back in 2008 by dividing the community.

CHAIRMAN STRAIN: Okay. I think it was getting to a point where I was going to ask my -- okay, Mr. Casalanguida.

MR. CASALANGUIDA: Just for the record, the HOA president -- I asked to speak to him sidebar -- he's

agreed to put these things outside the PUD, and he can put that on the record.

CHAIRMAN STRAIN: I was hoping that would be a direction we would be going if we got that far. Okay, thank you.

Ray, under Page 4 of the Exhibit B in the staff report for HD, it talks about, B, lakes; No. 2, lake slopes shall be 4-1 from control. And it -- I'm told they removed the deviation request for lake banks. If they did that, then what is B2 trying to tell us?

MR. BELLOWS: I think it may have started off as addressing a deviation.

CHAIRMAN STRAIN: But if they're not asking for a deviation for lake banks, then there should be no reference to lake banks or lake slopes in the PUD, because they're going to fall back on the LDC. If they're not going to fall back on the LDC, they have to come back in and ask for a deviation again.

MR. YOVANOVICH: Commissioner Strain, that's a good catch. That should have come out when we deleted the deviation.

CHAIRMAN STRAIN: Okay. So on Page 4, Item -- Exhibit B, Item B, lakes, will be removed. It's called B2.

MR. YOVANOVICH: So we'll just have an A1 there. The B will go altogether.

CHAIRMAN STRAIN: Right. I asked last meeting to show a graphic of what you're trying to say in regards to the language in No. 2, the footnote. Did you bring a graphic? Now, I received an email from you-all, a 36-by-40 sheet with a series of graphics on it. I would like one to show us what your intentions are in No. 2.

MR. YOVANOVICH: I know I have one that was emailed to me, and I think I forwarded it to you, but I can't remember if I brought a copy with me or not.

CHAIRMAN STRAIN: I believe you forwarded it to me.

MR. YOVANOVICH: There were two -- there was a -- there were two examples. One was a front-in garage with your standard 19 feet before you got to the 4 feet -- before you got to the sidewalk, and then there was the typical side-loaded garage that showed where we would fit the car -- how the cars would fit. I will need to get that printed out and put on the visualizer --

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: -- because I don't think I brought that, Mr. Strain, with me. I did try to get rid of all of the examples that we had sent you, just distill it down to two, but I don't know that I brought that exhibit with me.

CHAIRMAN STRAIN: Okay. And that's -- the reason I -- I'd just like -- I know I've seen it.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: I understand it, but I'd like to show it on the record because it was asked last time.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: It was a follow-up this time.

Mr. Murray?

COMMISSIONER MURRAY: I just want a point of qualification. Nineteen -- you said our standard 19 feet, and I'm --

MR. YOVANOVICH: It was 19.

COMMISSIONER MURRAY: The standard, I thought, was 23.

MR. YOVANOVICH: Well, it is. We asked for 19 feet, but there was 4 feet between our property line and when you get to the sidewalk. And the standard is you have to have 23 feet before you get to the sidewalk. So the standard 23 feet is addressed, but in -- obviously not -- in a different way, but, yes, the standard of 23 feet is maintained.

COMMISSIONER MURRAY: But you get to the sidewalk but not encroach onto the sidewalk?

MR. YOVANOVICH: Onto the sidewalk, correct. We have to have 23 feet before we get to the sidewalk.

COMMISSIONER MURRAY: Thank you.

MR. YOVANOVICH: And we do -- we do have that, but I don't have that exhibit with me.

CHAIRMAN STRAIN: Is there any way we just couldn't simplify it and say 23 feet from the back of sidewalk?

COMMISSIONER MURRAY: Wouldn't that be easier?

MR. YOVANOVICH: Sure. For the front-loaded?

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: The front-loaded's not a problem to say 23 feet from back of sidewalk.

CHAIRMAN STRAIN: Okay. Well, why don't we just do that.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: That would make it real simple.

MR. YOVANOVICH: Front-loaded.

CHAIRMAN STRAIN: Okay. I --

COMMISSIONER EBERT: I have a quick question on this.

CHAIRMAN STRAIN: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: Will this -- because this is the PUD, Rich, will it have the 10-foot utility easement first before the property line starts? You're saying no? We have no utility easements there?

MR. MITCHELL: No. Chris Mitchell, for the record, Waldrop Engineering. Typical is -- the UE is the first 10 feet outside of the right-of-way. That's how it's --

CHAIRMAN STRAIN: Right.

MR. MITCHELL: All development. So the right-of-way to right-of-way line then on that person's property is the 10-foot UE. That's typical in development.

CHAIRMAN STRAIN: That's correct.

COMMISSIONER EBERT: Correct, yes, it's on the property, but your property line really start -- ours starts right behind the utility easement.

CHAIRMAN STRAIN: Well, what you've got is you've got your road --

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: -- which is your right-of-way.

COMMISSIONER EBERT: Uh-huh.

CHAIRMAN STRAIN: That right-of-way -- and the sidewalk is within the right-of-way.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Then the first thing on the outside of the right-of-way is a 10-foot UE, utility easement, but that 10-foot utility easement is your property.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: It's just an easement. There's been never a restriction on having a driveway or a car parked over that easement. That's an underground easement for private utilities like FP&L, telephone, cable, things like that.

COMMISSIONER EBERT: Yeah, yeah.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER EBERT: Not a problem, not a problem with that at all, except that I was just -- wanted to make sure that there was utility easements there.

MR. MITCHELL: Yes, ma'am.

COMMISSIONER EBERT: And we're not starting from the street. Okay.

MR. MITCHELL: Yes.

CHAIRMAN STRAIN: Okay. My only remaining questions were in the new Section 4 after I read it. Most of mine were along the same thoughts that Nick and Heidi expressed, but since that's going away, I'm not going to waste any more time getting into that one. It's not going to happen, so --

With that in mind, is there -- we'll have a staff report on the HD Development PUD, questions of that, and then we'll go into the next one.

MS. DESELEM: Good morning. For the record, Kay Deselem, principal planner in zoning.

I've already presented the staff report at the previous meeting. The only thing that I notice in this particular document, in Exhibit F, Page 8, on Item No. 2, they were supposed to change the name of Exhibit G to reference what it's called on Exhibit G, which is "Schematic Buffer Design."

Other than that and other than what's already been stated that staff's position is that -- the private agreement rather than in the PUD, I don't have anything to add. If you have any questions, I'd be happy to address them.

CHAIRMAN STRAIN: Anybody have any questions of staff at this time?

COMMISSIONER CARON: Did you say F?

MS. DESELEM: Exhibit F on Page -- I've got the pages on the -- 8 of 26, and it's 2A, the very last words. It

says Exhibit G, Olde Cypress South Buffer. That's the previous name, Olde Cypress South Buffer. On the actual exhibit, it's called "Schematic Buffer Design," just so -- for future reference you know when you find it that that's what you were looking for.

COMMISSIONER MURRAY: That's a good thing.

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

(No response.)

CHAIRMAN STRAIN: Okay. Kay and Richard both, it was my -- from our last meeting we delayed -- continued this to today, and today is about two weeks later than our normal time we would have met in the first week in March, and at that point we agreed we'd try to accomplish consent as well today, which means we'll be coming back after the last item today to make sure the language changes are done to whatever extent this board instructs them to be.

Are you familiar or comfortable with what we've done so far to know where the language changes are supposed to occur between you and Richard?

MS. DESELEM: Yes, I believe so. All it amounts to is the changes to remove 4.

CHAIRMAN STRAIN: Right.

MS. DESELEM: And the one that I just mentioned.

CHAIRMAN STRAIN: And change the footnote for the 23 feet.

MS. DESELEM: The footnote, and then item -- I think it's B on Page 4, the reference to the bank slopes that needs to be removed.

CHAIRMAN STRAIN: Right, okay.

MS. DESELEM: And I'm assuming that the applicant's team is going to make these changes.

MR. YOVANOVICH: We are typing as you speak.

CHAIRMAN STRAIN: I just want to make sure that as we go along -- because if this has got to flow correctly, we need to have this acknowledged as we go along so we don't have any further problems in the back end. Nick, did you have something you want to throw in?

MR. CASALANGUIDA: I just think the applicant should put on the record that he's going to provide an agreement signed before it goes to the board, a promise to the HOA president.

CHAIRMAN STRAIN: I don't think -- first of all, if this board makes a stipulation, I'm sure that would be part of it.

Okay. With that, let's move into the -- Richard, it was your presentation that started this. I read off all three as going currently, so I don't care what order you want to make the next one in, but it's up to you.

MR. YOVANOVICH: The next one was the changes to the DRI master plan.

CHAIRMAN STRAIN: So would that be B or A? I think it would be B.

MR. YOVANOVICH: I think that would be B.

CHAIRMAN STRAIN: Yeah, I think so, too.

MR. YOVANOVICH: And those were changes to the DRI development order. I had down that we needed to correct the master plan to show the actual access, real-world access to Da Vinci, which we have done. And if I can get back to my exhibits to put it on the visualizer, I will. Is it already on? Somebody put it on for me? Oh, thank you.

You can see we have made that change on the master plan. We also, on the master plan, had committed to the two R tracts that are adjacent to the former Aqua driving range, that they would remain green open space, and we've designated that as part of the golf course on the DRI master plan to -- even though it's still labeled R, it can't be used for anything but the golf course. So those are the changes we made to the DRI Map H that I believe were directed.

And I guess this would probably be a good time to talk about the aggregation rule.

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: I think this would be the appropriate time to talk about it. We obviously are aggregating in HD Development. And the intent of the aggregation rule was to address up front potential issues, regional-type issues.

And as Ms. Ebert, you know, has pointed out, it's supposed to be done up front. Unfortunately, we're now in the year 2011, and we -- instead of having to look at potential, we can look at actual. And we do know that had Da Vinci Estates been included today or back in 2000 -- we know it functions properly. Today it functions without a

hitch.

What we have done is we've looked at -- and I had a traffic analysis prepared to assume the same data that existed in the year 2000 when both of these projects were going through, because keep in mind there was an Olde Cypress PUD amendment that was tracking separately from the Da Vinci Estates PUD amendment because they were separate developers.

We had a traffic analysis done to add the 61 single-family units to the traffic counts, you know, assuming they were together, and the traffic analysis comes back that the 61 units did not create any problems.

So what I would submit is the purpose of the aggregation rule is to look at these things up front. I can't look at it up front anymore. I'm 11 years down the road, no pun intended. But I can -- we all know how it turned out at the end of the story. By adding in the 61 units, it's not a problem from a regional perspective on any issue, especially transportation issues.

I also submit to you that DCA is in a little bit of a state of a flux right now. If we were to have to go back and do a retroactive application for the aggregation rule, I think that that would probably result in a substantial delay in these projects moving forward.

I don't think that it adds any real value since we already have a project that's existing on the road and built out. So I'm not sure we're going to learn anything new other than we may fix some paperwork. But at this point we've got projects that are -- the HD Development project specifically that wants to move forward, and we don't think that going back and looking at the aggregation of Da Vinci Estates adds much value. Plus, the RPC has not said that it's a requirement that we do so.

So I would -- I would submit that we had that discussion about going to DCA, but I think at this point it's really an expensive and unnecessary exercise since we know -- we do know the impact of those 61 units today.

So I don't think we're obligated to do it under the rules, but it was something that was brought up by the Planning Commission. It has functioned well. Everything that Ms. Ebert said is true. They are part of the master association. They are members of the golf club. It has worked seamlessly, and I don't think there are any regional-related issues related to incorporating the hole into the doughnut back in -- if we had done the analysis in 2000, I don't think it would have changed from what we have today.

CHAIRMAN STRAIN: Okay. Is that the end of your presentation for the DRI report?

MR. YOVANOVICH: On the DRI. I think that -- I think that addressed all the comments related to the DRI that came up.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Do you believe that -- in any way that the lack of aggregation or the separateness, if you will, or perceived separateness of Da Vinci versus Olde Cypress in any way leads to or engenders a problem of community split?

MR. YOVANOVICH: I would submit to you, if you were to drive into that community, you would not know that Da Vinci Estates is not part of Olde Cypress, and I think that's why the two developers kind of got together and said, it's kind of silly to treat these things separately. It makes sense to treat it as one.

COMMISSIONER MURRAY: I just wanted to make sure that was on the record.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. We're on the DRI portion of this hearing. Does anybody have any issues that they want to ask? Ms. Ebert.

COMMISSIONER EBERT: Rich, would this be the time to ask you about -- is this where you're trying to take out -- the parks out of the scratch?

MR. YOVANOVICH: Yes, and that was in the -- that was what was addressed previously but was not a further comment to address.

COMMISSIONER EBERT: Well, I -- to be honest with you, I talked to Mr. Trescott, and he said to me, he said, would you please remind Mr. Yovanovich that those parks are in the DRI, we feel they owe that to you, and if you want it in the -- you also have a monitoring report here.

He's sorry he couldn't be here today, but he wanted me to remind you that in the 1986 development order, if you would read Page 3 and Page 21, the parks were included in that, and they should also be -- and with everything we do, they feel that these parks are owed to the people.

MR. YOVANOVICH: I had a conversation with Mr. Trescott as well, and what he said to me is, "The paperwork shows that there are still parks. You need to address the paperwork."

COMMISSIONER EBERT: Right.

MR. YOVANOVICH: Which we have done.

COMMISSIONER EBERT: Oh, that's not --

MR. YOVANOVICH: That's what he told me.

CHAIRMAN STRAIN: Yeah, Diane, you have to let him finish, and then you can pick up after he's finished.

MR. YOVANOVICH: The paperwork shows there's a reference to parks. The PUD -- that's why we're going through these three petitions today. The PUD document for Olde Cypress still refers to 3.9 acres of parks.

The answer to Question 27A, I think it was, in the original, you know, application for development approval referenced the 3.9 acres of parks. We have -- we're going through the process of amending the development order to delete the reference to the 3.9 acres of parks to make the paperwork consistent with our request. That's what we're trying to do, and that's simply what's in front of you.

Whether you agree with taking it out or not is certainly your issue, but we're going through the right process to eliminate that requirement.

CHAIRMAN STRAIN: Ms. Ebert.

COMMISSIONER EBERT: I do have a problem with that, because county staff -- just because you're trying to say in 19- -- in '96 when they changed everything that those parks were removed from that end -- and you use Question 27A. You just didn't go a little bit further where they asked Question 27C. It says, will this -- "Will parks and open space be dedicated to the city or the county? And if not, who will maintain the facilities?"

The answer was no. The open space recreational facilities will remain private, available only to the members of the Woodlands Club, and the areas will be owned and maintained by the homeowners' association.

And if the park is within our gated area and the master -- it says they will be owned by the master or by the associations. And what bothered me last time when we were here, you were talking about, well, if we're going to do a park, we're going to put it on part of the golf course. That's what divided our community back in 2008. It was horrible. And you're saying, if we need to put a park in, we're going to use that little area behind the aqua range.

I got to tell you, that's upsetting, because if I were an insurance company and you put a park there, I mean, it's -- it's what's owed the people, and it can be put into Vita Tuscana very nicely.

CHAIRMAN STRAIN: Okay. Well, let's back up a minute. First of all, Vita Tuscana wasn't a part of this DRI at the time the park was envisioned, okay.

COMMISSIONER EBERT: Uh-huh.

CHAIRMAN STRAIN: And it's my understanding the map on the board shows where the park was originally going to go --

COMMISSIONER EBERT: Right.

CHAIRMAN STRAIN: -- and it's in the upper right-hand corner.

COMMISSIONER EBERT: Right.

CHAIRMAN STRAIN: Okay. That had to get changed because of a road that was going to go through, but I don't see the road on the new plan. The road's no longer going to go there? Nick?

MR. CASALANGUIDA: (Shakes head.)

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: There is not a road there, and there were other --

CHAIRMAN STRAIN: I know there's not a road there now, but the whole purpose of saying the park disappeared was because there was a road that had to go there, and the park got annihilated by the road. Is that a fair statement as to why it went away the first time?

MR. YOVANOVICH: No. The reason it went away is we went through the environmental permitting process, and not only did the park go away, development went away.

We lost, I believe it was, 360 units as part of this. The whole community changed when we went through the environmental permitting process, and that's why we believe that when the community changed the obligation to provide the parks also changed, and that was not addressed in the paperwork. But you have to read in context the answers to those questions.

And, Ms. Ebert, the answers to those questions were in reliance upon this master plan on the visualizer, okay.

So that's what we committed to in 1986 in responding to those questions.

There were changes. It's our opinion and our belief that the 3.9-acre park requirement should have also gone away because we lost density and the community changed.

Now, I will tell you one thing that is not an option. It is not an option to take the 3.9 acres and make it part of the HD Development PUD. That is not on the table, so that is not an option that we are going to propose to the community of Olde Cypress to provide the 3.9 acres in parks.

CHAIRMAN STRAIN: Okay. Let me read a response that Stock wrote to the county in the questioning of the 3.9-acre park, and maybe you can explain to me how the road worked in. Because I guess it may be irrelevant in the end, but I just want clarification.

Based on review of the PUD master plan from the original '85 Woodlands ADA, the 3.9-acre park was planned to be located along the north/south roadway on the eastern boundary of the PUD; however, that road alignment was subsequently eliminated and the park area was not identified on the master plan once the PUD was amended.

So it was eliminated because the road was removed.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. The location of the park on this plan is the upper right-hand corner.

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Could you put the plan that was on here just prior to this. That same location in the upper right-hand corner, what is there now?

MR. YOVANOVICH: That's a preserve.

CHAIRMAN STRAIN: Nick, does a park require any different treatment in regards to its usability than this preserve would have?

MR. CASALANGUIDA: I'm not sure I understand your question.

CHAIRMAN STRAIN: Okay. If a park has no requirements, meaning basically a park as far as we've defined it in the code is simply green space. A preserve is green space. Is the preserve area, having left that as untouched, providing almost the same as a park would, just not additional opportunities that a park could have versus what a preserve could be used for?

MR. CASALANGUIDA: It's much more passive. But, yes, your answer's yes.

CHAIRMAN STRAIN: Okay. So the developer could have left that area untouched, just like they have today, and said, this is your park. I'm just trying to put that on the record, because we've got to look at this thing in a practical application. What is it we could have gained versus what we've got now?

In some ways what is there now may be equivalent to what could have been there had it been a park. That's the only thing I'm trying to point out, Diane, is that I'm not sure by saying that area up there needs to be a 3.9-acre park you've changed anything.

COMMISSIONER EBERT: In the ADA -- and going further, they said, for one thing, the parks were not in the proper space. They should be put throughout the community scattered. And this is wetlands. This is not your normal preserve area. So it would have to be raised. Everything -- if you go in this one you needed -- you need a raised boardwalk to go through like they have over here at the Gordon River. Completely different.

And back in 2008 when the community -- when Stock was going to just get -- try and close out the PUD and leave Olde Cypress, there was a huge meeting, and someone asked Blain Spivey -- because Mr. Stock was not there -- they -- and they said, well, where is this park going to be? And he said, well, if we could buy the property -- he said, if we had the property, we would give you your park. We don't. We're just trying to close out the PUD, and they put it on the driving range, and that's what divided our community, which was you divided the golfers with the nongolfers.

And, Mark, this has created a huge divide in our community, and it should not have to be. It should not be golfers against nongolfers. I myself don't golf, but, I mean, you don't put a park on a driving range.

CHAIRMAN STRAIN: No. But let's try to talk out a solution. If you don't -- and I understand your argument about not having a park on the driving range or not having a park in the aqua location where it was before. That's fine. If the community doesn't want it there, I don't see why it should go there. I'm not an advocate of that at all. It was the suggestion last time to accomplish the open-space criteria that a park provides.

Now, if a park doesn't go there -- and you really can't look at HD Development first, because that wasn't a part of your DRI. If the argument is the DRI, as it was done originally, should have provided a park, as it did

originally, in substitute for the one it lost, where now in this built-out community would you propose to put a park?

COMMISSIONER EBERT: Well, it's -- they didn't follow the DRI when they bought it.

CHAIRMAN STRAIN: But, Diane, that's 10 years ago. It's done. Now where would you put the park? If they were -- if you -- if they were forced to put a park in this community, give us some idea on where you think is a --

COMMISSIONER EBERT: There is nowhere -- this community -- they just didn't follow through with the DRI. You would have thought they would have had to use due diligence and --

CHAIRMAN STRAIN: You know what else they didn't follow through with? They don't have bike paths --

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: -- to the extent that you would have today. You don't have walking trails. There's a whole pile of things missing here, but that's been missing for 10 years. Now, where do we -- how do we fix it today? I'm more focused on, okay, you've got an issue, you believe the community -- some people believe the community deserves a park, fine. Where do we put it to make the community happy?

COMMISSIONER EBERT: I don't think you can put that anywhere today within -- within Olde Cypress, as it turns out.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: But they just never followed the DRI, and that, to me, is upsetting, because a DRI is a development of regional impact. If you're just going to take that and ignore that, that, to me -- I mean, I'm new at this, but a DRI is still a DRI.

CHAIRMAN STRAIN: And I'm not saying ignore it. I'm trying to find a solution. There's a difference between finding a solution and just saying it wasn't done right. We've got to fix -- if it wasn't done right, we want to fix it, what is being offered up as a solution. The developer is offering an agreement with the HOA. The HOA has been met with numerous times. There's a whole pile of issues on the table. If that isn't enough, what is? How do we get to a solution of the problem?

That's what I -- that's what we should be doing as a board is finding a solution, if there is a problem, consistent with our codes. And that's where I think we ought to be focusing.

And if someone in the discussion today with the citizens out there, when you come up, if you've got a fix, tell us the fix. Don't tell us the complaint. We already know the complaint. I think it's been pounded home for five hours last time and two or three hours today already.

Tell us what you think a solution is. Let us get to something of substance we can work out with the developer and be done with it. If the developer's already offered enough and people feel that the things in the agreement, the changes to the rec area, the tennis courts that weren't required to be where they are, are parts and pieces that make up, fine. It would be nice to know that so we can get on with this.

That's all I was trying to get to. I'm looking for a solution.

COMMISSIONER EBERT: Oh, well, as it turned out, Mr. Stock didn't even realize that there's a portion in the back that was supposed to be a road going to the next community. And they have taken that and made a small park out of that. That was 60-foot right-of-way and 10-foot easement on each side. So that's about 150 deep by probably 80 feet wide, and there will be a wall behind there, because that will be GL Homes, so that is a start of open space for the kids to play.

We have more than 50 children in Olde Cypress, and now they're teenagers and different things are starting to happen. They need someplace to go.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Well, I was just going to comment in terms of solution. I thought that the commitments that the developer made to the HOA were sufficient in my estimation. In addition, on this Olde Cypress DRI and PUD, tracts -- two tracts that had been labeled "R" are now labeled "green open space." So you've got additional guarantees for some additional green open space.

CHAIRMAN STRAIN: Right. And my point for the solution was that apparently what has been put on the table may not be a solution to everybody. All I'm saying is for those that it is not a solution, tell us what you further think needs to be a solution, because that's what we're here to do is listen to it and figure it out. And I don't know. I'm hearing what one side has put on the table. I'm hearing a complaint about what wasn't done in the past, but I haven't seen a solution to what we can do going forward, and that's the key to getting this completed.

With that, let's -- does anybody else have any questions on the DRI portion of this action? That's the second

item, Item B.

(No response.)

CHAIRMAN STRAIN: Let's move on to Item A, the last one, Richard. We're going to take a break here -- you know what, we need an hour -- at 10:30. Before we even go into A, let's just take a break for 15 minutes. We'll come back at -- let's come back at 10:45 and resume, and that will give us some time to cool down a little bit. So 10:45 we'll resume.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If everybody will please take their seats.

Just so everyone knows, the next break will be just before noontime. We try to leave a little before noon so we can -- those of us that eat downstairs can get in line before the rush from 12 o'clock gets there.

With that in mind, we'll proceed. Richard, we left off on Item 9A. And you were going to do your presentation on that one.

MR. YOVANOVICH: Right. And I believe there were very minor changes that we needed to make, and the PUD is not very long. And I think you got a revised draft of the document from the County Attorney's Office with a revision dated 3/15/11 on the lower left-hand corner.

And basically the changes we needed to make were to try to catch all the places where there was a reference to bicycle and jogging trails for the park.

And you will see on Page 2 of 4 under section -- at the very beginning. It's Section 2 of the ordinance, but it references Section 3.02 of the original PUD. We struck the words "bicycle and jogging trails" there. Then we go down to Section 4 of the ordinance, also on Page 2, but Section 4.05 of the existing PUD, and struck "bicycle paths" from No. 3, struck "nature trails" from No. 4, and struck number -- we struck "parks" from No. 6, which carried us over to Page 3 of 4, and all the other changes were related to the reduction in density.

And I hope we caught all of the -- apparently not because I see Ms. Caron shaking her head. But that was -- those were the text-related changes we were supposed to make addressing that.

What did we miss?

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Page 3 of 4 under Section 5, land-use schedule. It says -- if you look down under acreage it says, "Lake preserve area, wetland preserve park."

MR. YOVANOVICH: Good catch. Okay.

CHAIRMAN STRAIN: Okay. Was that the end of your presentation?

MR. YOVANOVICH: Well, no, one other thing. Just -- and I don't think this is in your packet, but we caught this the other day. The PUD master plan itself -- we caught it on the DRI master plan where we had crosshatched the two R tracts to show that they would be golf course open space.

We had not -- in your agenda package though, the same crosshatching didn't make their way to PUD master plan, so we need to make that same crosshatching on the PUD master plan. So we've made those changes, and that will become, you know, part of the PUD for Olde Cypress as well.

I think that's everything that dealt directly with the PUD documents themselves. There were some other, you know, I'll call them tangential questions that we needed to look at. One was the conservation easement, and was there any area within the conservation easement document itself that really was not depicted. There's platted conservation easements, and then there's the stand-alone conveyance conservation easement document.

There was an exhibit attached to the stand-alone conservation easement that appeared to exclude some of the platted conservation area. The reality is, the legal description in the document that created the conservation area referenced the platted conservation areas. So that exhibit that looks like part of it is not encumbered was incorrect. So the entire conservation area on the plat is also within the conservation easement document.

So we went back and looked at that, and that was one of the issues we needed to clarify.

COMMISSIONER CARON: Do we need to --

MR. YOVANOVICH: No. That was just a -- we just need to look at it.

CHAIRMAN STRAIN: What happened is the language --

COMMISSIONER CARON: Yeah.

CHAIRMAN STRAIN: -- the language on the conservation easement says pursuant to plat, Page 32, Pages 1 to 11. On that plat, Page 3 doesn't show that area encompassed as Tract A.

COMMISSIONER CARON: Right.

CHAIRMAN STRAIN: But when you go to the blowup on Page 8 and 9 of the plat, it does, and it says, all of Tract A and B. So Tract A is covered by the plat as being conservation; it just didn't -- it looks like the same assumption I had made the first time I read it, was made by the people who did the crosshatching on the map that was attached to it. But the plat is clear. The Tract A does cover up that area, so it is --

COMMISSIONER CARON: All right. So you don't have to change the language?

MR. YOVANOVICH: No. We don't have to change anything in the document. There was the question of, you know, was something inadvertently excluded, and the answer's no. Everything's fine there.

We went back and looked at the fence in Logan Boulevard, and it was properly constructed, properly permitted, and properly surveyed.

CHAIRMAN STRAIN: Well, there is --

MR. YOVANOVICH: There is an issue with the cart path that needs to get relocated, but the fence itself is on our property and not in the county's property.

CHAIRMAN STRAIN: Nobody from county staff is here, are they?

COMMISSIONER EBERT: Mark, I have something.

CHAIRMAN STRAIN: Go ahead. Well, Richard, are you done with your presentation?

MR. YOVANOVICH: Let me see if there's anything else. No, sir. I think that got all of the issues that came up --

CHAIRMAN STRAIN: Okay. Ray, while --

MR. YOVANOVICH: -- at our last meeting.

CHAIRMAN STRAIN: -- we're into other discussions, should you email Mike Green? He brought the issue up to me that that fence was located in their right-of-way, and he was pretty annoyed by it because he couldn't get it to be corrected. So I made it a point to discuss it here at this meeting, and I'd appreciate it if he would tell us if it still is or not based on the information we've now been provided.

MR. BELLOWS: I will do, and I think Kay went out in the hallway to get John Podczerwinsky to see if he is aware of that issue.

CHAIRMAN STRAIN: Okay. Diane, go ahead.

COMMISSIONER EBERT: The only thing, when I was down at Collier County looking through some of the previous things, I have the -- they put this fence in, they -- and took out the application in 2007. In 2008 they put it in. It says the job value. And it was issued on April of 2008.

In going through this, reading it, it wasn't making sense, so someone came in and said to me, well, the fence is there, but it has never been inspected or completed. They are missing all of the landscape and irrigation requirements.

So he says, they've been out of compliance for -- since 2008.

CHAIRMAN STRAIN: Okay. Well, we'll certainly find out about that.

John, can you shed some light on the fence?

MR. PODCZERWINSKY: For the record, John Podczerwinsky, transportation. Yes, I can.

CHAIRMAN STRAIN: Okay.

MR. PODCZERWINSKY: It looks like it's upside down. Yep. Sorry.

Okay. What we have on the exhibit screen here is a basic survey or a spot survey of that fence and the encroachment. And if I'm not mistaken, I think -- the maximum encroachment that you'll see is 2.18 feet into the Olde Cypress --

MR. MITCHELL: John, that's the cart path.

MR. PODCZERWINSKY: That's the cart path. But it also shows the fence there.

MR. MITCHELL: There's no fence in that area.

MR. PODCZERWINSKY: Okay. I stand corrected. There is no fence in that area.

COMMISSIONER EBERT: No, there is no fence.

CHAIRMAN STRAIN: Okay. John, what happened, Mike Green had told me that he was -- he seemed a little annoyed that this fence had been in the right-of-way, that they attempted to get it relocated and they weren't successful in getting that done. So I tried to bring it up as an issue to get accomplished in these proceedings. Do you know anything about that fence being in the right-of-way?

MR. PODCZERWINSKY: Yes, I do. Here's the notes that I have, and I quote, "The fence is not in the county Logan right-of-way but the pathway is." And it varies from 1.35 to 2.18 feet.

And we have three options to fix it that should be run through the County Attorney's Office. If you'd like, I can cover those, but I think this can be handled at a staff level.

CHAIRMAN STRAIN: Well, no. I just think what we'll probably do is any stipulations that are included in this hearing, we would stipulate that that be resolved. So whatever's --

MR. PODCZERWINSKY: At this point I don't have any stipulations regarding the fence because it is outside the right-of-way.

CHAIRMAN STRAIN: It is outside the right-of-way, okay.

MR. PODCZERWINSKY: That's correct.

CHAIRMAN STRAIN: Okay. Then we're fine. Thank you.

Okay. We're on to questions on Item 9A. Does anybody have any questions on 9A?

(No response.)

CHAIRMAN STRAIN: Richard -- and this may be one that I should have asked in HD Development, but I have it at one of the notes. There was the talk of extending the fence along the southern property line along 846.

MR. YOVANOVICH: The wall.

CHAIRMAN STRAIN: The wall, I'm sorry.

MR. YOVANOVICH: Yeah, and that has been. And I saw that as my Item No. 12, and I should have -- that was addressed as part of the master plan for HD Development. So when you approved it, you also approved the location of that wall.

CHAIRMAN STRAIN: Okay. And then the golf cart path, that's the only other item I had left over from that meeting on this one.

MR. YOVANOVICH: And we -- I think we just addressed that, that we do need to move it, so we will.

CHAIRMAN STRAIN: Okay. Anybody else have any questions on 9A?

(No response.)

CHAIRMAN STRAIN: Okay. Staff presentations on 9A, B, C, take your pick. Whatever ones you haven't addressed -- I think C is the only one I had asked you about. So anything on A or B?

MS. GUNDLACH: Good morning, Commissioners. My staff report for 9A, which is the Olde Cypress PUD amendment, is rather short. Staff is recommending approval.

And if you have any questions, I'd be happy to answer them.

CHAIRMAN STRAIN: Any questions on the staff report?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we will entertain -- we'll start going through our public -- members of the public who wish to speak.

Thank you, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Ray, do we have any registered speakers before we go to open speakers?

MR. BELLOWS: No one has registered on this item, or any item.

CHAIRMAN STRAIN: Any members of the public wish to address any items that we've talked about on Items 9A, B, or C involving Olde Cypress or HD Development?

Sir, come up and use the mike.

And then, for those -- the gentleman that is president of the HOA, I believe he was here.

MR. MITCHELL: He just stepped out.

CHAIRMAN STRAIN: Okay. So I'd like to hear from him before we end today.

Were you sworn in in the beginning, sir?

Okay. Maybe Terri could do that.

(The speaker was duly sworn and indicated in the affirmative.)

MR. CRESS: Members of the Planning Commission, my name is Jim Cress, a resident of Olde Cypress. The singular question I have is I'm asking from the Planning Commission and the developers some clarification regarding a wall, specifically sound abatement along Immokalee, because right now it's incredible. And with my experience of having built construction protection around the Pentagon after it was hit, I can tell you the landscaping

in no way abates sound. Sound will go through it or over it.

And unless there's a legitimate wall of sufficient size and structure built along Immokalee, it is going to be a nightmare, I think, for those of us residents in the community to hear that incredible road noise that will be going through that entire area, not only during construction, but even after it.

So I'd just like to know what the developer intends to do to address that issue. Thank you.

CHAIRMAN STRAIN: Okay. We'll find out. And first of all, the location of the wall that can be proposed -- we can't go across the preserve line, I believe, with a wall, but we can go up the preserve, is that the way --

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: This would be an item under C probably, HD Development, because that's the PUD we'd be --

MR. YOVANOVICH: Yeah. This is the PUD master plan, and the wall would extend from the edge of the preserve back towards the property line, and that would be -- it would be a 2-foot berm and 6-foot wall, so the combination is 8 feet.

CHAIRMAN STRAIN: What kind of wall are we talking about? What is it made of?

MR. YOVANOVICH: It's a solid wall. It's not a fence. It would be, you know, the typical, precast. It would be a precast.

CHAIRMAN STRAIN: Okay. Well, that's like Longshore Lake says, that's called a cedarcrete.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: And then equal to that in price or pretty comparable is block. But either one is a pretty solid wall.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: So you're going to be looking at some kind of cementitious material for that wall.

MR. YOVANOVICH: Yes, sir.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Okay. Mr. Murray?

COMMISSIONER MURRAY: That's preserve, that area next to it.

MR. YOVANOVICH: Yes, sir.

COMMISSIONER MURRAY: Okay. How dense is that preserve in terms of acting as a sound barrier? Because I'm looking at, from the very edge, some of those people who are right next to that might be impacted by that noise as well. Is that -- do we have any sense of how dense that -- or how far or even the distance from -- take a point where -- it seems to be some kind of a jut there. Let's see -- maybe that's better.

MR. YOVANOVICH: That's basically what we have from an aerial perspective.

COMMISSIONER MURRAY: It's pretty dense from the look of it.

MR. YOVANOVICH: Yeah. And that's -- you know, it's there today. And an issue we're addressing in the best form we can, obviously, is to put a wall outside of the preserve, but the noise issues are there without us, and we are addressing the best we can what we can address with the wall outside of the preserve.

COMMISSIONER MURRAY: Well, where I was leading to -- and I don't want to cause unnecessary expense, but I was leading toward the possibility of extending the wall, perhaps, another 10 feet beyond just to help deflect some of that noise that might come in through the side. I'm assuming the distance is fairly close. If you'll tell me it's 20 or 30 feet and it's dense, I'll withdraw my interest.

MR. MITCHELL: Chris Mitchell, for the record. I can't tell you the distance. I can tell you that right there where the preserve begins, the development ends, there starts a concrete weir that is the passthrough. So any extension over would really be building into the conservation area. It would be a secondary impact at a minimum to the conservation area. You'd have to amend the conservation area.

COMMISSIONER MURRAY: I hear you. I got it.

CHAIRMAN STRAIN: But what I -- I think even in the last meeting we acknowledged getting a wall into the preserve area from South Florida's -- or Big Cypress's viewpoint on that weir, as well as just getting into the conservation area and building a wall, is going to be problematic, if even at all possible. And a wall ending at the edge of the development was what we had talked about.

Now, where in your document does it show that the wall will be a 2-foot berm with a cementitious structure material being used to support it?

COMMISSIONER MURRAY: It's not in there.

CHAIRMAN STRAIN: I didn't see it either.

MR. YOVANOVICH: It's in the -- it's in the cross-section for the master plan.

CHAIRMAN STRAIN: Well, on Page 8 of 11 --

MR. YOVANOVICH: Hang on a second. I've got to get back there.

CHAIRMAN STRAIN: Exhibit F of the HD PUD, it says, "A combination 6-foot masonry wall and 2-foot berm shall be required along the portion of the southern property line as depicted on the exhibit."

MR. YOVANOVICH: See.

CHAIRMAN STRAIN: That's different -- well, but you didn't -- you said precast. Masonry is not precast. There's a stark difference.

MR. YOVANOVICH: We'll -- that's a good catch, and we need to change it to "precast or masonry."

CHAIRMAN STRAIN: The only reason I'm suggesting that is a precast wall would be similar to what they've got at Longshore Lakes. It's a good-looking wall. It would save continuity. A masonry wall, for the HOA to have to maintain it is going to be a lot more than a precast wall. So I think that would be a good option to add into the Page 8, Exhibit F, of the HD Development.

Okay. Any other speakers? The gentleman who's president of the HOA, would you mind coming to the podium, identifying yourself? I have a question.

MR. THOMAS: Certainly. Damian Thomas, for the record.

CHAIRMAN STRAIN: Do you have any -- are you at a point where you feel you can have an agreement executed with the developer by the time of the Board of County Commissioners' meeting to the extent of the issues that we've discussed in regards to --

MR. THOMAS: I have no reason to believe differently.

CHAIRMAN STRAIN: Okay.

MR. THOMAS: We have in the past been able to have those kind of discussions, and they've been relatively amiable. So there's no reason for me to believe differently.

CHAIRMAN STRAIN: And Mr. Casalanguida earlier said that on a -- through -- he's a third party of course -- that he had discussed with you that that is a viable option for us to consider for a stipulation?

MR. THOMAS: Keep it outside of the PUD. The reason why we requested it inside the PUD is to make sure it got done. But if we have an agreement outside of the PUD that everybody's aware of, then I'm comfortable with that.

CHAIRMAN STRAIN: Okay. That's what I sure needed to know. Thank you very much.

MR. THOMAS: You're welcome.

CHAIRMAN STRAIN: Does anybody have any questions -- are there any other members of the public that would like to speak?

(No response.)

CHAIRMAN STRAIN: Okay. Is there any other questions, then, from the Planning Commission?

Ms. Caron?

COMMISSIONER CARON: Well, I was just going to say also, you have it on the record here today the commitments that have been made.

CHAIRMAN STRAIN: And we actually got it in writing passed out, although that's not the version we'll use, but we do have it as part of the record.

COMMISSIONER SCHIFFER: One question.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah. Does anybody know the distance across that lake to that -- you remember we discussed putting a gazebo? There's a concern that that would be getting hit with driving ball.

MR. YOVANOVICH: We have had discussions, and we have elected or believe that the gazebo is really not wanted by the community. So we're just going to leave it as green open -- green open space, part of the golf course, so there's --

CHAIRMAN STRAIN: Okay. Anybody else have any questions, comments in any of the three issues? We've heard all the public speakers.

Do you have any rebuttal you want to make, Richard, before we close the public hearing?

MR. YOYANOVICH: No. And I just -- I just -- we've worked with the community, and we are obviously doing enhancements within Olde Cypress to try to make up for the perceived loss of that park, and I think that we are being responsible and giving back to the community and not just taking from the community.

We've worked with the community for quite a while to come up with these enhancements and have gone above and beyond in doing community outreach to make sure everybody knew what was going on, and we hope that the Planning Commission could follow staff's recommendation of approval for all three -- three amendments that we're -- or three petitions that we're proposing, and we can answer any more questions if you have them regarding any of the three applications.

CHAIRMAN STRAIN: Okay. Mr. Murray?

COMMISSIONER MURRAY: Not to belabor anything, but the gazebo thing, it's fascinating. I don't -- we didn't stipulate that. I think that that was something that was offered somewhere along the line.

MR. YOYANOVICH: Well, there was discussion about, you know, would it be a nice thing to do, and then, you know, we thought about it, and Ms. Ebert's correct, you know, why -- what do you really get for that, will it be well used, and is there risk for people walking to that gazebo?

COMMISSIONER MURRAY: Right.

MR. YOYANOVICH: And I think the answer is, yes, there's risk, so why do it?

COMMISSIONER MURRAY: I appreciate all of that. I just -- you made the one statement, sounded like to me, was that, you know, you got some sense from the community that they didn't really need it. And I was just wondering, was that official sense or just a chatter along the way or what?

MR. YOYANOVICH: It was in discussing with leadership of the community.

COMMISSIONER MURRAY: So, in other words, the president of the HOA would have had that discussion with you?

MR. YOYANOVICH: I didn't have any person -- is that who we talked to about it? A lot of different people, Mr. Murray, that we talked to about that. And, in reality, putting a gazebo in that place probably wouldn't get well used, and there was the risk.

COMMISSIONER MURRAY: I didn't have a problem with its absence or its presence, but I did have a problem with the question of, with all whom did you speak and the assertion that, you know, you talked to a bunch of folks. And I just wanted to know, because there seems to be that issue that keeps on rising up about community being split, and I would hope this is not another one of those things.

MR. YOYANOVICH: I would hope it wouldn't split either, and I don't think it's as divided as has been represented.

COMMISSIONER MURRAY: Okay. Thank you.

COMMISSIONER EBERT: I do have a question.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: This will not be used as park area; is that true?

MR. YOYANOVICH: It will be -- remain as part of the golf course area.

COMMISSIONER EBERT: So, in other words, it is not going to be -- children are not allowed to go up there?

MR. YOYANOVICH: No, ma'am.

COMMISSIONER EBERT: Okay. That's fine. The other question is, on the landscaping agreement, if I remember right, at one of the meetings, the landscaping was going to cost around 118,000, and Stock was going to give 100,000, and the master was going to have to put in the other 18,000. I feel Stock should pay for the whole 118,000.

CHAIRMAN STRAIN: Well -- and that is going to be something that you and your association are going to be negotiating directly with Stock. That's taken off the table for the Planning Commission.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: So that works out actually -- that is not a -- really a public issue. It's one that's more -- done civilly, so I think you guys are going to work that out in your negotiations with the applicant. If you don't get a negotiated agreement by the time of the BCC meeting, based on what would potentially be a stipulation from this board, I think that would be detrimental. So I certainly think the incentive's there to get it worked out.

So anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay. We'll close the public hearing, and we'll entertain discussion first. Does anybody have anything they want to say before we go into the motions on these three items? And we'll motion those separately.

And we're going to have a rewrite of any stipulations or any changes at the end of today's hearing to review before we do consent today as well.

The -- I'm going to certainly have a small discussion, and that is there are issues here that I don't believe can be resolved today, and I'm not sure there's any mileage in trying to resolve some of them, although it's very telling that they should have been addressed as time had progressed in the past.

I don't see that as something to do today that we can accomplish a solution to the problems with, and that being the aggregation. I am very familiar with DRIs, the aggregation process, and all of it. I brought it up last meeting. And it's something that should have been done in 2000.

There have been massive changes in Tallahassee. The governor's budget that was proposed showed 356 employees in DCA, and he was eliminating 318 of those. Basically what that means is DCA's not going to be there anymore.

And for this project to be forced into an NOPC that will eventually come back and say there's no regional impact; therefore, it has -- no significant impact, therefore, it's not going to have any bearing to say no, they'll say yes. The only thing it will do is delay the project and will probably cost the community some of the benefits they were going to receive from the developer.

An NOPC is going to cost a hundred thousand dollars any way you look at it. It's not a cheap process. So if they're forced into that, nobody gains.

Right now I think the developer has done a lot to offset the park. I think it was a mistake on the part of Collier County not to enforce it from the beginning, but that isn't the responsibility of the people in this room today, at least in the side of the county's side.

So with all that said, I think the best thing we can do is find solutions and take as much as we can that the developer's offered and put it into as solid an agreement as we possibly can in our stipulations and see this it's enforced and done.

And in that regard, I'm in favor of seeing all three of these pass with a vote of approval and a recommendation to approve with the stipulations and changes we've made that will be subject to a consent this afternoon, and that we stipulate two things, that we add that the agreement between the developer of the third item, 9C -- and I don't know what they call it anymore. It was HD Development. Now I'm not sure what --

MR. YOVANOVICH: It's still that. It's -- Vita Pema is the developer.

CHAIRMAN STRAIN: Okay -- and the HOA of Big -- of Olde Cypress, reach an agreement that is executed by both parties prior to the BCC hearing. And if that's done, I think we're covered in everything.

The only other item being that the pathway at Logan Boulevard be brought into compliance through any manner between the County Attorney's Office and staff that deems -- is deemed appropriate.

Other than that, I'm out of stipulations. I think we've -- we're going to see all that come back as corrections in this afternoon's consent hearing.

So anybody else have any discussion? If not, we need a motion, and we'll have to start with the first one. That's PUDA-PL2010-388. This is the Olde Cypress PUD.

COMMISSIONER MURRAY: I'll move to approve.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion made to approve and seconded. And I'm assuming it's subject to the stipulations that I read.

COMMISSIONER MURRAY: Just as you said.

CHAIRMAN STRAIN: And the corrections that will be forthcoming from staff for consent.

COMMISSIONER MURRAY: And just as you said.

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.
CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER MURRAY: Aye.
COMMISSIONER EBERT: (No response.)
COMMISSIONER KLEIN: Aye.
CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0 with one abstention.

Item DOA-PL2010-1052. This is the Olde Cypress Development, Limited, Vita Pema, LLC, as the DRI. Is there a motion?

COMMISSIONER MURRAY: I move to approve.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Mr. Murray made a motion to approve, Ms. Homiak. Conditions the same as the prior approval?

COMMISSIONER MURRAY: Yes.

CHAIRMAN STRAIN: Okay. Acknowledge.

Ms. Homiak?

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Okay. Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: (No response.)

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0 with one abstention.

Last item is PUDZ-PL2010-1054, the Vita Pema, LLC. It's a PUD within the Olde Cypress -- which will now be the Olde Cypress DRI. Is there a motion to approve?

COMMISSIONER MURRAY: Move to approve.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Ms. Homiak.

Same stipulations apply?

COMMISSIONER MURRAY: Absolutely.

COMMISSIONER HOMIAK: Yes.

CHAIRMAN STRAIN: Both affirmative.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.
COMMISSIONER HOMIAK: Aye.
COMMISSIONER MURRAY: Aye.
COMMISSIONER EBERT: (No response.)
COMMISSIONER KLEIN: Aye.
CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0 with one abstention.

Richard, we're going to hear the other applicant, which is coming up next. We may take a break for lunch. I hope not. I'd like to see us get through the church issue and then go right to consent.

So probably within 30 or 45 minutes we should be ready for consent, if you guys can keep that pace.

MR. YOVANOVICH: Okay. I think we're ready.

CHAIRMAN STRAIN: Okay. And what I'll --

MR. YOVANOVICH: We'll highlight the changes for you.

CHAIRMAN STRAIN: You need to print it, you need to highlight them, you need to get us copies, and you need to have it prepared to walk through the changes on the overhead, and that way we can wrap up consent this afternoon.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: ***Okay. With that we'll move on to the next item on our agenda. It's PUDZ-2005-AR-8674. It's the Grace Romanian Baptist Church of Naples, the CFPUD. It's on Learning Lane and Livingston Road.

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

CHAIRMAN STRAIN: Okay. Disclosures on the part of the Planning Commission. Mr. Murray?

COMMISSIONER MURRAY: I had a telephone conversation with Mr. Yovanovich.

CHAIRMAN STRAIN: Okay. Ms. Homiak?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: I had a conversation with Mr. Yovanovich.

CHAIRMAN STRAIN: Ms. Ahern?

COMMISSIONER AHERN: I spoke with Mr. Yovanovich.

CHAIRMAN STRAIN: Mr. Eastman?

MR. EASTMAN: I've met with Mr. Yovanovich and Mr. Arnold.

CHAIRMAN STRAIN: Okay. And I -- and Mr. Klein?

COMMISSIONER KLEIN: A conversation by phone with Mr. Yovanovich.

CHAIRMAN STRAIN: Okay. And I met with Mr. Yovanovich as well over this one, and I think -- yeah, I think that's the only conversation I had on it.

So with that, Richard, it's your presentation.

MR. YOVANOVICH: Good morning. For the record, Rich Yovanovich on behalf of the applicant. I have Wayne Arnold with me from Grady Minor & Associates and Adrian from the church -- where is he? There you are -- to answer any other questions you may have regarding our request.

The request is to adopt a PUD for the Grace Romanian Baptist Church that would allow up to 500 seats and a preschool of up to 150 students, together with one residence to serve the church.

The property is about 12 acres in size. It's located at the intersection of Livingston Road and Learning Lane. Learning Lane is the road that leads to North Naples Middle School, so it's on Livingston Road north of Immokalee Road.

It's a fairly straightforward requested use. The staff is recommending approval of our requested uses. The only real issue we have with the staff recommendations pertain to the -- and it's really a little tweaking that needs to be done.

The way it's currently -- the way the stipulation is currently written, we would be required to have traffic-safety people present at all church services. The church currently is a small church. It's operating out of a

portable, and -- at the -- at First Baptist. They might have 100 people at a service right now, and that's on the best day. So we don't think it's appropriate to require at every church service that we have traffic personnel.

We have on other -- like the Covenant Presbyterian Church, which was the Heavenly PUD -- we have had requirements that when traffic -- I'm sorry -- when transportation staff deems it necessary that we have traffic-safety people there. We will have them. But I don't think at this -- a blanket requirement is necessary, so we would ask that that recommendation be revised appropriately.

And other than that, we're okay with the other recommendations requiring access to Livingston Road. And with that, if you have any questions regarding our PUD, we'll be happy to answer any questions.

You know, a proposed master plan is up on the visualizer for you that answers the -- which will show you the intended development, and essentially, the first phase of the development will be in this area right here with the preschool being a future phase, as well as potential future phase down off of Learning Lane.

But initially we'll probably start with a multipurpose building to house the church services and other uses and then eventually build a sanctuary to some day hopefully get to the 500 seats, but initially we will not be building a church to serve the 500 seats at the beginning.

With that, that's an overview of our requested petition. I think staff's recommending approval, and we ask that you follow those recommendations.

CHAIRMAN STRAIN: Okay. Questions, comments from the Planning Commission? Mr. Schiffer, then Ms. Caron.

COMMISSIONER SCHIFFER: Rich, the northern access drive, is that going to be a right-in/right-out or --

MR. YOVANOVICH: Yes. It will be -- our access off Livingston Road will be right-in/right-out.

COMMISSIONER SCHIFFER: Okay. Then the lower one, is there signals down there or --

MR. YOVANOVICH: The -- at Learning Lane there is a signal that operates for the school. It's not a fully signalized intersection. It only operates during school hours, flashes at other times.

COMMISSIONER SCHIFFER: So when they're recommending having police for traffic control, where would you put the policemen?

MR. YOVANOVICH: They would be, I'm assuming, at the right-in/right-out --

COMMISSIONER SCHIFFER: Okay.

MR. YOVANOVICH: -- entrance. And I don't even know that that's --

COMMISSIONER SCHIFFER: Useful.

MR. YOVANOVICH: -- useful, but, you know, if they say in the future that it's necessary, we'll do it. But we don't think that a -- our intended uses are going to create many problems on Livingston.

CHAIRMAN STRAIN: Okay. Ms. Caron.

COMMISSIONER CARON: Yeah. I had asked you a couple of questions, and I don't know if you got answers from Mr. Arnold.

MR. YOVANOVICH: I did. The questions were basically with the Exhibit B, the table. And let me go through those real quickly. We talked about the setback for accessory --

COMMISSIONER CARON: Don't go beyond A. Did you make the change on accessory uses?

MR. YOVANOVICH: The -- yes. There's one that it appears to be repetitive. Item No. 1 refers to both indoor and outdoor recreational uses, and then we also refer to it again in Item No. 4. So I think we need to -- we'll combine those two with No. 1 and make sure we include play fields also as listed so we don't inadvertently just leave them out as the description of types of uses.

Then the next one was, I believe, on Exhibit B, and I will tell you, we went back and looked at -- your question was what accessory uses would extend to potentially 25 feet of Livingston Road or any front road. And Porte Cochere was one that we thought would happen, and we also had an early draft of a master plan that included playground equipment that might be in that front area of the church, so that's the types of uses we were thinking about when we were talking about accessory structures that could get as close as 25 feet for the front.

COMMISSIONER CARON: Can they be defined somehow so in general terms we know what we're talking about?

MR. YOVANOVICH: Yeah.

COMMISSIONER CARON: Because -- let me just give you an example. Up on 41 in North Naples, the -- I think it's a congregational church that is right across from Bentley Village sort of.

MR. YOVANOVICH: Right.

COMMISSIONER CARON: There's a congregational church, I think, and a Lutheran church, and Szabo's was in between them.

MR. YOVANOVICH: Right.

COMMISSIONER CARON: Well, that congregational church has attached to it an accessory structure that's the same height as the church because it's a gymnasium. It's behind, so nobody in the world would ever know it was there.

MR. YOVANOVICH: Sure.

COMMISSIONER CARON: Not an issue. But if somehow that were pushed to the front or the side to the front, then I think that that might be an issue for people.

So I'm looking for a definition of the types of things that could come within 25 feet versus --

MS. ARNOLD: Mr. Chairman, may I address?

CHAIRMAN STRAIN: Go ahead, sir.

MR. ARNOLD: I'm Wayne Arnold.

And to address Ms. Caron's comment, maybe what we could do under the accessory-structure portion of the table where it says front, maybe we can specify both a 25- and a 50-foot setback, and under the 25 we can either footnote it or put an asterisk or something and identify the types of structures, whether it's play equipment, sunshade, chickee; just some minor structures of that type is what we had envisioned.

COMMISSIONER CARON: Right. I think that -- I mean, that works for me.

MS. ARNOLD: Okay. Good.

COMMISSIONER CARON: I didn't have any --

CHAIRMAN STRAIN: I don't see where it hurts.

COMMISSIONER CARON: The next thing was the distance between structures and the zoned height.

MR. YOVANOVICH: Okay. This is where it got a little complicated when I was -- when it's an actual building, we were thinking along the lines of if it wasn't physically attached, which would be the zero, one-half the building height, but then you get into playground equipment, do I really need to be -- if I'm a 50-foot building, do I really need to be 25 feet away for the playground equipment? So we -- that's where we kind of struggled, Commissioner Caron, on how to describe the minimum separation, and then it gets -- it gets a little confusing as to whether even that playground equipment would be considered an accessory structure. So we were trying to err on the safe side.

COMMISSIONER CARON: Well, exactly. And I understand that it's difficult, but somehow we have to have a way. Because, again, I'll use the example of building a gymnasium, I mean -- so suddenly you've got a wall of building that could front this area. Again, I don't think this is what you're intending.

MR. YOVANOVICH: Right.

COMMISSIONER CARON: But I can't -- I have to pay attention to what's happening now. I don't know what's going to happen 30 years from now when Phase III of the Romanian Baptist Church gets done.

MR. YOVANOVICH: And would it be possible for -- if you did a gymnasium that was 50 feet tall, have a 25-foot separation, would not be a bad -- it would not be a bad thing.

COMMISSIONER CARON: No. It would be a good thing.

MR. YOVANOVICH: So is there a way -- is there a way to state it that says for buildings there -- it would be half the building heights and for nonbuilding accessory structures, you know --

COMMISSIONER CARON: Such as --

MR. YOVANOVICH: -- such as --

COMMISSIONER CARON: -- playground equipment.

MR. YOVANOVICH: -- playground equipment, it could be -- it can go to zero if you want it. I mean --

COMMISSIONER CARON: That may solve it. And I'll ask staff if it -- if it works for them. And I guess, Ray, you're the one paying attention, so --

MR. BELLOWS: It works.

COMMISSIONER CARON: Okay, all right. Because --

MR. BELLOWS: We could use that or habitable structure.

COMMISSIONER CARON: Yeah, okay. Then that works for me.

CHAIRMAN STRAIN: I'm not sure habitable structure gets us there, because gymnasiums aren't habitable. They're used.

COMMISSIONER CARON: Right.

MR. BELLOWS: Okay. Then the way you phrased it still works.

CHAIRMAN STRAIN: Staff will come back with a solution that addresses the issue, is what you're saying?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: I was wanting to say, habitable mean a place where you sleep. Occupiable is -- habitable is a subset of that. So maybe just use building and then structure. The code defines structure as anything greater than 30 inches above ground, so that's taken care of. And maybe building is something that's occupied. So that would take care of that, then in the future we wouldn't have these problems.

MR. YOVANOVICH: This is -- this is an example of what -- just so you know -- what we're thinking --

COMMISSIONER CARON: Right --

MR. YOVANOVICH: -- you know, and I think it's consistent with what you thought we were thinking. We would have our temporary building, which would be a fellowship hall in the future, which is really an accessory use -- would be actually built first.

COMMISSIONER CARON: Right.

MR. YOVANOVICH: And there would be a separation of that building from the sanctuary, as you can see. That's what we're contemplating when we have those standards.

COMMISSIONER CARON: Right. And obviously that makes total sense, and it solves another issue, because now we know what the little dotted lines are on the master plan.

MR. YOVANOVICH: That was the next thing I was going to tell you. That was, in fact, parking as we -- as I thought it was, and I did confirm it was parking on our master plan.

COMMISSIONER CARON: Thank you.

MR. YOVANOVICH: And I think that's everything that you asked about. At least those were my tabs.

COMMISSIONER CARON: I think so. Anybody else can ask a question. I'll look through.

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

(No response.)

CHAIRMAN STRAIN: Okay. Staff report, please.

MS. DESELEM: Good morning, again. Kay Deselem, for the record, principal planner in zoning.

You do have the staff report. It's been submitted to you. It's dated revised 3/2/11. It goes into the information that the applicant has already told you about about what's being proposed for the project. It also provides information regarding the surrounding land uses to the north, east, south, and west. It addresses the Growth Management Plan, GMP, consistency, going into detail about the FLUE designation and the Community Character Plan for Collier County for Smart Growth.

One item that's at the bottom of Page 4 that's part of the crucial element of the PUD as far as consistency is that the planning staff says that they need to construct the connection during the initial development phase of the project, that's Learning Lane, if approval granted, or if approval is not granted, to provide evidence to the county of good-faith efforts to obtain that approval and -- of the school district's denial.

And Nick was here, but he had to leave due to other commitments, and he wanted to stress the importance of that particular issue that they provide something to the county to show that they have truly exhausted all their other remedies with access to Learning Lane.

And John Podcz is available to speak with that as well as.

CHAIRMAN STRAIN: Richard --

MR. YOVANOVICH: I'm sorry.

CHAIRMAN STRAIN: -- it's not your presentation. It's Kay's. Okay. He's back behind you holding up little ears behind your head and stuff, and I don't think that was -- I don't think that was fair, Kay.

MS. DESELEM: I'll get even. There'll be more times. I'll get even.

Going on, there is the transportation-element discussion on Page 5 -- and, again, John Podcz will be going through this in more detail -- there was an analysis for the Conservation and Coastal Management Element, and the GMP conclusion on Page 5 that talks about it needs to have the mitigation proposed by transportation for this project

to be deemed consistent.

Staff goes into the analysis beginning on Page 6 that includes the environmental review, the transportation review, talks about the TIS and access management, and gives you their position, No. 1, that connection to Livingston is legally allowed but not recommended; and, again, John Podcz is going to go into more detail on the issues for transportation in the particular staff report.

They have offered stipulations, and staff has provided to you findings of fact both for the PUD and the rezone petition portions in support of our recommendation, and the recommendation is on Page 15 and includes the stipulations that are being requested by transportation staff.

And if you'd like, I can either answer questions now or we can go on to John, and perhaps he might be able to address questions that would come up to me.

CHAIRMAN STRAIN: Okay. Before we go on to John -- and, Mr. Murray, is your question about the transportation issue?

COMMISSIONER MURRAY: That's a second question, but I have a question on Page 15.

CHAIRMAN STRAIN: Okay. Before we get into the transportation issue, I'd like to get an opinion from the County Attorney's Office. So, Mr. Murray, if your non-transportation question could be asked, that would be great.

COMMISSIONER MURRAY: Very simply, under No. 2 on Page 15 where you speak to monitor and direct traffic, what do you mean by monitor?

MS. DESELEM: Again, I'll defer that one to transportation.

COMMISSIONER MURRAY: Oh, that there was their phrasing.

MS. DESELEM: Yes.

COMMISSIONER MURRAY: Oh, I didn't realize that. Okay.

CHAIRMAN STRAIN: Heidi? Staff has presented several in which they say -- in which they've used as a basis for claiming there's an inconsistency with the FLUE for this particular project -- the policy as they present it all use the word "shall encourage," "the county shall encourage," the county -- "development shall be encouraged," "the county shall encourage."

In the history of this board, we have been told there are certain things that are mandatory and certain things that are not. "Shall" is mandatory, "may" is not. But now this is "shall encourage." Is "shall encourage" a mandatory issue?

MS. ASHTON: I understand your dilemma.

CHAIRMAN STRAIN: Good.

MS. ASHTON: I think that it's -- I think it's mandatory to the extent it can be provided. So if it's possible, it can. Now, are you referring to the access point on Livingston Road?

CHAIRMAN STRAIN: Well, let's look at the words you just said. Anything is possible.

MS. ASHTON: Okay.

CHAIRMAN STRAIN: So with \$10 million, I'd bet the school board would jump at letting them have access to Learning Lane. So it's possible. Now, let's get practical. "Shall encourage" -- because staff has now put criteria on the word "encourage." They've said that until they believe it's encouraged by some letter acknowledging that they tried. Okay. What does it mean try? I call up and say, Tom Eastman, can you let us go there for free? Tom says no. They were encouraged and they tried.

So where do we draw the line when we have language like this in our policies that now staff is trying to impose on a property owner in regards to access? And I need your thoughts on that because we --

MS. ASHTON: Well, I think what -- I think what staff can impose is the movement of the access point to the -- is it east?

MR. YOVANOVICH: North.

MS. ASHTON: North, from the north.

CHAIRMAN STRAIN: But that isn't the issue. That's the Livingston Road issue.

MS. ASHTON: Can they force them --

CHAIRMAN STRAIN: This "encourage" all involves (sic) around demanded access to Learning Lane. Learning Lane is a private roadway controlled by the school board. The school board sets certain criteria in which they would allow that access to be granted. That criteria apparently is unacceptable, or whether it is or not doesn't really matter.

The word "encourage," is it mandatory and we have to -- we can tell them no? You're -- encourage in Collier County means you shall do it at any cost? That's where I'm trying to get to because that's really the bone of contention in this hearing is how we -- is to what force we can demand they connect to Learning Lane and to what reasonableness the school board is obligated to provide.

MS. ASHTON: Well, I think the four conditions that they have on Page 15 of 16 of the staff report -- I don't see in there that they're requiring -- that -- I'm skimming through again. But, yeah, I don't see in there that they're requiring them to --

CHAIRMAN STRAIN: Page 4 of 16, it says, "Based upon the above analysis, the proposed PUD may not be deemed consistent with the Future Land Use Element." This board is not allowed to approve things that are inconsistent with the Future Land Use Element. If staff is right, this board has a problem.

I'm wondering how staff came to that conclusion and that got through legal review with them saying something that was based on the word "encourage" when it really should have been -- if it's not mandatory.

MS. ASHTON: Well, I can't speak to how the language got in the Growth Management Plan with the "shall include."

CHAIRMAN STRAIN: No, no, how they took the word "encourage" and became a -- could be -- something could be inconsistent based on the word "encouraged."

And if you could clarify that, it would help us make a decision on how strong the staff's position that is inconsistent with the FLUE is, because that's what we're supposed to weigh this board's decisions on is how our codes are applied and if they're inconsistent or not with our codes.

MS. ASHTON: Okay. Well, I don't think it's inconsistent with -- let me rephrase that.

I think that staff cannot impose the elimination of the access on Livingston Road through this provision, and I don't agree with the interpretation of staff, frankly, that their proposal is inconsistent with the Growth Management Plan.

CHAIRMAN STRAIN: Okay.

MS. ASHTON: I don't know if you want staff to clarify. I think that from staff's perspective, in speaking with them, that the location of an access point on Livingston Road is more expensive, more dangerous, being on a curve, and so they were hoping that the developer would see that as well and that they would follow through with the Learning Lane access point. But I don't agree with their conclusion.

CHAIRMAN STRAIN: Okay. And I would --

MS. ASHTON: The consistency.

CHAIRMAN STRAIN: I would love to have seen the Learning Lane route used, too, but what I am taking exception to is government's position that the word "encourage" is mandatory, and I didn't see it that way, and to have written a report that is based on that philosophy is a little concerning because it's a push in the wrong direction, and that's why I wanted your clarification as we got into the further discussion.

So with that, Mr. Murray, you had more questions of transportation. We might as well get into it then.

COMMISSIONER MURRAY: Well, you covered some of it, certainly. Might as well ask the one about monitor. What do we mean by monitoring when you say "monitor and direct traffic?" I would think direct traffic would be sufficient. So what do you mean?

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

We could remove the word "monitor," because --

COMMISSIONER MURRAY: Why don't we do that.

MR. PODCZERWINSKY: -- it's actually staff that monitors for complaints that are received.

COMMISSIONER MURRAY: The other question having to do with the development within the project shall be limited to 100 and -- got to put the glasses on -- 132 unadjusted. Does that consider the potential for 500?

MR. PODCZERWINSKY: Yes.

COMMISSIONER MURRAY: Okay. So that's clear that we're not confining them?

MR. PODCZERWINSKY: Correct.

COMMISSIONER MURRAY: Okay. And then, of course, not to beat a dead horse, but I think Mark brought up a very valid question, which I was going to bring up. To me, if you want to state that you want to encourage them to do it, that's fine. To me it doesn't make sense to say "shall encourage," because it's meaningless. You either make them do it or you don't make them do it, and if you can't make them do it because it's not legal, you

don't do that.

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER MURRAY: So I would say to you, from my point of view anyway, I have no problem with encouraging them, but, you know, the county has run into this same situation. It almost seems like we have somebody as a battering ram, and I hope we wouldn't do that.

MR. PODCZERWINSKY: I can certainly understand your concerns, Commissioner. I want to also point you to another portion of the Growth Management Plan which does present a bit of a conflict to staff.

COMMISSIONER MURRAY: Okay.

MR. PODCZERWINSKY: I believe it's Policy 9.2, if I'm not mistaken, of the transportation element, okay. And in that section it directs staff to require, where feasible -- wherever feasible, I'm sorry, interconnection to the local roadway network, okay. And that's -- and that is what transportation staff uses as its review criteria.

We -- you know, we are certainly aware of the other policy in the Growth Management Plan. We do feel that's a discrepancy within the plan itself. It's something that we are addressing in this current EAR process. I wanted to let you know about that, that we are discussing that in the EAR process. But at this point we are -- transportation staff follows with the recommendations, or recommendation, I should say, of the transportation element.

COMMISSIONER MURRAY: John, I don't think I remember seeing you cite 9.2.

MR. PODCZERWINSKY: Not in this report, I did not.

COMMISSIONER MURRAY: So nobody would have been in a position to -- unless they were really brilliant and they knew this thing by memory -- from my point of view, I could understand the desirability, but we understand also the reluctance of the school district to do certain things we all think are reasonable.

So I don't know if you were to cite 9.2 and if you can -- if it properly reflects what it is that the county can do to require. I'm not sure 9.2, as you've said it, though, in fact, does anything more than encourages. I mean, it requires you --

MR. PODCZERWINSKY: Require where feasible, yes, sir.

COMMISSIONER MURRAY: Yeah. So now it becomes a question of feasibility.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: John, as a follow-up to what you just said -- so if a project comes in and has the ability and it's very feasible and they actually do connect, interconnect to another off-site location, then down the road they decide to remove that interconnection, how do you justify that?

MR. PODCZERWINSKY: I guess -- could you rephrase the question so you could help me understand better.

CHAIRMAN STRAIN: Sure. There's a project in the East Naples area. It's on the intersection of U.S. 41 and Airport Road. It's called the Collier County Government DRI. They had an interconnection created with traffic flowing to Haldeman Street, or whatever the road is out to the east. They took the lane, and they bulldozed it up and removed it, made it right-in only. You can't even go right-out. You can't go left-out. You can't do anything. That was an interconnection, just like this is.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: So how did Collier County have an interconnection and then remove it? And now you're telling us that we're supposed to -- where feasible, they're supposed to remain.

MR. PODCZERWINSKY: That connection actually required modification, and this is, I know, off the subject of the hearing at hand, but --

CHAIRMAN STRAIN: No, it's not, because what's good for the goose is good for the gander.

MR. PODCZERWINSKY: Okay. The -- my understanding of that situation is that there were complaints from the neighborhood, there were safety complaints from the neighborhood, Palm Drive, those residences that are along Palm Drive, and that was a request to limit p.m. peak-hour exit movement, egress movements from the Collier County Government Center.

In that case what we did was we allowed an entry from Palm Drive into the government center which still meets the interconnection requirements, but we eliminated the outbound movement from government center onto Palm Drive at that location, again to satisfy the local neighborhood.

CHAIRMAN STRAIN: So a complaint from a local neighborhood, unvalidated by a survey or by any kind of bonified criteria, is a feasible reason to eliminate an interconnect?

MR. PODCZERWINSKY: Actually, sir, there were multiple complaints from the neighborhood. And if I recall correctly -- it's been a few years, but if I recall correctly, staff did go and monitor the situation. It did concur with the request from the residents along Palm Drive, the Glades Country Club.

MR. BELLOWS: I have an email from Mike Green indicating that the closure of one lane connection on the campus was required as a condition of the DRI at a particular level of development.

CHAIRMAN STRAIN: Right. But the DRI and the review of that was all subject to 9.2. I was here when all that happened. I know why it happened. I'm not saying it was wrong to happen.

MR. BELLOWS: Yeah. But I hate to see us trying to apply a standard differently to a private party and then the government have a different standard apply to them. 9.2 wasn't brought up in our discussions to the DRI. In fact, everybody said, oh, let's just take this away; the neighborhood doesn't want it. And I remember one of our board members being -- living in that neighborhood, and we all agreed with him. Sure, you shouldn't have to have that imposition in your neighborhood. At the same time, I don't think 9.2 should be used against a private property owner. So that was my point.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: And be that as it may, I'm still -- I'm still not satisfied with your interpretation of encourage. You referenced a Policy 9.2 where feasible. I think that's the same as it was in the case with the government center.

Melissa, I'm sorry to have gone ahead of you. I think you had your hand up, or was it Brad?

COMMISSIONER AHERN: No, it was Brad.

CHAIRMAN STRAIN: Okay. Brad?

COMMISSIONER SCHIFFER: I'm just -- what is the status of the connection with the Learning Lane? I mean, what's the history behind that?

MR. YOVANOVICH: Let me tell you -- first of all, we did -- at the encouragement of your transportation staff, we met with school board staff, and we had a very good meeting. The school board rightfully has a policy for their roads that when they build a road, if you want to connect to their road, you have to pay your fair share of what it cost them to build that road.

So at that point, that's what they told us the requirements were, and they showed us the policy. So we went back and looked at what are our options at this point. And we did a very -- we did an analysis of what's it going to cost us to come off Livingston Road versus what is it going to cost us to come off of Learning Lane.

And without even factoring in any money to the school board, it looked to us as if it was going to cost us more money to go off Learning Lane. So we said, "At the PUD stage it's premature. We don't want to give up our rights to use Livingston Road. We want to make that decision when we have good, hard data as to what's best for the church."

And the church is allowed to have access off Livingston Road. It is a public road. I don't think the school board's road is part of the local roadway network anymore than somebody else's private road is part of the local roadway network. So I'm not even sure that the policy applies because it's not a local road.

But anyway, we have the right to use Livingston Road in a right-in/right-out condition. And we have left open the option in the future to meet with the school board staff if it's something that we want to pursue to find out what it would cost us to connect to Learning Lane. We have the option. That option's there for us in the future. But right now we want to have -- the decision needs to be our decision as to whether to go to Learning Lane, because Livingston Road is our only legal access that exists today.

School board has been great. They met with us a couple of times. They're applying their policy. So we have gone and in good faith talked to school board staff, and in good faith they've talked to us. So I mean, I think we've met the requirement that's already from your Comprehensive Planning staff. We've already met it.

And right now we have the option to go to Learning Lane. We haven't said no to Learning Lane. We could do that in the future. It could be a second, third phase, or maybe never, but we do have that option. You know, Learning Lane makes certain sense. It is a full median opening, but we need to make that decision -- the church needs to make that decision what's in the best interest for the church.

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

MR. EASTMAN: I agree with what Rich has said with regard to the policy and the meetings. I'd just like to make a point that this policy has been implemented and played a role on several different sites, Poinciana, our

administrative campus with Community School, as well as Pine Ridge Middle School. So it's a well-worn path.

And I also had given the applicants several of the agreements where we've been able to reach a solution and provide access onto a school-district roadway. So it's been done, and it is workable and feasible, just under certain parameters.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Just out of curiosity, does the school district, in your preliminary and secondary conversations with them, maybe tertiary, did they -- did they talk to you about paying for your fair share for the entire road or that portion leading up to the --

MR. YOVANOVICH: We -- in fairness to Tom, we never got down to the actual apportionment numbers, because when we looked at it, our initial reaction was --

COMMISSIONER MURRAY: Oh, my God.

MR. YOVANOVICH: -- even a dollar puts us over what we can afford right now. So we haven't gone and said, hey, do we pay X percentage of the first until we get to our entrance -- I'm hoping that's the answer, that we don't have to pay for anything beyond our entrance. But we -- in fairness to Tom, we didn't get to that level of detailed discussion yet.

COMMISSIONER MURRAY: Okay. I would just ask John then. I saw you shake your head no, that you aren't satisfied. What was envisioned by county staff as being adequate just -- adequate proof or evidence of their good-faith effort? What did you expect them to bring back to you?

MR. PODCZERWINSKY: Per my adminis- -- or my deputy administrator, Mr. Casalanguida, he has directed me that he expects a good-faith effort to be brought forth before the school board, and to -- at this point nothing has been brought before the school board. It's only been brought, as you stated, the tertiary discussion to Mr. Eastman. And that's all that we're aware of at this point. Nothing has been presented for approval to the school board yet that the applicant has found is acceptable to them.

COMMISSIONER MURRAY: Is that your standard format that you would require of anybody, that they go before the school board with regard to this matter?

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER MURRAY: Suppose the school board doesn't choose to hear the matter?

MR. PODCZERWINSKY: If the school board chooses not to hear the matter, then we would assume that that would be their fair and reasonable effort on behalf of the applicant, and we would have to side with the applicant in that case.

COMMISSIONER MURRAY: Seems somewhat open-ended, but I understand you, John.

MR. PODCZERWINSKY: It does. And typically these are things that we try to have worked out prior to hearing. We like to have these sort of issues ironed out before we get to this point in the hearing.

COMMISSIONER MURRAY: I understand.

CHAIRMAN STRAIN: Mr. Midney, then Ms. Ahern.

COMMISSIONER MIDNEY: Yeah. It would seem -- I don't really know what the figures would be, but a church only operates very limited hours. The fair share would probably be very small, and the church would also have to think about the inconvenience of having to go 2,000 feet up the road and everybody have to do a U-turn if they're coming from, you know, where most of them are coming, which is Naples. And I would expect that at least you would get some estimate of what your fair share would be and just -- instead of just saying even one dollar more is -- you know, we don't want to go there.

MR. YOVANOVICH: We have -- you know, with all due respect to my esteemed colleague to my right, this issue was resolved. We, from the very beginning, have questioned the legality of forcing us to go have these discussions; nonetheless, we had the discussions with the school board in good faith and came back and said, "Here's our analysis."

We can want the option to go to Learning Lane. We're not telling the county no. We want that option. We just don't want to make that commitment today at the PUD-level hearing. And staff came back -- and I could -- I didn't bring the email with me, but I could, that says, Rich, you're right. We can't legally require you to do that.

Now, that may even be in the staff report that they can't legally require me to do that. You know, you keep those "Rich, you're right" memos every once in a while because it doesn't happen very often, but --

COMMISSIONER CARON: Few and far between.

MR. YOVANOVICH: But, you know -- so we did something, and we are -- and we are looking at that option, because, Mr. Midney, you're absolutely correct, there is a certain convenience with going to Learning Lane.

I will also point out that every time I go to staff and I say to them, you know, I really would like a directional left into my project so we don't have to drive 2,000 feet to make a U-turn to get to our development, I get no sympathy from county transportation staff when I'm asking for it, because going 2,000 feet is -- it's an okay inconvenience for us. It's one of those, again, you know, let's -- you know, let's be consistent in the application of those rules.

So we know there's a certain amount of inconvenience for our people to go to Veterans Memorial and make the U-turn, but, you know, we have to look at what can the church reasonably do at this time, and they're factoring all of that in when they do their ultimate Site Development Plan. That will all be factored in.

COMMISSIONER MIDNEY: I would still like to see some estimate instead of just saying, you know, anything would be impractical.

MR. YOVANOVICH: Our estimate -- the cost of -- Wayne, what was our numbers, ballpark?

MS. ARNOLD: For the record, Wayne Arnold. We did some cost analysis of looking at both access points. And if you just look at the pure numbers of designing an access point on Livingston Road versus designing one for Learning Lane, the numbers definitely favor Learning Lane.

When you factor in whatever the number the school board would demand from this applicant to pay toward the cost of connection and possibly maintenance, that's another cost on top of it. It brings it closer to the Livingston Road number. Still not there.

The other factor that I'm not sure Rich mentioned, but to connect at our southern boundary requires us to impact some very poor-quality wetlands, but, nonetheless, our environmental consultant has told us, you will be required to mitigate for those. Your minimal cost for that will be at least another \$65,000.

Okay. When you start looking at those costs for the church to start in their first phase, to make them go and negotiate an agreement and to pay mitigation costs when, if they put the church building where they've proposed and the access where they've proposed on Livingston Road that has no wetland impacts, it's a big cost factor and a big difference.

I think it's been said, I think we all agree, connection to Learning Lane would probably be the preferred access point.

COMMISSIONER MIDNEY: I'm looking at the map, and I just see, like, that little jog going through the green area. That doesn't seem like \$65,000 worth of mitigation damage.

MR. ARNOLD: Well, it wouldn't if it was just for the 24 feet of pavement that crosses it, but the fact is, the consultant has told us that everything from the entrance point back east to Livingston Road will be considered an impact to the wetland because you've now created two roadway separations, one at Livingston, one at our access point, and we'll be required to mitigate for that impact, which is about an acre.

COMMISSIONER MIDNEY: And if you only have access on Learning Lane?

MR. ARNOLD: If I only had access on Learning Lane, I'm bearing the cost of whatever the school agreement is plus my wetland impact plus construction of the access point. That's why, from a zoning standpoint, we think it makes sense to show both locations. Let us then deal with, you know, the county if we can't fairly negotiate with the school district.

COMMISSIONER MIDNEY: You think that the school district would be a lot less than the 65,000? The big portion would be the wetland mitigation?

MR. ARNOLD: Well, we don't know exactly what the school district's number will be. As Rich said, we haven't gotten that far because we don't know exactly what the ultimate methodology will be that they will require us to use for the calculation.

Tom has provided us previously with the total road construction cost numbers to the school district, and they had a separate agreement already with Royal Palm Academy for paying back about 50 percent of that road. And it would be us and potentially one more road connection on Learning Lane. So we don't really know how to apportion those costs. But we don't want to -- we don't want to close the door on that opportunity to make that connection.

CHAIRMAN STRAIN: Tom?

MR. EASTMAN: Ultimately, it would have to be the school board that would make this decision. As a member of staff, we merely present the issue to the school board for consideration. And what we'd be concerned with

is looking at the TIS to make sure that the traffic would not obstruct school-district operations, and then we would, as we have in the past -- and I said this is a well-worn path and we have this agreement with many other parties and many other situations. We would come to a reasonable cost estimate of what the fair share would be and present that to the school board. Ultimately the school board would have authority. They're the only ones with the authority to grant an easement. In this case, that's what we're talking about.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: Actually a question for Rich. How many members are currently in the church?

MR. YOVANOVICH: Seventy members? We have 70 members.

COMMISSIONER AHERN: Okay. The reason I'm asking, or I guess the point I'm looking from is obviously you're designing this as more of a future project. So to have 70 people entering through Livingston Road for the time being seems very minimal. And as you expand in the future, maybe Learning Lane then becomes more of an option to access the other areas.

MR. YOVANOVICH: Yeah. My kids go to Veterans Memorial, so I'm familiar with the operation of Livingston, you know, in the mornings. It is -- it functions quite well during the week. It's hard to drive slow enough to meet the speed limit on that road. It really is hard to go only 45 miles an hour on that road. I just have trouble believing that a church that in -- on Sundays and maybe Wednesdays in the evening with a right-in/right-out access is going to hurt the operation of Livingston Road.

COMMISSIONER AHERN: I think people going to church are the only ones on that road on Sunday.

MR. YOVANOVICH: Yeah, I would think so. But I don't think that we're going to -- and we haven't said no to Learning Lane. We've just said, we may not be able to do it right now.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Well, actually, Mr. Arnold brought up something that I was going to bring up, which was the wetland impacts, because I had had that discussion with Mr. Yovanovich.

I would just hope that for the sake of the church we find them the least expensive way to access their property and not just assume it's off Livingston. Spending a little extra time finding out what the actual mitigation costs would be and the actual school costs would be due diligence on the part of your counsel and your representatives and your church members, because it may end up being actually less expensive.

So I think they just want the option here, and they've moved it to as far north as they can move it. And I certainly don't think it's going to cause Livingston Road to fail either, so --

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: You look like you're going to respond, John.

MR. PODCZERWINSKY: Yes, if I might respond to Commissioner Caron's concern. Some of the items that are not included in this cost estimate that was discussed earlier in the comparison between connection to Learning Lane and the connection to Livingston Road would be the two turn lanes that would accommodate U-turns for the church traffic on Sunday morning.

The Learning Lane U-turn, the one that's southbound making a U-turn, that currently is inadequate to handle what they would be zoned for. Also, we would have to take a second look at the Veterans Memorial U-turn, the northbound U-turn there, to make sure that both of those turn lanes would accommodate the U-turns that this church would create by creating the Livingston Road access.

Not to mention -- and I think this is mentioned in my staff report -- House Bill 697 requiring the reduction of vehicle miles traveled. This -- we don't feel it's consistent with that. The Livingston Road access would cause additional trips to go all the way up to the U-turn at Livingston and Veterans Memorial. That's one of our bigger concerns with this.

Also I wanted to get on the record while I'm here, I wanted to show you this exhibit that I have up. The access that's been present in a lot of the master plans that you've seen is south of this little triangular area that belongs to the Livingston Road right-of-way -- or that's attached to the Livingston Road right-of-way, I should say.

On this exhibit there's been a lot of discussion about where that driveway would be located. The driveway that's shown on the applicant's plans is not consistent with the county's Access Management Policy. It is too close to Livingston Lane (sic).

The access was requested to be moved to the northeast corner of the property. And for clarification, staff asked us -- I should say Ms. Deselem asked us to clarify where exactly we meant when we said the northeast corner

of the property where it fronts Livingston Road.

And you'll see the notes here. One says "not here." It's an arrow pointing to the very northeasterly corner of the parcel. The other one says "here," and that is where our preferred access location is. That is the closest we could come to compliance with the Access Management Policy.

COMMISSIONER CARON: I think they got that, John.

MR. PODCZERWINSKY: Yeah. Well, I also wanted to address that the access management on Livingston Road -- this is one very special-case road in Collier County, as reflected by my administrator. He says that this is the jewel of our -- this is our jewel road, and that's reflected in our Access Management Policy when they declared that an Access Management Class II roadway. That is one step below I-75, which is Access Management Class I. Okay. The spacing on this roadway and the care that we take to maintain the capacity on this roadway is at the top level of what we can achieve here as directed by our board in our Access Management Policy.

So I just wanted to make sure that I'm adamant about how much we're doing in this. They're trying to protect the capacity, both during p.m. peak hours and off-peak hours, of this roadway.

CHAIRMAN STRAIN: You've convinced me that if these people don't agree to go to Learning Lane, you will make living hell for them from now until they get all their approvals.

Mr. Schiffer, did you have something next?

COMMISSIONER SCHIFFER: Yeah.

COMMISSIONER CARON: My teeth hurt. Sorry.

COMMISSIONER SCHIFFER: But since you segued into this, let me just ask you. What is the distance separation that they're not meeting?

MR. PODCZERWINSKY: The distance should be 1,320 feet, quarter mile, sir.

COMMISSIONER SCHIFFER: And they're at what?

MR. PODCZERWINSKY: They're within 10 percent of that at the "here" -- quote-unquote "here" location marked by the red arrow. They're within 10 percent, which is an allowable deviation. I want to say they're at 1,200 and something feet.

COMMISSIONER SCHIFFER: So even that's not perfect.

MR. PODCZERWINSKY: It's not perfect, but it's the closest we can get.

COMMISSIONER SCHIFFER: Okay. And I'll agree with Mark on that then.

Number 2, in the peak traffic events, would you be okay if we took away everything in parentheses where you start to define them, and then that way couldn't you go back to them if there was some traffic issues and make them start providing that?

MR. PODCZERWINSKY: If you'll give me a moment I'd like to look up No. 2.

COMMISSIONER SCHIFFER: What -- and your intent there is -- well, what would happen? Let's say this phrase -- this wasn't in and somebody -- some church did start to cause traffic problems. Is there leverage you could use to make them start to control that to get the traffic through?

MR. PODCZERWINSKY: You've got a very pertinent question, and I'm not sure that there is, sir.

COMMISSIONER SCHIFFER: Okay.

MR. PODCZERWINSKY: Okay. And I do not have an objection to removing what is in parentheses, those words being "such as church services, weddings, or any other large event," because it is ill defined.

COMMISSIONER SCHIFFER: Right. So I think if we just leave peak traffic, if you have a problem, that might be the hook you need.

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Anybody else? Mr. Midney?

COMMISSIONER MIDNEY: Yeah. I'm looking at the map of the subject property, and there's sort of like a triangular cutout that you say has something to do with right-of-way for Livingston Road. Why is that triangle there?

MR. PODCZERWINSKY: That triangle, to my knowledge, is a result of when the right-of-way for Livingston Road was purchased for the widening and extension of Livingston Road.

When the county purchased that parcel, you'll notice on the parcel map, that parcel also covers on the westerly side -- or I'm sorry -- the easterly side of Livingston Road. It seems as though we purchased the entire parcel rather than do a taking through the center of a parcel and split it into two halves.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Before we -- I want to ask the commission as a whole -- we normally -- we're getting into 12 o'clock. We've got to finish this, we have to do the consent, and we have a short presentation on the Watershed Management Plan. Do you-all want to work through lunch and just continue, or do you want to break for lunch and then come back?

COMMISSIONER MURRAY: I'll stay here.

COMMISSIONER KLEIN: Whatever you want to do.

CHAIRMAN STRAIN: Anybody have any -- anybody have a need to break for lunch? Okay.

COMMISSIONER SCHIFFER: No. We may need a cracker break.

CHAIRMAN STRAIN: We'll break. We'll do a 15-minute break when Mr. Murray's question is finished, but I wanted to make sure that you can get by without a lunch break and we can finish up here.

Okay. Mr. Murray?

COMMISSIONER MURRAY: Just out of curiosity here, where that purported triangle exists there, that part of Livingston Road right-of-way Zoned A agricultural, is that now being used as dry detention?

MR. PODCZERWINSKY: I don't believe it is, sir.

COMMISSIONER MURRAY: So it's just sitting there and it's fallow.

MR. PODCZERWINSKY: I believe you're correct.

COMMISSIONER MURRAY: Okay. So there's no -- there's nothing -- if they were to move that entrance to that location, they would not have a further encumbrance or a penalty as a result of that? Are they reluctant to move it to that location?

MR. PODCZERWINSKY: To the triangle location?

COMMISSIONER MURRAY: To where it is "here."

MR. PODCZERWINSKY: I don't believe they're reluctant to. I just wanted to be sure that it was on the record, because the maps that have been presented to you today all show access south of that triangle piece.

COMMISSIONER MURRAY: I appreciate that. So maybe I should ask Mr. Yovanovich if he's unhappy or he can live with the location "here."

MR. YOVANOVICH: The "here" location, not our first choice. We prefer where we have it. But if staff says it's absolutely got to move further to the north to be closer to compliance with their policy, I guess we'll move it, but I don't know that that really -- again, you know, I'm not a traffic consultant, but I find it hard to believe that that few hundred feet makes a whole lot of difference in the operation of Livingston Road.

COMMISSIONER MURRAY: And I have another question for you, John, relative to the fact that you spoke of vehicle miles traveled and new fad of making sure we reduce all of those. Wouldn't it seem logical then to provide them access directly so that they can access their church rather than making them go 2,000 feet up and make a U-turn?

MR. PODCZERWINSKY: Do you mean as --

COMMISSIONER MURRAY: We're talking about cost and vehicle miles traveled. If we did a calculation, we might find out it's a lot cheaper for the county to do that than all the amount of extra carbon we put in the air.

MR. PODCZERWINSKY: And -- okay. Direct access, do you mean just direct access to Livingston with a right-in/right-out?

COMMISSIONER MURRAY: No, I mean whatever is necessary to make it safe for them to make an access in -- from Livingston into that without having -- in other words, you'd have to cut across a median. I presume there's a median there.

MR. PODCZERWINSKY: Yes, I understand. Okay. To clarify, perhaps, you're seeking -- you're seeking an answer about the potential for a median opening at this location. The median opening spacing that's allowable by our Access Management Policy is, I believe, 2,600 feet, 2,700 feet. I'd have to take a second look, but it's --

COMMISSIONER MURRAY: You're the expert, not me.

MR. PODCZERWINSKY: Yeah, but it's half-mile spacing for the median openings at this location, if I recall correctly, for a Class II roadway. So staff would not be allowed to approve such an opening at --

COMMISSIONER MURRAY: That's going to become a --

MR. PODCZERWINSKY: -- a quarter mile.

COMMISSIONER MURRAY: -- conflict as we go on with the vehicle-miles-traveled issue. But, okay.

Thank you.

MR. PODCZERWINSKY: I understand.

CHAIRMAN STRAIN: Okay. Richard, we're going to take a break. During the break, I think you can get a flavor of the hell you're going to be in for as time goes on with this project. In that regard, would you take a look at Items 1 through 4 under staff recommendations to make sure that the minimal amount of arbitrary interpretation could come out of those so that at least your project can get to a point where every property owner should get someday when they own a piece of property.

And with that, let's take a 15-minute break, and we'll come back at 12:20.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Everybody please take their seats. Everybody from the Planning Commission is here.

We have another issue to discuss before we go back into our meeting. Earlier I had said that we really have a couple of things to wrap up and we could probably get it done if we work through lunch.

During the break I was informed that one of the issues that is coming up, which is the update on the Watershed Management Plan, is, in fact, a more formal presentation than we have gotten in the past from Mr. Hatcher. It's 100 slides, I was told. It will take some time.

As you know, there was no backup in our packet regarding this item other than a memorandum, one page, that said, "Objective: To provide a brief update on the progress and summarize the existing conditions as part of the Watershed Management Plans." Mimics what's on our agenda.

In the past when Mr. Hatcher has done that, it basically is 10 or 15 minutes, he describes what's going on, we concur with what he's doing or we tell him to please go out, seek the stakeholders and do other things, and we wait until the plan's done. Today's a little different.

Now, seeing that there's a 100-slide item out there, it would have been nice to have had some paperwork that we could have reviewed to anticipate what's on those 100 slides, but we don't, that I know of. At least I don't see any in my packet. I don't think anybody else got any.

So we need to either decide to break for lunch and come back and finish up whatever we don't from the time we decide to break for lunch, or we need to reschedule the Water Management Plan update to the extent that it's being requested to another date and time.

And I will leave it up to this board to decide --

COMMISSIONER EBERT: Go to lunch.

CHAIRMAN STRAIN: -- what to do.

Ms. Ebert?

COMMISSIONER EBERT: I feel we have a lot of people here for what Mack's going to talk about. I just think we should go to lunch and come back, because they've all spent their time coming down here.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Of all those people, do they have the advantage of that advance knowledge either? I know that -- I'm canvassing them per se, but I would hope that they wouldn't have any more advantage of that information than I. Although I don't really believe what I just said, and I would hope for that advantage. But I'm really saying that I would have liked to have had that information, because I consider this matter so serious that I -- 100 slides to go whip, whip, whip, whip doesn't provide me, at least, with the information that I needed for this matter.

So I'll go with whatever the board says.

CHAIRMAN STRAIN: That's where I'm looking. Brad?

COMMISSIONER SCHIFFER: Mark, are all these people on the right-hand side here for that?

CHAIRMAN STRAIN: If -- anybody here for the Watershed Management Plan, just please raise your hand.

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: Oh, boy. Most everybody's here for it.

COMMISSIONER SCHIFFER: We got to go to lunch.

CHAIRMAN STRAIN: Yeah, I think so. So we will have to -- what I'd like to do is finish the Grace Church and then go to lunch. So those of you that had those delicious-looking crackers that you got out of the vending

machine, you may have to go and get something nutritious for lunch to keep your mind in gear.

Well, the consent will have to come back.

MR. YOVANOVICH: I was hoping.

COMMISSIONER AHERN: You'll be going to lunch with us.

CHAIRMAN STRAIN: Well, lookit. Let's put it this way. Either one o'clock we cut off and go to lunch till two, and if we can fit both of these things in between now and one, I'm okay with that. How's that sound to everybody?

COMMISSIONER MURRAY: That's reasonable.

CHAIRMAN STRAIN: Okay. That's what's going to happen. So at one o'clock we will take an hour break for lunch. We will not do the Watershed Management Plan before two o'clock. Well -- yeah, before two o'clock. Let's leave it that way. So you guys, if you-all want to go out and have a nice bite to eat and forget all this heavy stuff for an hour and a half, go for it.

Okay. We left off on the discussion involving the Grace Romanian Church. Does anybody have any other questions of Richard or transportation staff at this time?

COMMISSIONER AHERN: I just have a quick question for John.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER AHERN: You made the comment about preserving the capacity on Livingston. How does that change whether they enter off of Livingston or Learning Lane?

MR. PODCZERWINSKY: The capacity doesn't change. It's the -- again, the vehicle miles traveled. You're putting those trips on the road for twice the distance that they need to be on this segment.

COMMISSIONER AHERN: So if there was no Learning Lane, what would their option be?

MR. PODCZERWINSKY: Their option would be to travel north -- let's say, for example, northbound traffic that's trying to enter the site would have to go all the way up to Veterans Memorial, make a U-turn, come all the way back down to the site to make a right-in. Exiting traffic that would like to go northbound would have to turn right out of the site, make a U-turn at Learning Lane at the signal, which is, again, as has been mentioned before, only signalized during school hours when the buses use it. And it would have to travel -- make the U-turn there and head back north.

COMMISSIONER AHERN: I think my issue with this is, through various government regulation, it's preventing the property owner from using his access. So, you know, to say because we're forcing them to go 2,000 more feet, now they don't meet vehicle miles traveled is Catch 22. You're not really giving them a lot of options.

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: Yeah. I think one thing we haven't touched on yet is the pre-school. That's going to be more than just the church, and that's every day. That's quite a bit of re-routed traffic if most of these people are coming from Naples and they're all going to have to go the 2,000 miles (sic) and do the U-turn. To me it seems logical that they do try to find some accommodation with the school board for Learning Lane.

CHAIRMAN STRAIN: Okay. Just as a counter to that, what you just said is probably a good reason why the school board may not let them use Learning Lane. And Tom's nodding affirmative. He just got done saying they have to assess the impact from the traffic on that church on Learning Lane and how it will affect the school buses and children going to school.

And if I were them I'd look at this -- okay, if it's a church on Sundays, it doesn't really affect the school much, but if they open a daycare and they're operating during the school week when the school's trying to have buses coming in and out, they may have a second position on whether or not they even want them on Learning Lane.

Tom, is that a fair statement?

MR. EASTMAN: That's a very fair statement. We would have to do an analysis of how this traffic would affect school district operations and the -- it's ideal in the sense that if it were just a church on the weekends, because obviously there is no school traffic on the weekends, but it's a potential conflict for the issues you just mentioned.

CHAIRMAN STRAIN: Well -- and that gets back to the property-rights issue. You stood up here in the beginning and you said the administrator, which is Nick, wanted you to make it very clear to us where his position was on this. And basically, he has some arbitrary interpretation of the word "encourage." And in his mind, Richard's client has to keep trying until it meets his determination of what encourages means. He has tried enough.

Where in our codes is the standard written for how much that applicant and that property owner has to try to

satisfy any individual within county staff who interprets it in such a way?

MR. PODCZERWINSKY: I don't have a reference that I could cite for that.

CHAIRMAN STRAIN: Okay. In your Policy 9.2, all this stuff slaps in the face of property rights. There is no landlocked properties that I know of. They have property rights for access. And then to turn around and say, okay, if you insist on an access, basically, what I heard here today, it sounds like, you're going to make life as difficult as possible for them.

As far as U-turns, you guys closed off a business entrance on Davis Boulevard to Gemmy's Restaurant that had a left-in to his facility. When that happened, that owner said to me, "Look what they're doing to my business. People have got to go down the street to turn around." You know what, you didn't increase that left-turn lane for a stacking lane to accommodate the new U-turns that had to be made to get into that business on Davis Boulevard.

The guy went out of business. I'm sure he didn't claim it was because of that median cut. But I notice it's very selective on how we apply these rules when we want to apply them, and that is really unfair, John.

MR. PODCZERWINSKY: I would actually like to disagree with you on that, Mr. Chairman. We apply what's given to us, what's directed to us by the Board of County Commissioners and the Access Management Policy as it's written.

And as I said before, this is a very special-case roadway. This is our -- one of our only two segments of roadway in this county that are Access Class II. And as I said before, that is one step below I-75 that allows no access. This is a limited-access roadway as defined by the board, and we follow their direction as such.

CHAIRMAN STRAIN: And the speed limit's 45, and I-75's 70.

MR. PODCZERWINSKY: That's correct, sir.

CHAIRMAN STRAIN: There's quite a bit of difference in the road styles.

MR. PODCZERWINSKY: I don't disagree with you that there is a difference between Access Class I and Class II.

CHAIRMAN STRAIN: Okay. Is there any other questions of county staff on this issue?

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Go ahead, Paul.

COMMISSIONER MIDNEY: Yeah. My question is that if we did say that they can, you know, have their exclusive entrance on Livingston, we're still insisting on that it be right-in/right-out only?

COMMISSIONER SCHIFFER: Yeah.

COMMISSIONER MIDNEY: Okay.

CHAIRMAN STRAIN: Yeah. It's not a matter of us saying it. I think they have a right to it. So it's just a matter of convincing staff that there are property rights in that regard.

MR. PODCZERWINSKY: Mr. Strain is correct, they do have property rights, and we're not denying those property rights. We're just asking for a fair -- a fair try at -- that they take a fair try at going to the school board with this. And to our knowledge, they have not attempted to do that yet. They've gone only to Mr. Eastman, and they've taken it that far and decided it wasn't cost effective. Everything in our analysis so far that we've seen looks like it will actually be cheaper to connect to Learning Lane than it would be to Livingston, so --

CHAIRMAN STRAIN: John, have you heard any time today where they refused to connect to Learning Lane?

MR. PODCZERWINSKY: No, sir.

CHAIRMAN STRAIN: Okay. What they've said is, give us what we're entitled to as property owners, which every property owner in this county has a right to. If it works out we can connect to Learning Lane in the future, we'll consider it.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: But we have not got an arbitrary right by government to demand it that I can see.

MR. PODCZERWINSKY: I understand that, sir. And if I may add, they have, through the review process, declined the -- declined to connect to Learning Lane up until, I think, the very last review; is that not correct?

CHAIRMAN STRAIN: I don't see were they still have -- I don't think they have to make that decision. They can demand the access on Livingston and leave it for their discretion in the future.

MR. PODCZERWINSKY: Apparently I'm incorrect. As I hear the groans in the background, I'm incorrect.

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

COMMISSIONER MIDNEY: So the right-in/right-out, that's by right; anybody has a right for that?

CHAIRMAN STRAIN: I would --

COMMISSIONER SCHIFFER: Right.

COMMISSIONER MIDNEY: But does that also imply that since there's going to be a lot of people that are coming from, you know, the left-hand side, would the church have to pay if there's any modifications that have to be made to the road to allow that U-turn?

CHAIRMAN STRAIN: That's between them and the staff on the analysis of their SDP application, I would assume.

MR. PODCZERWINSKY: Yes. The staff response is that any requirements that -- any operational deficiencies that are created by the applicant's traffic would be required to be handled at the time of SDP. We would have to take a look at them. And if there's a turn lane that requires to be extended -- and we do anticipate at least one would be -- then that would have to be looked at at the time of SDP based on their peak operational traffic. Usually for a church, Sunday mornings.

COMMISSIONER MIDNEY: So then the applicant would be taking a risk if they decided to -- were going to try for the main thing, Livingston Road, not knowing how much that turn lane would cost.

CHAIRMAN STRAIN: I mean, that's -- yeah. They can do what they -- they can do what they want to do.

MR. YOVANOVICH: This is how it's going to play out. You know, I could -- let's go to the end of the story. I'm going to come in with an SDP, and staff is going to tell me, you've got to extend the turn lane up at VME, Veterans Memorial Boulevard.

And I'm going to go, logically, how can that be? I've got a 900-student elementary school that school district boundaries, the only thing north of it is Mediterra and Tuscany Reserve. I know Tuscany Reserve doesn't have very many children living in it, doesn't have that many people right now.

And I know Mediterra doesn't have a lot of school-aged students. What I do know, since I drive in the morning north to that turn lane, I would assume since most of us are coming from the south to the north, that that turn lane has already been properly sized for a 900-student elementary school that travels it every day.

I would assume, since there's 900 students going to that school, that if I'm going to do a 500-seat church at ultimate build-out, there's less people going to church on Sunday than are going to school every day, and I will lose that logical argument. I will lose that logical argument because the goal here is to make it expensive so that I am strongly encouraged to go to Learning Lane for my access.

That's how it will play out, and I will be sitting there with a logical argument that I will probably lose, and we'll figure it out at SDP. But let us do it at SDP and not give up our rights today, and let's hopefully look at this where it makes some common sense.

And, you know, don't apply a 500-seat church to me on day one when I come in for a fellowship hall multi-use building that's not going to house 500 people. But this is how it's going to play out, as you know. They're going to make it -- it's going to be hard.

CHAIRMAN STRAIN: Richard, you know that -- when you get an email that says you were right and you stick it in a file somewhere, well, keep the minutes from this meeting, because you know what, I heartedly agree with you. You are right, that's just what's going to happen, and it shouldn't. But you ought to put that aside, and your client ought to put it aside so that you can adequately challenge this if you want to take it to that ultimate challenge in the future.

MR. YOVANOVICH: You had asked me, Mr. Chairman, to go through the four recommendations to eliminate ambiguity at the break.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: I honestly believe that recommendation No. 2 in its entirety should come out, and let me give you the reason for that. We are asking for a right-in/right-out access onto Livingston Road for a church use and ultimately a daycare. I don't know why we would ever need a police officer or someone like a police officer out there to monitor traffic for right-in/right-out.

And I'll give you an example of another -- First Baptist Church, I believe, has a right-in/right-out on Livingston Road, and I don't think they're required on Sundays to provide traffic-control officers, deputies, whatever. So I don't think we should be required to do it either. Because I don't care what I write, there's going to be ambiguity. Because if I leave it at the discretion of transportation, I'm never going to come up with a measurable goal, so that's

why I think No. 2 needs to come out.

If I had a full median opening, I would say, let's leave it open. But I don't imagine a situation with a right-in/right-out, that you would really need a police officer to -- on this type of road to monitor traffic during church services.

So that's why -- that's my rationale for taking No. 2 out altogether. I think it would be different if I had more than a right-in/right-out access. Let's leave some of that ambiguity in for safety reasons, but I don't think you need it in this case.

Other than that, since the staff comp. plan finding was really in the text, I think we have satisfied the requirements to be -- we shall -- the "shall encourage" criteria I think we've met -- in hope that we can move forward with the document as written. Again, we understand that we have the option to use Learning Lane, and we'll be strongly -- or shall be encouraged to do that.

COMMISSIONER MURRAY: I --

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yeah. I -- John, this is maybe very relevant to that. You've indicated that your organization is not happy with their progress, that they haven't done enough, whatever. Have you folks offered yourselves to be in company with them when they meet with the school district?

MR. PODCZERWINSKY: Yes, sir. In fact, we're the ones that initiated communication to the school district to try and obtain the first access to Livingston Road or to Learning --

COMMISSIONER MURRAY: Have you accompanied them at their meetings?

MR. PODCZERWINSKY: We have not accompanied them to their meetings. It's between two private --

COMMISSIONER MURRAY: You asked for that?

MR. PODCZERWINSKY: -- parties.

COMMISSIONER MURRAY: Have you asked for that?

MR. PODCZERWINSKY: At this point we --

COMMISSIONER MURRAY: You're the encouraging party. You're --

THE COURT REPORTER: Excuse me.

CHAIRMAN STRAIN: Bob?

THE COURT REPORTER: I'm sorry. You keep talking over his answer.

COMMISSIONER MURRAY: I apologize.

What I want to say to you is that you're the encouraging party. You effectively become a party to the issue. You ought to be in attendance, especially because you're asserting that they're not compliant with your wishes. And I don't know what else they're supposed to bring back, a note from the teacher or what. It just doesn't make sense to me to put that on them.

Now, irrespective of whether we get rid of 2 or not, it's a good thing to go after Learning Lane. But if you want that, you ought to be willing to attend to it. And I'm going to openly invite them, if they want to pursue it in the future, that I would think that they would invite you along. Would you have any problem attending such a meeting?

MR. PODCZERWINSKY: No, I would not. And, in fact, Mr. Casalanguida offered to attend just -- when we were on our first break today, he offered to attend those meeting.

COMMISSIONER MURRAY: Okay.

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Go ahead. Tom?

MR. EASTMAN: I think that anyone attending -- we're kind of having the meeting right now, and we're all here.

And it's the church's position that a dollar more in terms of contem- -- you know, contributions towards the road or reimbursement of the road or future maintenance obligation for the road, which we have in every other instance of a shared access, is a dollar too much.

So there we are. I mean, we're having the meeting now.

MR. YOVANOVICH: We are -- and let me soften a little bit. We understand some of the additional costs that may be coming our way to where the math numbers change a little bit. The school board has been very receptive to meeting with us. They've had meetings with us. Having the staff there is not going to change their policy. It just comes down to what's the appropriate ratio and whether or not we can structure our pre-school, should we go forward

with the pre-school, to where it doesn't interfere with their middle school hours.

I think we can work around that, because middle school right now starts around nine clock. So I think those are issues we can work through. The school board's been very receptive to meeting with us.

If John wants to come and watch that we talk nice to each other and that we'll come up with an appropriate ratio, that's fine. He's welcome to come to that meeting. We just need to have that meeting once we have a better handle on our costs and our numbers. We're not saying we don't want to have that meeting. We just need a better handle on the costs. So we're just asking to go forward as written.

MS. ASHTON: And I think they've already complied with what staff has requested. They just don't have a written response. I mean, essentially, they're denied access because they're not willing to spend any money, and we can't force them to spend money, so we're done.

MR. PODCZERWINSKY: The only thing I would disagree with on that statement is that we're not denying access. We're just encouraging, strongly encouraging.

MS. ASHTON: No, no. I meant the school board. It's essentially a denial because the property owner doesn't want to pay any money, and we can't force them to so --

CHAIRMAN STRAIN: And I think the statement you just said, "We can't force them to" is the key. I mean, it's great. We had a great discussion about Learning Lane. It's all irrelevant to the zoning application of this property. They have a right to Livingston Road, and we should be standing up for that right.

MR. PODCZERWINSKY: Okay.

CHAIRMAN STRAIN: And I know I will when we get to that point.

Mr. Schiffer?

COMMISSIONER SCHIFFER: I have a question. And one thing's good. I guess we're coming out of recession because we're back to tightening the screws. But anyway.

The access road that's -- the access road here, how important is that to you? And maybe I should talk to Wayne Arnold about site design, what it does. I mean, sketching it, to me, seems like a logical place, you'd come in, see the building from the corner, which is a nice vista.

Wayne, does it mess up internal -- I mean, is that really a deal breaker for you, or is there something I'm missing here? Because it seems to be an okay way to come on the site to me.

MS. ARNOLD: For the record, Wayne Arnold. We've not prepared any other preliminary sketches based on the relocated access point.

I think Rich alluded to it. We can live with it. It's not our preferred or ideal situation, but we can live with moving this 120 feet to the north.

COMMISSIONER SCHIFFER: Okay, good. Thanks.

Melissa?

COMMISSIONER AHERN: Motion to approve.

CHAIRMAN STRAIN: Oh, we've got to do --

MS. ASHTON: We have a speaker.

CHAIRMAN STRAIN: Ms. Caron has a question.

COMMISSIONER AHERN: Sorry.

CHAIRMAN STRAIN: We have a few other things. I'm sorry.

COMMISSIONER AHERN: Sorry. Trying to move forward.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Well, I know that Mr. Yovanovich would just like to take 2 out completely, but I can't think of another church that hasn't had some sort of requirement that if transportation staff deems it necessary, that they get a traffic monitor. And I would hope that we could get on the record here that transportation staff isn't using this as a cudgel over these people's heads, that it would be only if and when there are real issues.

And certainly, the 70 people who are coming to church on Sundays now aren't going to create that. The 200 people a year from now aren't going to do that. I'm not even sure when they get to 500 they'll need -- they can fill up their church with 500 people, that they'll need that. But every other church PUD everywhere in this county has had that, a traffic-monitoring statement in it, and I don't think it should come out completely.

COMMISSIONER SCHIFFER: Mark?

MR. PODCZERWINSKY: Would you like me to respond, Commissioner?

CHAIRMAN STRAIN: Sure. Then Mr. Schiffer after you respond.

MR. PODCZERWINSKY: Okay. Commissioner Caron, we do agree. And the only thing that we would recommend is perhaps changing the language to be a little more clear in No. 2 so that it reads, "When deemed necessary by county staff or Collier County Sheriff's Office." And I'll put on record now that what deems that necessary for us are complaints from the public, accident reports, those sort of things. When we see evidence of dangerous conditions, that's when we start looking at using this sort of a measure to control traffic. So it's not -- and it's certainly not something that we would hold over the applicant's head.

CHAIRMAN STRAIN: Mr. Schiffer.

COMMISSIONER SCHIFFER: And, John, the scary thing I have about keeping it, I mean, how would a person control that traffic? That's pretty dangerous. Rich is right about Livingston. You're discussing that this is a drop below 75. So somewhere we're going to put a human being out there to wave down the traffic so -- to let the church people out?

MR. PODCZERWINSKY: I understand your concern, sir. I've seen similar situations in Lee County. I haven't seen any exactly similar situations here in Collier where we've required a staff mem- -- you know, a Sheriff's Office deputy or, perhaps, a traffic-control personnel that's been trained by the Sheriff's Office, somebody who's qualified to do something of that nature. I have not seen any examples of that yet in Collier County, not to say that there aren't any. We just haven't exercised that to my knowledge.

COMMISSIONER SCHIFFER: Thank God it's not across the street on the other part of the curve. Then we'll really get them.

MR. PODCZERWINSKY: Correct. If there's -- if there's a problematic movement, then it's a possibility that we can control traffic movements, especially for Sunday-morning traffic during off-peak hours with that -- with those personnel. That's what it's intended for.

CHAIRMAN STRAIN: Okay. Any other questions of staff?

COMMISSIONER MURRAY: Yeah, I do.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: I make a recommendation that we put signage up, that it be church entrance, drive, you know, with caution.

COMMISSIONER SCHIFFER: Church crossing.

COMMISSIONER MURRAY: Okay.

CHAIRMAN STRAIN: Okay. Did we have staff report, Ray? It's been going on longer than I thought. I wasn't sure we had staff.

COMMISSIONER AHERN: Yes, we did.

CHAIRMAN STRAIN: Okay. Then let's just go into public speakers registered.

MR. BELLOWS: I think Kay might have something on the record.

MS. DESELEM: No. I did, yes.

CHAIRMAN STRAIN: Any registered public speakers?

MR. BELLOWS: Yes. We have one speaker. Henry Pitt.

MR. PITT: Could you put up that first thing that you had?

CHAIRMAN STRAIN: Mr. Pitt, you'll have to identify yourself for the record. Were you sworn?

MR. PITT: Sure. My name is Frank Pitt. First of all, representing two groups.

CHAIRMAN STRAIN: Were you sworn in?

MR. PITT: Yes, I was.

CHAIRMAN STRAIN: Thank you.

MR. PITT: Thank you. First of all, I was representing my brother who has a piece up above here and, second of all, I'm representing for Southeast, which has parcels to the west of this. And one of the things you said, they're not landlocked. Well, that piece is, but we've talked about that separately at another item.

When you look at this overall picture -- I was talking to John about this in January because the -- he specifically told me that the school board was working with Wayne Arnold and with the applicants and also that the county was not recommending there be any access onto Livingston Road.

So now, when you look at Livingston Road and you see the access point above there where the county has already approved and has built the access road to my brother's piece in here --

CHAIRMAN STRAIN: Sir, yeah. You'll have to hold the discussion till you get back to the mike, but thank you.

MR. PITT: That's what I'm doing, okay. I wanted to show you.

The question becomes, in your ordinances right now -- and you were talking about this earlier, this -- the amount of footage from the light to where the entrance is, okay, that you're addressing by moving it up to the northern end. The only problem there is you're moving it closer to my existing entrance. And in that case John told me he would give me something in writing saying that if it's approved going in there, that that would not affect that access point, which is already granted and in existence and built and sitting there.

The second part then goes to what Wayne was saying. You know, for five years the county's been talking with the prior applicant, which was Virginia Devisse, where there's supposed to be -- and they were talking with the school board, apparently, for a joint access on the western part of that property and the property to the west, and I'll show -- here -- a joint access point there, to cover the land in the back which could be landlocked because -- just show you another point.

There's a right-of-way that was put in that was in all the existing things when George Archibald was looking at the building of this road in the first place that had an access so everybody could get into their properties.

Now, when the school board took that property, condemned it, they built over an existing easement going down to the property in the back there. So we've got a few issues on all those items there.

Another issue, now my brother got some notification about a week ago. He called me a couple days ago, and I heard there was a hearing.

The corporation that had the property to the west, individuals never received a notification, at least as of right now. Maybe it was sent in the mail, and the mail didn't get forwarded.

So those are a couple of questions I had about the process now. And, you know, I talked to John yesterday, we tried to resolve some of these things so that, you know, if there is an access on Livingston, how that would be handled, and then the other question is with the school board, where the access should be for the parcel to the west.

There's a question, I guess, about buffer also -- when you look at my brother's property to the north and the other property to the west, how that all will affect -- depending what the uses are.

Now they're talking about a church, and they're talking about, say, one, two, three, more or less, the church in one spot, the school in another spot, and then whatever potential uses there are to the bottom west part of the property.

So I'm not sure how all that plays out. I have not read any of these things -- I have not received a copy yet -- to try to decipher that to know if I would have any other objections.

But basically, you know, I think it's great we have the school and we have, you know, another use for a church, but just to make sure it all plays together and works out in the best way possible.

So those, I think, are a couple of key points. You know, notification, transportation, Phase 3, I call it, which is whatever uses are there, and buffers. I guess those are my points I wanted to bring up. Okay.

CHAIRMAN STRAIN: Thank you, sir.

MR. PITT: Thank you.

CHAIRMAN STRAIN: John, from what this gentleman was just talking about, does he have any concern, or does he need to be concerned about his access being in jeopardy because of the access from this property?

MR. PODCZERWINSKY: For the record, no, he does not have anything to worry about with the existing permitted access that he has. We've measured that from the proposed access that we discussed earlier, the quote-unquote "here" access. And as you'll see, those two X's that are along Livingston Road there, along the curve, we have roughly -- I think we measured around 670 feet distance between the two driveways. And since that's not intersection spacing, it's driveway spacing, that does qualify for that shorter distance.

CHAIRMAN STRAIN: Okay. And does someone from staff -- can they testify and tell us that the notifications were, in fact, checked to be -- have been mailed to all the adjoining property owners that they should have been mailed to within the notification area?

MS. DESELEM: For the record, Kay Deselem. I have the property appraiser's -- the printout data from Graphics, and according to this, the name was First Southeast Investment Corp., in care of Frank Pitt. It was sent to P.O. Box 147, Metuchen, I'm guessing -- New Jersey.

MR. PITT: But I never received it.

CHAIRMAN STRAIN: Okay. But every registered property owner within the notification district, from

your records, was sent a notification; is that correct?

MS. DESELEM: Yes, sir.

CHAIRMAN STRAIN: To the address that is on the property records?

MS. DESELEM: Yes, according to the list, which is supposed to be from the tax records of the county.

CHAIRMAN STRAIN: Okay. And I know Mr. Pitt brought up a series of questions, some of which though aren't issues of matters today. The road that the school board may or may not have utilized a section of and all that, if those properties come in down the road for analysis for zoning, we'll have to address that issue.

But as far as focusing on this subject property, the two issues I believe I just asked about were -- and then the buffers. Does this project's buffers meet the requirements of the Land Development Code?

MS. DESELEM: As far as I know, and they did not seek any deviations, thus they would need to comply with the LDC, in effect, when they come in for permitting.

CHAIRMAN STRAIN: Okay. Which is at the SDP level, not at this level.

MS. DESELEM: That's correct.

CHAIRMAN STRAIN: Okay. Anybody else?

COMMISSIONER CARON: The north boundary is their preserve as well, so --

COMMISSIONER SCHIFFER: Mark?

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: Just a quick thing. John, it does look better spaced. You know, his -- where it's shown on the plan, not the "here," is about midway there. But what you're concerned about is the distance to an intersection versus a driveway?

MR. PODCZERWINSKY: Yes, that's correct, sir. The intersection spacing is different.

COMMISSIONER SCHIFFER: Okay. Now, there has been testimony that this is a bus stop or a bus driver's intersection only. I mean, is that true? Is it -- because there's people across the way. So are they getting green light/red light all day long?

MR. PODCZERWINSKY: Actually, I'm unfamiliar with the exact hours of operation and whether it's just to accommodate the buses or just to accommodate the schools or some off-peak use as well.

COMMISSIONER SCHIFFER: And would you treat --

MR. PODCZERWINSKY: I would have to check with our operations department, and that's something we typically do at SDP.

COMMISSIONER SCHIFFER: Would you treat the intersection the same if it was just for school buses in and out?

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER SCHIFFER: For the distance separation.

MR. PODCZERWINSKY: Yes, sir.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Okay. Any other questions of staff?

Ray, were there any other public speakers?

MR. BELLOWS: No other speakers.

CHAIRMAN STRAIN: Any other members of the public here wishing to speak on this issue?

(No response.)

CHAIRMAN STRAIN: Okay. I don't think you need a rebuttal. You've been kind of talking as we've gone along.

Okay. With that, we'll -- if there's no other questions, we'll close the public hearing.

Melissa, are you ready?

COMMISSIONER AHERN: I'm ready.

CHAIRMAN STRAIN: Okay.

COMMISSIONER AHERN: Motion to approve PUDZ-2005-AR-8674 with the changes Commissioner Caron had to add the play fields, and I think that was it.

CHAIRMAN STRAIN: Do you remember the recommendations? We have four of them. The applicant had a concern about 2. Staff offered a correction to 2. What did you see in your motion in regards to that?

COMMISSIONER AHERN: To kill the parentheses in Item No. 2.

CHAIRMAN STRAIN: And the word "to monitor," as Mr. Murray pointed out earlier, I would assume.

COMMISSIONER AHERN: Correct.

CHAIRMAN STRAIN: And then staff had suggested instead of -- in started out, "When deemed necessary by county staff or the Sheriff's Office," in the beginning of 2.

COMMISSIONER AHERN: I will add that in my motion as well.

COMMISSIONER MURRAY: Second.

CHAIRMAN STRAIN: Okay. Second Mr. Murray.

Ms. Caron?

COMMISSIONER CARON: And you did add the changes that I wanted to the accessory structure --

COMMISSIONER AHERN: Yes.

COMMISSIONER CARON: -- table? Okay. And I know that they'll work on that, so --

CHAIRMAN STRAIN: They'll bring it back.

COMMISSIONER CARON: It will bring back on consent.

CHAIRMAN STRAIN: Okay. Now, is there discussion on the motion? Motion --

COMMISSIONER SCHIFFER: One tiny thing. I think you want to keep the word "to." It's just "monitor and" you want to eliminate.

CHAIRMAN STRAIN: Well, yeah.

COMMISSIONER SCHIFFER: To direct traffic, that's all.

CHAIRMAN STRAIN: Okay. So "monitor and" comes out, but we understand the point.

Okay. Anybody else have any questions or concern about the motion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0. We'll see you back on consent.

***We have a few minutes before the one o'clock hour. If we can get done with --

MR. YOVANOVICH: We could.

CHAIRMAN STRAIN: -- Olde Cypress, we'll move on. Go ahead.

MR. YOVANOVICH: Let's do the easy one first, which is the ordinance, which is the four-page ordinance for Olde Cypress. And I know you're just getting it, so I'll hold on one second.

Everybody got one?

Okay. The ordinance that starts Ordinance No. 11, and then it's four pages, the only change we needed to make was on Page 3 of 4 under the table where we struck the word "park," so now it reads "wetland preserve and wildlife sanctuary is 176.2" -- so that's the change. Do I need to put this on the visualizer for -- I don't think there's anybody here.

CHAIRMAN STRAIN: I don't think so.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Oh, yeah. Put it on the visualizer. Steve -- yes.

MR. WILLIAMS: I don't have a copy.

MR. YOVANOVICH: You did it.

MR. WILLIAMS: I know.

CHAIRMAN STRAIN: Put it on visualizer so if somebody's watching they can see it.

MR. YOVANOVICH: All right. We okay on that?

CHAIRMAN STRAIN: Yes, sir.

MR. YOVANOVICH: All right. The next one was the changes to the HD Development PUD. There were no changes on Page 1 of 11, no changes on 2 of 11, no changes on 3 of 11. When we get to 4 of 11, I think it's highlighted in gray for you. We made some changes in Paragraph 2 to address the distance between the front of the garage and the sidewalk. And I think we tried to run that by the chairman since it was his suggestion, so I hope we got it right on that language.

CHAIRMAN STRAIN: It's simpler. That was the goal.

MR. YOVANOVICH: All right. The next change was to eliminate B1 altogether on Page 4 of 11. That was related to the deviation that we no longer needed. We then went to Paragraph -- I'm sorry -- Exhibit F starting on Page 8 of 8. We made two changes, one to Paragraph 2A to insert the correct name of Exhibit G to "schematic buffer design," and then in B we added precast or masonry as far as the type of wall, and I think we showed you the strikethrough of Section 4.

Although that wasn't in the document you got, it was in the document we showed you this morning. So we struck those provisions, and those will go into a separate agreement with the association that was one of your stipulations.

Those were all the -- those were all of the changes that resulted from the hearing this morning.

CHAIRMAN STRAIN: Right. We still have two stipulations.

MR. YOVANOVICH: The two stipulations go forward, one that we have an agreement before the BCC.

MS. ASHTON: My notes were to strike out "masonry" and replace it with "concrete."

COMMISSIONER EBERT: Yeah. Replace it with precast.

MR. YOVANOVICH: It was an "or." It was "precast or masonry."

CHAIRMAN STRAIN: No, it was. Honestly, you would want the option for masonry. Masonry is a solid -- it actually is a -- more of a solid wall than precast.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: I don't think you want to strike that. But masonry wall has to be finished. It's not going to be an unfinished wall. But I thought that's what we had -- I thought we went with "precast."

MR. YOVANOVICH: I thought we did an "or." That's what we thought was an "or."

COMMISSIONER AHERN: I agree.

CHAIRMAN STRAIN: I agree. And I think you'd be better off for the community that way.

COMMISSIONER SCHIFFER: And it costs more, so it will be the other that will happen.

CHAIRMAN STRAIN: Right.

COMMISSIONER AHERN: I think what may have happened was, I think without realizing it, you did infer very strongly that it be that. But I do agree at either/or. It's moot. I mean, that's fine.

MR. YOVANOVICH: What was the other -- Commissioner Caron, what was the other stipulation?

COMMISSIONER CARON: The cart path.

MR. YOVANOVICH: We'll have to address the cart path. That was a stipulation that we get into compliance, I think, was a paraphrase of that stipulation, but those aren't part of the documents themselves.

CHAIRMAN STRAIN: Okay. So we've got the changes.

I want to ask staff if they agree those are the changes that were to the extent discussed in the meeting. I believe they are. Do you have anything you want to add to it? And is it clear for you guys because you're going to have to deal with it at the next level up.

MS. DESELEM: It is clear to us that those were the changes. We're happy with them.

CHAIRMAN STRAIN: And you understand our additional stipulations we had made at the time, one involving the agreement with the HOA and the other involving the compliance with the cart path?

MS. DESELEM: Well, the only questions I have with the cart path is that's on Olde Cypress PUD, not on HD.

CHAIRMAN STRAIN: I'm talking about all three together.

MS. DESELEM: Oh, okay.

CHAIRMAN STRAIN: So it's one that applies, yes. It's just those are the two stipulations. I'm sure you'll put it with the correct one.

MS. DESELEM: Okay. I understand what you're saying, okay, okay.

CHAIRMAN STRAIN: Okay. The cart path was on HD. Is that where the cart path is -- no, the cart path is on Olde Cypress.

MR. YOVANOVICH: That's the Olde Cypress PUD where a part of the cart path encroaches into the right-of-way.

CHAIRMAN STRAIN: Okay. Anybody have any questions from the Planning Commission level? Then I'm going to have to take them one at a time to acknowledge consent, then we'll be done with it.

First one is PUDA-PL2010-388, Olde Cypress PUD itself. Is there a motion to approve on consent?

COMMISSIONER MURRAY: Move to approve.

CHAIRMAN STRAIN: Motion made by Mr. Murray.

COMMISSIONER KLEIN: (Raised hand.)

CHAIRMAN STRAIN: Second by Mr. Klein.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: (No response.)

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0, one abstention.

***Next one is DOA-PL2010-2052, the Olde Cypress Development, Limited. This is for the DRI portion of it. Is there a consent motion to approve?

COMMISSIONER KLEIN: (Raised hand.)

CHAIRMAN STRAIN: Mr. Klein made the motion.

COMMISSIONER MURRAY: (Raised hand.)

CHAIRMAN STRAIN: Seconded by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: (No response.)

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0 with one abstention.

***The third and final is PUDZ-PL2010-1054, the Vita Pema, LLC, HD Development, RPUD. Is there a motion on consent to approve?

COMMISSIONER MURRAY: (Raised hand.)

CHAIRMAN STRAIN: Mr. Murray.

COMMISSIONER KLEIN: (Raised hand.)

CHAIRMAN STRAIN: Seconded by Mr. Klein.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: (No response.)

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Motion carries 8-0 with one abstention.

Terri -- I mean -- yeah. If Cherie was here, she'd be killing me by now, so we're doing good.

Let's break. We'll come back in one hour at two o'clock and deal with the Watershed Management Plans.

See you all at two.

(A luncheon recess was had.)

CHAIRMAN STRAIN: ***Okay, everybody. Welcome back from the lunch break. And we are now at the hour for Mac Hatcher to entertain us.

MR. HATCHER: Good afternoon. Mac Hatcher with stormwater and environmental planning section of Land Development Services.

We're here to workshop an update on the Watershed Master Plan. So we're not asking for any recommendations today, but we would like to get comments if you have them.

Again, we're developing Watershed Management Plans as a Growth Management Plan policy requirement, and the intention is to try and get as close as we can to restoring historical water quantity and estuarine discharges and improve water quality within the watersheds and estuaries and address flood issues and water-supply issues.

The Watershed Management Plan started with an update of the Big Cypress Basin hydrologic hydraulic model, an evaluation of the watershed and estuarine existing conditions. We evaluated water quantity issues, water quality, and natural resources.

The consultants have defined performance measures to measure the impacts of proposed projects and changes and then evaluate alternatives and identify recommended improvement projects and -- with the preparation of the plans as the final task.

And before I go any further in the -- I'm going to try and jump ahead. One of the team members --

COMMISSIONER MURRAY: It should be a right-hand click.

MR. MULHERE: You want to click on this. Oh, sorry. I'm pointing to it. It's this thing right here. And then we can --

MR. HATCHER: Okay.

MR. MULHERE: I'm so technologically advanced.

MR. HATCHER: And Bob Mulhere is going to take you all through a discussion on a proposed TDR program for Golden Gate Estates.

MR. MULHERE: Good afternoon. Bob Mulhere. And thank you for -- to my fellow team members and to you for accommodating my schedule. I have to be at a meeting in North Naples at 3:30, and I know with traffic I've got to rush a little bit.

I was asked to take a look at the proposed comprehensive Watershed Management Plan from the context -- in part from the context of looking at areas that were significant -- that had significant habitat, environmental value, as well as recharged value, wellhead protection value, and consider what a TDR program might look like or whether one could be structured to remove all or some of the development rights in that area.

And what I put together -- see I told you I was technologically -- here. Just use the arrows.

COMMISSIONER MURRAY: It should work.

MR. MULHERE: There we go. What I put together is very, very preliminary. And I think, you know, all of you are just as familiar with the challenges that we've had relative to TDR programs, and I think they're not just challenges in Collier County. They're challenges that people experience anywhere where you develop a TDR program.

Most of them, the vast majority of them, do not work very well. And the principal reason why they don't work very well is that there has to be a relationship between the people who would be interested in buying -- there has to be a market attraction between the buyers and sellers.

And, of course, we're in a very unique economic condition and have been for some time now where it's hard to judge whether this has -- you know, is the soul reason why a program might not be working or there are other structural issues.

But those would be the things that would be considered in the recommendations that I made, which would -- the idea with this -- this would be a distinct program.

I did suggest that you might -- that the program might consider all of the potential receiving areas, including the existing receiving areas or one or two of the existing receiving areas in the rural fringe mixed-use district, because those areas are pretty large, and they've already been designed and determined to be appropriate from an environmental perspective for additional density. But the urban area may also be an appropriate location, and there may be other locations.

So the goal is to provide, like I said, a sufficient market attraction. Without that, the program will not work.

The possibility of using existing receiving lands makes the most sense, whether it's the existing urban area, whether it's the rural fringe mixed-use district, or some other area.

Whoops, whoops. I did it again. So -- there we go.

One of the options would be to allow for transfers into the urban area through urban infill. This makes sense from an economy-of-scale perspective. There are going to have to be limitations. You know, as you-all have discussed with me, you talked about increasing density by right. You know, what are the impacts on adjacent properties and so and so forth.

Right now in Collier County you can increase your density if you qualify for urban infill by up to three units per acre, but you have to go through a process to do that. So there might be a balance there where we could have some level of buy-right increase in density under certain circumstances. That would be very attractive to an owner of that property, but also there have to be limitations because of the potential impacts on the existing developments around here.

We would want to use incentives. Also, instead of maybe an outright TDR program, we could consider using incentives to encourage aggregation of parcels in this area. So if you aggregate the development and you're impacting a smaller area, you maintain a higher level of ecological value but also recharge, and that makes a lot of sense as an option. And you'd have to probably incentivize that, too. One incentive is that, look, if you can cluster the development, you spend less money on infrastructure. And this can be used for mitigation within the North Golden Gate Estates.

I keep wanting to advance it with using the -- I don't know why -- it doesn't want to -- I'm trying to find a place to click on.

COMMISSIONER MURRAY: Hit escape.

MR. MULHERE: There we go. Thank you.

So the next steps would be to -- what I recommended anyway -- certainly this is not written in stone either, but it seemed you'd want to take your time and do this right and that the county would want to take its time and do it right, establish a committee, an oversight committee. That would be the process during which the specifics of the program could be developed. Where would it apply to? What land? What -- you know, what level of TDR would be appropriate? What level of clustering would be appropriate? Where would you send the units? What incentives would you put in place? All of these kind of things would occur during that process.

And I think you start right -- the county could start out right now by quantifying the number of nonconforming and conforming parcels, because there's an awful lot of nonconforming parcels also out there. So you can quantify what level of density you have within the target area by doing that.

And I did provide a conceptual timeline. Assume any commencement date, and I think -- to go all the way

through the process of developing the plan and getting through the Comprehensive Plan amendments and then doing the LDC amendments, it's a significant period of time. Yeah, you're talking about well in excess of two years to accomplish it.

Again, this is all preliminary. I did want to be able to get -- make this preliminary presentation, and if there -- and it's certainly up to you, but if -- I didn't know if there were anybody -- anybody in the public or any of you that wanted to ask any questions or speak on this issue, I wanted to make myself available if that was the case.

CHAIRMAN STRAIN: Anybody in the public want to speak? Well, first of all, Planning Commission members. Mr. Murray?

COMMISSIONER MURRAY: Yeah. I just have a question. Given what's going to happen to the DCA up there with -- you've mentioned an ORC Report. What's your best guess about what that would turn out to be?

MR. MULHERE: Well, that's a very strange situation, I mean, in terms of looking at process, because --

COMMISSIONER MURRAY: Yeah, but important.

MR. MULHERE: I think it's -- my best guess is that things are going to change significantly in terms of the statutory oversight.

COMMISSIONER MURRAY: Right.

MR. MULHERE: But to do that, you actually have to change the statutes. That might happen. I've heard that there will be a growth management bill in this session, but I mean, I -- that's just what I've heard, and that part of that would be to change some of the statutes that would limit the oversight. And some of the staff will go to DEP. There'll still be some oversight. This is what I've heard, you know.

COMMISSIONER MURRAY: No. I didn't --

MR. MULHERE: And other staff -- other staff, there'll be a significant reduction. So there would not be as much state oversight in the development process, and in the Comprehensive Plan amendment process, as I understand it. It may be more limited only to, say, areas that are of critical state concern. Whether this would fall under that area or not, I don't know.

I think we just have to plan to keep going under the existing process until it changes. If anything, it would be shorter, not longer.

COMMISSIONER MURRAY: Yeah. I would agree, and I would suggest strongly that this body at least, and certainly BCC, will have to even embrace more detailed questions. Not that I think we like to do that, but --

MR. MULHERE: You mean without the state oversight?

COMMISSIONER MURRAY: Yeah, because they provide -- in their ORC report they do provide some views that we hadn't anticipated. Okay. Just a curiosity.

MR. MULHERE: That's fair comment.

CHAIRMAN STRAIN: Anybody else? Brad?

COMMISSIONER SCHIFFER: Bob, on the map, if you can go back one.

MR. MUDD: Yeah.

COMMISSIONER SCHIFFER: I know that's -- I shouldn't do that to you.

MR. MULHERE: Yeah, that's funny. How's that?

COMMISSIONER SCHIFFER: And if this is going to be in the presentation, I can accept that. But what is the logic for the boundary for the new proposed area?

MR. MULHERE: I would defer to one of my colleagues. I believe it has to do with really ecological value, but --

COMMISSIONER SCHIFFER: But -- and if that will show up in the presentation, I can wait till then.

MR. deGOLIAN: My name's Peter deGolian with PBS&J.

Actually, this -- the boundary closely conforms with what was defined for the Northern Golden Gate Estates flowway restoration project boundaries and was extended further to the south to include some of these ecological areas and the groundwater recharge in that area, so that's kind of the -- and it does match up with the existing lot lines, you know, between the two, Fakaunion and Golden Gate canals there.

COMMISSIONER SCHIFFER: Thank you.

CHAIRMAN STRAIN: Is the water -- what you refer to, is that the ROMA that we used to -- that was under consideration out there?

MR. deGOLIAN: It's a flow -- it's been referred to as the Horsepen Strand Restoration, and we are also

recommending a mitigation pro- -- you know, bank ROMA be established in this area. It's kind of a process of funding the thing. And I think Moris wanted to talk about that a little bit also.

CHAIRMAN STRAIN: Thank you. Anybody else from the Planning Commission at this time? We'll probably get snippets throughout the whole thing.

Are any members of the public wishing to --

MR. BELLOWS: We have two registered.

CHAIRMAN STRAIN: Yeah, okay. For this item?

MR. BELLOWS: Timothy Nance and Nicole Johnson.

CHAIRMAN STRAIN: Okay.

MR. NANCE: Good afternoon, Commissioners, Chairman Strain. Thank you. What a pleasure to talk before this body.

CHAIRMAN STRAIN: You're not going to yell at us now or anything, are you, Tim?

MR. NANCE: No, sir. It's just nice to have this environment. It's a little bit different than I'm used to on many occasions, as you know.

I'm here representing Golden Gate Area Civic Association who has worked with Mac Hatcher and with the consultants to discuss this sort of an issue in particular.

Our concern is dealing with Golden Gate Estates, and the reason that we have been interested in this is our goal was to be able to work towards a -- an area where we could mitigate surface waters and flooding issues, and that was our concern.

The TDR program, as is presented, we support wholeheartedly in concept. We have only had a chance to look at the technical documents for a very short time. And in that period of time, I have received many emails which have particular items that they feel are -- some appropriate, some inappropriate details that need to be worked out, but we certainly are encouraged by the concept.

The concept also includes -- I think, in this area, includes some wellhead protection issues and some environmental properties that are -- that have been added as to, you know, valuable ecologically. We weren't really concerned with addressing those. We were more concerned with having water mitigation within the Golden Gate Estates watershed, which we currently do not have and we desperately need.

In specific, without getting into it -- because I don't think it's going to be addressed today, but we would have three particular goals that we would want out of such a program and have it included, and that, most importantly, I think, is to have this restoration area, as it is defined in the end, be mitigation eligible. We want it to have -- so it can serve as a mitigation bank. Not strictly a Transfer of Development Rights area, but to be able to receive -- to be used for mitigation for public-works programs within our drainage basin to help us catch up and get some properties conserved through that, meaning mitigation for roads and so on and so forth that currently get transferred out into Lee County and other professional mitigation banks.

The second concern that I would have and something that I would suggest we'd discuss further is, any -- I think any linkage to the rural fringe mixed-use district is going to be very tenuous at this time. And the reason I say that is because I have met personally with some of the people that are -- now have properties regulated under that plan, and I think they're going to have a lot of input as to adding a different number of sending credits and so on into that system which is ineffective at this time.

I believe, rather than tie ourselves to that in any way, that we're really going to have to restudy that one at some point as well.

Finally, density increase within Golden Gate Estates, I think, is very controversial. I would certainly think that that would have to be reviewed.

The Golden Gate Estates Area Civic Association wholeheartedly endorses incentives to have people combine lots; in other words, to take some of these acre-and-a-quarter lots, instead of having them stand as a singular additional homesite, to have them incorporated into existing homesite or allow people to aggregate and have a larger piece of property and hopefully reduce the density in Golden Gate Estates at buildout as a goal; in other words, maybe we can have only 50,000 people living there at buildout instead of 80,000 and maybe we can reduce the need for infrastructure, safeguard the wellfields by having those residents out there actually taking care of the county's wellfield at no cost to the public just by proper management of their homes which they value as the sites that they are.

But I hope we go forward. I hope we have an opportunity to work together. I think we have some -- I think

the Conservancy in particular's done a lot of work on it. We agree with a lot of the things they support. And I hope we have an opportunity to go forward and spend a real good amount of time to get this right and get all the input.

There are many community members, people that work with Collier Soil and Water Conservation District, for example, that have been there, have worked on some of these ROMAs and things. They've got a lot of input that can add and help it get off to a good start, and I hope we get a chance to do that.

I will say, I'm very complimentary to Mr. Hatcher and the consultants. They've been, I think, extraordinarily open to suggestion and easy to work with. I will compliment them on that.

Thank you very much.

CHAIRMAN STRAIN: Thanks. Tim, I got one question. Your first point about being available for mitigation.

MR. NANCE: Yes.

CHAIRMAN STRAIN: So it would be a -- mitigation means that you could actually sell the property like for a mitigation bank and use that to mitigate some inland property, say, in some other sensitive area?

MR. NANCE: Yes.

CHAIRMAN STRAIN: So there's a revenue generator from that mitigation availability?

MR. NANCE: Well, what it would do is it would let us spend county money for mitigation within this area and maybe jumpstart the program, you know. And it wouldn't be -- it wouldn't be a land-acquisition program for the county. I don't think anybody's saying that.

But what I'm saying is, Mr. Casalanguida's obligated to spend \$200 million on the Panther Island mitigation bank. If we had this program eligible to receive those funds, he might be able to acquire some of this property for a -- mitigation purposes cheaper than maybe he can from South Florida Water Management District. And I know that's controversial for them because they've got an investment that they're pushing us towards out there.

And many people are more knowledgeable about this than I. I would recommend that we bring those people in to talk about those possibilities. But what I'd like to see is, I'd like to see the most possibility for those landowners to get their money out of their property and do good at the same time without obligating the county to a big, grand land-reclamation program that nobody wants to see.

Is that --

CHAIRMAN STRAIN: Well, no. You went a little bit -- way farther than I needed to. But I understand what you're saying, and I don't disagree with it. What I was trying to find out is, if this was a mitigation bank, would there still be a TDR generator from the same piece of property?

MR. NANCE: Well, you know --

CHAIRMAN STRAIN: Are you looking for both or --

MR. NANCE: Why not? You know, if we can tag team it. You know, can that be done? I don't know.

CHAIRMAN STRAIN: Well, it just raises the level of value --

MR. NANCE: Yes.

CHAIRMAN STRAIN: -- to a piece of property, but is that the right thing to do or the wrong thing?

MR. MULHERE: I don't think we know the answer to that question, but it's a very good question.

My initial reaction is the same as Tim's was. Maybe, yes, there could be some real value in furthering the objectives by having the option of looking at both. I don't want it to be a wind- -- necessarily a windfall for anybody, and I understand that. But if we're able to get mitigation value which would further our capital construction dollars, you know, in that area --

COMMISSIONER MURRAY: Sure.

MR. MULHERE: -- and at the same time be able to get something for transferring the development rights into a more appropriate area which creates a viable program, that might be a good thing. I don't know the answer yet. I think it takes the analysis and the study.

CHAIRMAN STRAIN: I was just concerned that if we create -- I mean, I know the current program of TDRs has a value created per TDR, which I think is a mistake and is what's caused the program to fail, but if this was -- if there were values for TDRs and they were thought to be said they were fair, then the added value of the mitigation brings it to a different level. And is there some way to balance it out so someone who doesn't have the ability to be as fully mitigated as someone else can still benefit and doesn't get kind of cheated out of the system.

MR. MULHERE: And that's a very good point. And the other point that's directly related to that is once

you've taken the development rights off, the mitigation value is not as high.

CHAIRMAN STRAIN: That's right.

MR. MULHERE: So, you know, there's a balance there. You have to work through that. But to me the asset that the county has that's of value is that transferable development right, you know, and where it goes. And the asset -- I guess the other asset is that if there's a true mitigation value, we could maybe get a double -- a double bang for the buck. But it's going to require a lot of work.

MR. NANCE: The concern that I heard, Mr. Chairman, that several people mentioned is some of the people that have a little experience say that what happens is, if you create a pure TDR program and you identify some of these properties, that the federal agencies that can grant you some transfer of values, at that instant that occurs, they consider those properties already protected.

MR. MULHERE: Yeah.

MR. NANCE: So they won't let you sever different beneficial things like panther habitat units or whatever. Mr. Mulhere's much more competent than certainly I am.

And people wrote me and they said, whoa, we've got to be careful that we don't do that, because we're cutting down on some of the value that we can get out of this property. So we need to be very innovative and make sure we don't label this probably so that U.S. Fish and Wildlife says, oh, don't worry about it. It's already protected now we don't -- you know, we don't need to worry about this any further. There's no value there for the homeowner or anybody to capture.

So I don't know if there's an innovative way to accomplish all those goals. You have to go to a much more skilled person than I. But all I'm saying is, I hope we get a chance to go through this with some detail and that we have a chance to develop it.

I know these gentlemen want to get this plan passed, and they're working towards a deadline and so forth, but I hope there's some mechanism to allow us to spend some time on it.

CHAIRMAN STRAIN: Thank you, Tim.

MR. NANCE: Thank you very much.

CHAIRMAN STRAIN: Yes.

MR. CABEZAS: If I could just interject. My name is Moris Cabezas. I'm with PBS&J.

And actually, referring to the same topic, our recommendation is to look into a mitigation bank for this area. One of those ROMAs, that -- and I guess I'm doing a little better than Bob on the computer.

But anyway, you know, one of the issues that we have identified in contacting to the stakeholders here is that there is no really (sic) way to mitigate within one of our defined functional watersheds.

The Water Management District has these large drainage areas than -- and you're supposed to mitigate with -- within those; however, you know, we need to shorten or make it feasible to mitigate within each one of our watersheds, including efforts within the Golden Gate watershed.

So we are proposing a -- the creation of an original off-site mitigation area.

CHAIRMAN STRAIN: Before you go too far with the presentation, we still had another public speaker. I thought you were trying to respond to Tim's question.

MR. CABEZAS: I'm -- I thought the -- I am sorry for interrupting, but I thought this topic of the mitigation was relevant to what the speaker was talking about, but I --

CHAIRMAN STRAIN: Okay. That's fine. As long as you're on that topic. I just want to make sure -- I know you've got 100 slides. We still have 91 and a half to go, and I don't want to have the speaker wait till the 91st.

MR. CABEZAS: I'll be pretty brief. So we're proposing that a mitigation area be set in two phases. One permitted by DEP, and that will be guided more -- mostly towards the homeowners, and a second phase that will be permitted by SFWMD. That's a little bit more complicated where the mitigation could be funded by internal sale of credits for Collier County Public Works and that kind of a thing. So that's my last slide on the top.

CHAIRMAN STRAIN: Okay. Until the next time you come up before us, but that's fine.

Nicole -- Nicole, by the way, doesn't know what to be called by her last name. Her phone is answered by Nicole Ryan, or it used to be. Now it's Nicole Johnson. I think sometimes it's Ryan Johnson, but congratulations on your marriage.

MS. JOHNSON: Thank you very much.

CHAIRMAN STRAIN: And we all appreciate the invitation we had. We're sorry none of us could attend,

but it was wrong on the date, so we didn't make it there.

MS. JOHNSON: And I will answer to Nicole Ryan, Nicole Johnson. If you call me Mrs. Johnson, I'll probably look around for Wayne's mother, but it's a slow transition, so bear with me.

Thank you. I appreciate the opportunity to comment on the issue of the Golden Gate Estates TDR program. And I know that you have not had a chance to fully read and digest the technical memo, and I have not had opportunity to really take my comments back to the consultants and to staff, so I apologize that this is the first time Mac is hearing this, but I did want to get some of these issues on the record, because I think we have a very short time frame in order to address some of these items, and I think the concept is very good, and there's a lot of merit in this. So I offer these as positive critiques and want to work with staff to get through them.

CHAIRMAN STRAIN: One point you need to know, we did not -- we didn't read the technical memo.

MS. JOHNSON: Correct.

CHAIRMAN STRAIN: Because we didn't get the technical memo.

MS. JOHNSON: If it would be okay, since I'm not able to attend the meeting tonight where this is going to be discussed, though, if I could just talk briefly about some of the subject areas that I believe need further exploration before this memo is really finalized and ready to go to the BCC, and I will be brief on those.

CHAIRMAN STRAIN: That's fine.

MS. JOHNSON: The first issue is that while I think a TDR program needs to be explored for Golden Gate Estates, there's still a big question of whether we will actually get such a program in place. So we can't put all of our eggs in that basket. We need to be looking very comprehensively and proactively at other recommendations and other policy decisions that will improve water quality in the Estates and countywide.

And some of those suggestions that I've heard kicked about would be retrofitting existing subdivisions so that water that is coming down the canals currently can be diverted through, having some sort of hydrologic easement, perhaps, at the back of the lots in the Estates so that you have areas set aside where water can be stored and cleansed and filtered through.

So I believe that those are going to be the types of recommendations that will come out at some point in the future. But as the timeline is getting short, I just wanted to reiterate the fact that we need to have a whole pallet of options.

As far as the TDR program goes and the memo, I think the very first concern is the viability of a TDR program. We have several TDR programs in Collier County, and they have different degrees of success. And before we put in place another TDR program, we really have to understand what's working and what isn't working in the other programs that we have.

The idea of combination with mitigation banking, I think, is interesting, and so we need to wrap that into the discussion. But I think there's going to be hesitation on the part of the Board of County Commissioners if we're just saying "another TDR program" and we haven't explained why this one really is going to be viable and work.

The second issue is the issue of density increase and the fact that this memo has suggested that this TDR program should allow for density increases in other areas of the county, but the memo also acknowledges that the current TDR programs that allow density increases -- really, nobody is building at maximum density, so I think we have to take a look at, if we add even more density possibilities, is anyone going to use it. Gets, again, to the viability of the program.

In looking at how this program is put together, the rural-fringe program, which it looks like maybe we're going to be combining this with, is both a voluntary but also a regulatory program. Property rights are taken away, and you are given TDRs in exchange for what rights have been removed from your property.

This North Golden Gate Estates program is going to be purely voluntary. So how does that intersect with a voluntary/regulatory program?

Also the issue of the baseline pricing for TDRs. In the rural fringe, you have that \$25,000 minimum. If these North Golden Gate Estates TDRs don't have that baseline price to them, then are you somehow undercutting -- and you would be, I think -- your sending lands in the rural fringe TDRs because people will be buying cheaper TDRs from North Golden Gate Estates. How does all of that fit in together? And I think that really needs to be further explored.

And then I do have a couple issues and questions on the map that I think Moris had put up, and if I could use the visualizer.

And what I've put up here is the consultant's map of the North Golden Gate Estates mitigation TDR area. And one of the questions that I had on this -- this map indicates that the light brown are the protected conservation areas, but there are a lot of lands in this potential protected conservation area that actually aren't protected and certainly aren't conservation lands. I think Ave Maria might be right in this area. But you have all of the North Belle Meade and South Belle Meade sending lands assumed to be protected conservation. They are not. Hacienda Lakes is being proposed for part of that. So that needs to be revisited in a future iteration of this memo.

And the other -- the other concern goes to how we determine that these lands and these areas within North Golden Gate Estates, the Horsepen Strand, have environmental and ecological value.

In the memo -- and I know you haven't read this, but I'm just going to read a brief paragraph -- it states it is recommended that Collier County establish a North Golden Gate Estates flowway restoration program and the corresponding North Golden Gate Estates flowway restoration area to preserve and thus protect from further degradation the ecological value and recharge function in the identified areas primarily within the North Estates portion of the Golden Gate Estates subdivision.

The location of the NGGEFRA is shown in Figure 1. In addition to this area being used for the Floodway Restoration Plan, it includes significant portions of non-agricultural areas that have been identified in this study as ecologically valuable lands as well as areas identified for wellhead protection.

And the ecologically valuable lands, I believe, goes back to the functional assessment technical memo of several months ago where ecologically valuable and ecologically supportive lands were identified, but on that memo this area doesn't come out as ecologically valuable or ecologically supportive.

So we believe that these areas are ecologically valuable. We have, all along, had concerns about the ranking system and the data and information that have gone into creating this ecologically valuable and ecologically supportive memo. So we bring that up because we think that that functional assessment really does need to be revisited.

CHAIRMAN STRAIN: Wouldn't that have an impact on the mitigation value?

MS. JOHNSON: You know, this -- this memo really is, I think, more for planning purposes, but we are concerned that it is not labeling an area as ecologically valuable that we believe is ecologically valuable. So we just see an inconsistency, and we would like to see this memo redone. It also -- when we -- the Conservancy thinks of ecologically valuable, we certainly see listed species habitat as an important component in that, but none of the datasets that were used for this looked at listed species habitat, primary panther habitat, black bear habitat, red-cockaded woodpecker habitat, so --

CHAIRMAN STRAIN: Well, that opens up a whole can of worms, you know.

MS. JOHNSON: Well, it does. Our initial recommendation was that this map be relabeled to clarify that listed species and listed species habitat were not part of the data inputs. Since that hasn't happened, we think you either need to clarify the map or add all of those data factors in so --

CHAIRMAN STRAIN: Ms. Caron had a question, too.

MS. JOHNSON: Yes.

COMMISSIONER CARON: But do you think that area was left out just because it's platted estates and that's why they left it off?

MS. RYAN: I'm not sure. I'm not sure why that wasn't captured in what would be considered ecologically important. It -- the number -- it was a scoring system that was used. And if it was an eight or above, it was considered ecologically valuable. If it was, I think, six to eight, it was ecologically supportive.

And there have been some modifications made based on Conservancy comments, and we appreciated that, but we thought it needed to go further. And I just used this as an example that maybe it really does need to be revisited, because an area that one memo is saying is ecologically important in a map, in another memo it doesn't show up as that.

So that just needs to be fixed, because as this moves forward, that could very well be a question by the Board of County Commissioners; wait a minute, it's not shown as important in one memo, so why are you trying to set it aside as a sending land designation in another?

CHAIRMAN STRAIN: Okay.

MS. JOHNSON: And we have -- and if the consultants and the county are interested, we have put together a series of maps that would be very easy to put in the datasets of all of the listed species habitat and data points. This

map is a little busy, but it goes to show primary and secondary panther habitat, panther telemetry points, we have the black bear range, we have red-cockaded woodpecker locations, wading-bird habitat.

So we're more than happy to share the information, do what needs to be done. We offer that.

CHAIRMAN STRAIN: Okay. Thank you, Nicole.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. We can -- Mac, we can resume the presentation to wherever you -- was that the last speaker, Ray?

MR. BELLOWS: Last one registered for the TDR.

CHAIRMAN STRAIN: Anybody want to speak on the TDR process who hasn't been up here already?

(No response.)

CHAIRMAN STRAIN: Okay. Mac, it's your to go.

MR. HATCHER: I'll start off with the last -- the two slides that Nicole was showing that were obviously mistake were that, obviously a mistake. The wrong GIS dataset was used in the second figure, and we'll correct that.

The issue that she raises about not using all of the listed species information, that we have not, so we'll consider that in moving forward.

Okay. Starting, the watersheds that we're doing the analysis and breakdowns by are the basin boundaries that the -- is used in the Florida Department of Environmental Protection water quality assessments, and what we have done is we've combined the different water basins into watersheds. The three urban basins, the Cocohatchee/Corkscrew in the north, Golden Gate/Naples Bay in the middle, and Rookery Bay in the south are the three primary areas of analysis that we have lumped the three large rural basins into one assessment area, and that includes the Fakaunion basin, Fakahatchee, and Okaloacoochee.

What we intended to do in order today was to discuss the existing conditions, go over some of the projects and retrofit opportunities that have been proposed, talk a little bit about change in structure operations, regulatory and policy recommendations, which includes the TDR, and a brief summary.

And at this point I'll turn it back over to Peter deGolian.

MR. deGOLIAN: Thank you. Peter deGolian, PBS&J.

So I guess what I'll be talking about is reviewing very briefly the results of the existing conditions, evaluation that we've done, and looking at some of the water-quality impairments, touching on the functional assessment, talking about some of the groundwater issues, and then our conclusions coming out of that information -- because that -- this lays the groundwork of what we need to do to identify ways and means to correct some of the issues and, you know, solve some of the problems that the county faces moving into the future.

So when we -- our first thing was to develop or update the Mike She model that had been previously developed for the Big Cypress Basin office for Collier County. It's an integrated surface water/groundwater model that I think encompasses the entire hydrologic cycle of inland areas.

And we used the simulation period from 2002 through 2007. And this model really differs from the older model because we have new topographic data and new land-use data so -- to bring it up to more current conditions.

So one of the key -- and then we did water budgets from all these results, looking at all these years. And what this is is the average water year water budget. So this is from the period from November 1 through June 30th, and this is the average over the simulation period.

And the key issues here that we look at are -- is that runoff makes up, across the entire county or across the entire model area, about 15 percent of rainfall, and base flow makes up about -- about 30 percent of the total runoff or the total flow to the river. So you've got -- base flow and runoff are the total contributions to the canal network. So across the entire study area, we're seeing base flows fairly low.

And something else that's interesting is -- in here is actually the irrigation is kind of a cycling of the pumping, because the pumping includes water pumped for irrigation. So a lot of the water that's put down as an inflow as irrigation is water that's actually pumped from the surficial aquifers and put in there, and there is some augmentation with ground -- with reuse water also.

Now, the interesting thing is when we get -- look at some of the watershed specifically related to base flow -- and Golden Gate is really important because of the density of the canals -- we actually see the base flow in both the wet season and the dry season is the dominant contributor to flow in the canal network and ultimately what gets out

into the estuaries. And we see that during the dry season base flow makes up 70 percent of the flow that goes to the estuary and about 55 percent during the -- during the wet season.

So that's really important to understand. We don't see that in the Cocohatchee watershed. We do not see that in the Okaloacoochee, the Rookery Bay, the Fakahatchee watersheds. We do see this pattern in the Fakaunion watershed, but we think that's going to be corrected through the implementation of the Picayune Strand restoration project.

So kind of from our perspective, we've got to manage a base flow in the Golden Gate watershed to reduce the flows in the Naples Bay.

And this is kind of a map that shows where base flow occurs in the Golden Gate watershed during the dry season. And if you look at this, this is really interesting. In some of these areas where it's yellow, we're actually getting water moving out of the canal system in the groundwater and recharging the surficial aquifer, and this corresponds with well -- the location of the wellfields. So that's really interesting that during dry season we're seeing groundwater recharge from the canals.

And over here, there's a -- and actually a pump that backflow -- that back pumps water out of Golden Gate Canal into the 951 canal, and we're seeing that actually the water's being pumped up into the 951, and then it's cycling back through groundwater right back into Golden Gate Canal. So there's a little bit of an issue there that we probably need to work with the Water Management District.

But it's also interesting to see that immediately downstream of the structures is where most recharged -- or the most base flow is occurring, and that's a result of the way they stair -- stair-step the structure elevations and the water elevations in the canals.

So the next thing we looked at -- so that kind of finishes the topic of water budgets.

The next thing we looked at was understanding the flow going into the estuary systems, and we looked at this in two different ways. We did this, one, by comparing the results of our model against a natural systems model that was developed for the Big Cypress Basin for the Southwest Florida Feasibility Study and looked at the difference in the flows from there, and we also, to kind of verify that methodology, we did an evaluation based on salinity-flow relationships.

And what we see, that during the wet season -- again, we match up very well in three of the four watersheds. We do see a difference in the Rookery Bay, and I think part of that is because the salinity-based analysis is looking only at flow out of Henderson Creek into that -- into the canal that is -- that comes out of Henderson Creek into the estuary.

And it doesn't really look at flows coming out of the Lely area or out of the agricultural lands to the south. So we think that in the model we're getting a complete picture of the flow; whereas the salinity-based analysis is really just looking at a small piece of the Rookery Bay watershed.

And we -- and we see a similar type of thing, in dry season the flows in Golden Gate are very, very comparable, which, again, is linked directly to the -- that all the flow comes out of the Golden Gate main canal.

And the other watersheds, we do have a lot of smaller tributaries that put out flow during the wet -- during the dry season that are not as obvious during the wet season.

So the next thing we looked at were water-quality impairments, and we looked at these at a WBID level, so that -- kind of a sub -- sub-watershed basis within each one of these things.

So I'll just kind of quickly summarize this. In the watersheds themselves, the inland parts of Collier County, you know, the most impairments we saw were in Lake Trafford in one -- in one WBID where we had four different impairments.

Of course, all the water-quality data for that was collected prior to the dredging project, and some of the data we're seeing now seems to suggest that these impairments are going to be much less or not exist anymore.

COMMISSIONER MURRAY: Hope so.

MR. deGOLIAN: We all hope so.

COMMISSIONER MURRAY: We spent a lot of money.

MR. deGOLIAN: Yes, sir.

And the other thing we see is a lot of these WBIDs are impaired for dissolved oxygen. And some of these WBIDs are very natural wetland areas, and we think wetland function is actually driving the low DO levels in there where others, such as the Northern Golden Gate Estates, you know, that -- we're seeing low DO there, but we think

that's coming in from groundwater because of the contribution of groundwater in there which has almost no dissolved oxygen in it.

Now, that's not a natural condition because of the result -- because of the existence of the canals. And certainly we don't discount the possibility that nutrient loading is contributing to these low DO values that are measured in these canal areas.

In the estuaries we see that in Cocohatchee we've got, you know -- of course, well, I guess in all the watersheds with the exception of Ten Thousand Islands, we see impairments for dissolved oxygen which, again, may be a function of the runoff from the canals that are -- that's very low, but also may be a function of nutrient loading in there. I think there needs to be more study on that to fully understand where that impairment comes from.

So having kind of done this big picture looking at the known impairments as identified by FDEP, we started doing some analyses of where's the loading coming from within the watershed. So we looked at surface-water loading, we did some calculations of that, and essentially we used our model, and we were able to come up with a runoff volume per year per model cell.

And then looking at the anthropogenic load within urban area and agricultural areas, apply an event, meaning concentration, that's consistent with what was done for the Southwest Florida Feasibility Study, and come up with a pollutant load per cell into the -- and into the canal network on a -- on a watershed basis.

And we did actually assign a score to each cell based on the level of treatment that goes on there. So if we -- as kind of a standard, we said, okay, if it -- and we used medium-density residential with no treatment as kind of our base case, if you will, and said, if we remove 90 percent of that, we're going to score a 10 on our ranking, our evaluation -- if we're equal to that or worse, we get a zero. Just to kind of give us a scale. So we're measuring the level of treatment relative to this base load, if you will, or baseline load.

And then we did a similar process in groundwater where we looked at all the available groundwater data from monitoring wells, and we did an interpolation to estimate concentrations across the entire study area of groundwater concentrations for nitrogen and phosphorus and iron and all these different types of things, multiplied that by the base flow into the canals to come up with a loading rate. So I'll show you a couple of maps that we generated from out of this thing.

First are some pollutant loading scores. And, again, this is on the zero-to-10 range, where 10's being -- we get a really high level of treatment, or it's an area that's natural. And we see that in, you know, the Golden Gate Estates area.

There is some level of treatment going on throughout there. A lot of agricultural lands appear to have little treatment for nitrogen and phosphorus, so they are scoring poorly right now.

And if we look at groundwater -- again, we did this -- what they call a Kriging analysis to interpolate the concentrations in all these locations. And this -- we used every well, every bit of data we could find in from, you know, 1980s up till now.

And -- but this is interesting because it does show -- like if we look at this total nitrogen, there's some real gaps in the data, you know, down here in Rookery Bay. We've got this whole -- there's no data at all from these agricultural areas. So our interpolation is being driven by the results of one well and makes all this area look like it's got a high concentration. And it may not. It may not in reality, but we need to get some more wells in there to understand that better.

COMMISSIONER MURRAY: That's a huge --

MR. deGOLIAN: Yes. And that's -- and it's because of the lack of that missing data gap in there that we don't actually, you know, understand that well. And like I say, when we get into a monitoring plan, we want to put some wells in there to better understand what is the distribution of the nutrients and the metals in the -- across Collier County.

So if we look at a nutrient-load comparison from surface water to groundwater into the canal network, you know, we see that in general the surface-water load is higher, but it's -- but we certainly can't discount the contribution from groundwater. You know, in the Golden Gate Estates, you know, we know that the base-load contribution is almost 60 percent of the surface-water contribution, and that's a pretty significant inflow when you think about the volume of base flow that's coming in. So if we do a better job of controlling base flow, we reduce that nutrient load from groundwater significantly in that area.

Functional assessment. I'm -- as Nicole -- oh, good. Nicole's still here. Just kind of review what we'd talked

about this. Really what we did is we looked at the existing land use and vegetation cover and compared that against the predevelopment vegetation maps that we had, and we looked at vegetation in terms of habitat based on the differences of vegetation from the predevelopment to now. We looked at the differences in hydrology in terms of looking at our model results for hydroperiod and depth of water inundation and compared that against values that were provided by Mike Deuver at the Water Management District, you know, for specific land uses in the predevelopment model.

And then we also did a Landscape Suitability Index which looks at the intensity of activity on that -- on each property -- or on each cell, and it calculates a score based on everything that's surrounding you. So if I have a wetland in the middle of a highway, I'm going to get a very poor score in the Landscape Suitability Index because of what's around me, even though I've got a neat little wetland, but no wildlife can get to it because of the -- because of the surrounding land uses.

So we have three different maps that look at this thing, and these things were combined to come up with a single score from a functional-assessment perspective. But what's interesting here -- and, you know, we've got the vegetation scores, we've got the -- all the agricultural lands are scoring in about a four range based on the habitat availability of that.

But, you know, from my perspective as a hydrologist, the hydrology score is the thing most interesting to me where we can see the loss of the hydrologic habitat in, you know, the Fakahatchee and the Fakaunion watersheds and the Rookery Bay and parts of Okaloacoochee Slough and up in the Cocohatchee.

And, you know, I think if we can restore some of those things, then we start bringing back the habitat, we start treating water quality, we start getting more groundwater recharge, and we start solving some of the problems with flow into the estuaries.

CHAIRMAN STRAIN: The higher the scale --

MR. deGOLIAN: Yeah. The higher the scale, the closer it is to historical hydrological conditions. So if it's a 10, it matches what was there in the predevelopment.

CHAIRMAN STRAIN: In the coloration.

MR. deGOLIAN: Right. So the coloration is blue, which is high. If it gets to the reds to the oranges and the browns, it's poor.

CHAIRMAN STRAIN: Okay. Interesting, the area that you're looking at in Golden Gate Estates for the TDRs is in a very poor location for vegetation and functional assessment, and it doesn't stand out as being extraordinary in the others either, which is unusual that that still is picked. I'm not saying it shouldn't be. But I'm wondering how you're going to justify it as we go down the road for mitigation, but that is something to consider, I guess.

MR. deGOLIAN: Yes, sir. Yes, I agree. We do need to make sure that that's -- that we clearly state that.

COMMISSIONER MURRAY: How old are these data?

MR. deGOLIAN: The land use that we use for -- well, these are maps that we generated using the 2007 land-use vegetation and the results from our model, and we compared this against what they call a predevelopment vegetation, which is kind of from like 1950s.

COMMISSIONER MURRAY: I'm trying to understand in the South Belle Meade area why that is so high in terms of, you know, the coloration there. It's not into the blue by any stretch.

MR. deGOLIAN: Right.

COMMISSIONER MURRAY: And I understand that because of the way it was done, it was cut off, so to speak, and they're now taking the roads out, et cetera, et cetera, but I would have thought that we have had -- I would have thought we would have been in better shape than what it appears to be right there, and that's why I asked about the data.

Your comparators are from 1950s, and then you used what?

MR. deGOLIAN: Well, the issue -- and if you're looking at the hydrology score --

COMMISSIONER MURRAY: Yeah. I'm looking at the hydrology. That's the one that's --

MR. deGOLIAN: Yeah. Well, the issue there is this is considering the preconstruction of the Belle Meade -- of the restoration project.

COMMISSIONER MURRAY: That's what I was trying to track, yeah.

MR. deGOLIAN: Yeah. So this is using 2007 conditions. And now that's under construction, but all those

canals are still there and the structures are still operational, or at least they're starting construction on them now. So this actually -- I mean, we expect that what's -- what we see in the Fakaunion here is going to go away, and that's going to go to blue.

COMMISSIONER MURRAY: It had better; otherwise the whole process has --

MR. deGOLIAN: Oh, yeah. And we actually have to do a simulation that kind of establishes a new baseline, if you will, that includes that Picayune Strand restoration project. But that project was not included in the existing condition model. So it likely predates that, and that's why we're seeing that poor hydrology score there.

COMMISSIONER MURRAY: Right.

MR. deGOLIAN: So any other questions on that? Okay.

So our map of ecological, valuable lands. And this does disagree with what's in the report, Nicole, and we have to update that and correct that, and I apologize, because it's my mistake because I made the map. So I will fix that. I appreciate your comment and catching that for me. But we do see that there are ecologically valuable lands in there.

But the other important thing is we've got the wellhead-protection area that sits in the middle of that -- of the ROMA area that we're proposing as our whole series of shallow, you know, wells that draw from the surficial and the lower Tami (sic) aquifer right there.

Next thing we did is we did a look of aquifer drawdown and trying to understand what are the impacts of pumping in the aquifer system. So to kind of get a worst-case scenario, we looked at the driest of the dry seasons, which is November of 2006 until June 2007, and we calculated a score for that, if you will, and I'll explain how the scoring works.

And then just for the fun of it, to kind of get an idea of what the effects are going to be in the future as the county grows and the demand for water increases, we did an additional model run where we just increased the -- all the potable water supply pumping by 10 percent and did a comparison of the maps there.

So to kind of score our aquifer drawdown, we just -- we went to the natural systems model, we got the water-surface elevation for the particular aquifer, and we really just measured the difference from our model versus that model to look at the result and came up to that.

So if it matched -- or excuse me. If it was at the top of the average water-surface elevation, it scored a 10. If it was at the bottom of the aquifer, it would score a zero in the water table aquifer. And then wherever fell in between, it got a score based on the percentage of where it was. So if we look at our maps, this kind of shows where the areas of most drawdown occur as predicted in our model. And you can see that in this -- in this wellfield here where we're talking about our restoration area, we do have drawdown associated with the wellfield. We think this drawdown in the surficial aquifer here is mostly related to the base flow that's occurring into the canal network there in the Southern Golden Gate Estates. And this area up here in the Okaloacoochee we think is associated with irrigation for agricultural use. So that kind of follows for both of those -- both of those watersheds.

And then we did a map that looks at the 10 percent additional, and you can -- this shows the difference between the two. So the more blue it is, the greater the difference in drawdown between the -- our current existing condition model and this future scenario where it would have additional water being drawn out. And you can see there is a -- some pretty significant differences, especially in the City of Naples area in that wellfield, and we are seeing up to a foot of difference in other areas in the Golden Gate Estates.

So, again, recharge is going to be really important in the Golden Gate Estates and near these wellfields to make sure we can maintain the aquifers.

So to kind of summarize our existing conditions, you know, the issue in the Cocohatchee/Corkscrew is really about the timing of the flows out to the estuary with too much in the dry season, too little in the -- or excuse me -- too little in the wet -- in the dry season, too much in the wet. So if we can store more in the wet season and let it bleed out over time, we think it will solve that.

And the folks at CREW and the Audubon Society are doing a number of projects up in there right now. So we did recommend a project in there, but we think the projects they're doing may solve it without us having to do a whole lot.

In the Golden Gate watershed, obviously management of base flow is going to be really important in terms of providing estuarine protection.

You know, a majority of pollutant loading is associated with stormwater runoff from surface runoff from

urban areas and some of the agricultural areas, but we do need to look at the base-flow contributions and understand how we can manage those.

And then, of course, increasing recharge across the study area, especially in the areas of the wellfields is going to be really important for meeting long-term and future needs of the county.

Yes, sir?

COMMISSIONER MURRAY: Question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: If you have a storm, several-day rain --

MR. deGOLIAN: Right.

COMMISSIONER MURRAY: -- intermittent, but some strong, et cetera, pollutant load I could understand. But let's say three or four days later you have another storm. Is the pollutant load just as high as a result of that storm?

MR. deGOLIAN: Not typically, because you typically -- you know, you have to have an accumulation period.

COMMISSIONER MURRAY: It's a flushing effect, isn't it?

MR. deGOLIAN: Yeah. It does fluctuate over time, because you normally would have a -- if you've had a long dry period, you'd have a period of accumulation, some out-atmosphere deposition, some from fertilizer use or whatever. And then when -- that first large rainfall event that generates runoff would typically carry most of that with it.

COMMISSIONER MURRAY: As a flushing effect?

MR. deGOLIAN: Yes, sir.

COMMISSIONER MURRAY: And so how -- what kind of calculation do you go to make -- to come to your conclusions there about the true load?

MR. CABEZAS: Well -- I'm Moris Cabezas. You know, you're exactly correct in that there's a lot of variation between the storms. It depends on the type of storm, it depends on the accumulation period and all of that, and that's the reason why pollutant-load calculations are done on an annual-average basis. So what you see there are results of the annual-average pollutant load.

COMMISSIONER MURRAY: I wouldn't see that to be as accurate, as reality, but that's the means that you

MR. CABEZAS: That -- right. And there is some justification to doing that, because, you know, the water-quality impacts as opposed to the water-quantity impacts are not immediate. You know, it takes some time for the processes to take place.

COMMISSIONER MURRAY: I understand.

MR. CABEZAS: So that's justified.

MR. deGOLIAN: Thanks, Moris.

Okay, next. So the next thing I'm going to talk about are some of the recommended projects. You know, we went through whole -- I think the last time we were here I ran through like 40-something projects that we were considering as potential ideas, and we've whittled that down to 18 that we think are viable for implementation, and I wanted to kind of walk through those very quickly and let you kind of get an idea of that and then talk a little bit what we can do for structure operations to manage base flow in the Golden Gate watershed.

So first thing we did is identified this world of potential projects out there, and we looked at a lot of things that have been done previously. And some of the projects that were identified in the feasibility study and some of these other things really weren't very well defined, so we tried to spend some time defining specific things that could occur within some of these other projects that have been identified.

But our goals always are, better match the estuarine freshwater surplus. You know, reduce that surplus flow or deficit into the estuaries, you know, look at water-quality pro- -- reduction opportunities. We want to know who owns the property.

If it's publicly owned property, we have much more opportunity to do something there as opposed to going out and buying private property, one that will work within conservation easements if they exist. And then if we can work within sending lands, that's a good place to do also, assuming we can get the rights of those lands to work on them so we don't have to spend a lot of money.

And, again, we looked at some of these other projects that have been done previously, the Picayune Strand

restoration project obviously, which is underway, the Southwest Florida Feasibility Study, the Belle Meade area, Stormwater Master Plan, Lely area, Immokalee Stormwater Plan, and then this Regional Irrigation Distribution System Plan which looked at aquifer storage and recovery systems.

So after looking at the 40-something projects, we've gone through a -- kind of an analysis and initial screening and weeded a lot of them out and got down to these 18 that I'm going to show you right now, and then I'll show you how we rank these projects or how we think they're going to be ranked in terms of priority.

So the first one we looked at is in Cocohatchee/Corkscrew watershed. And as I mentioned, the folks at CREW and the Audubon Society are doing a number of projects in there, but this is an area that's just north of the Twin Eagles area, and there are a number of ditches and drainage swales in there that we think you can do some ditch blocks in there pretty inexpensively that will slow down the rate of flow going out there and increase some storage in the watershed and contribute to that reduction of flow during the wet season and increase in flow during the dry seasons.

But we do need to look at, you know, some of the potential impacts on some of these subdivisions right there and make sure we're not flooding out a golf course or something like that. But it is a pretty inexpensive project to do -- to do these ditch blocking types of things.

One of the bigger projects that we've looked at -- and this is one that's being championed by the South Florida Water Management District -- is what they call the Henderson Creek diversion pump station where just upstream of the new GG3 structure, the idea is to put in a 100 CFS pump and divert the water south through the existing culverts underneath I-75 and into the Henderson Creek Canal. And doing this would reduce, on an annual basis, the flows out to Naples Bay by about 10 percent and would not have a significant change in the flows at Rookery Bay because of losses during the movement process.

COMMISSIONER MURRAY: Question, sir? In the Henderson Creek, that's a location where we get a surge or we get a lot of water. We flood, obviously, going out, but we can also get a lot of surge going up. What would that -- what'd you call that before? You put something in there to hold the water.

MR. deGOLIAN: Ditch blocks.

COMMISSIONER MURRAY: Ditch blocks. Sorry. I couldn't remember. But how will that impa- -- how far up is that?

MR. deGOLIAN: Well, the -- there is a structure on Henderson Creek at U.S. 41. That's a salinity-control structure, and it's also -- so it stages water up in the Henderson Creek and controls when flows comes out.

So getting some additional flow down there actually makes more water available for the Marco Island water intake, which is -- I know they're going to be wanting more water as we move forward.

COMMISSIONER MURRAY: Well, my question really wasn't about going down but rather what happens going back up again in the event of tidal bore and what have you.

MR. deGOLIAN: Well, into Henderson Creek, the tides -- the tide can't get past that structure.

COMMISSIONER MURRAY: That's what I was --

MR. deGOLIAN: Yeah. It will come up to U.S. 41, and it stops there, and there is no tidal influence.

COMMISSIONER MURRAY: Well, then we just have to be concerned with flooding on 41 in that area.

MR. deGOLIAN: Yes.

COMMISSIONER MURRAY: That has historically been a case; that's why I bring that up.

MR. deGOLIAN: Yes, right, right. That -- yeah, that is -- there is certainly -- has been some inundation in that area that we do have to be aware of and --

COMMISSIONER MURRAY: All right. Thank you.

MR. deGOLIAN: Yes, sir. And so -- but in -- but that -- and just to add an additional comment on that, you know, obviously we wouldn't be operating this structure during high flood events. You know, this would -- this would -- we'd have to -- you know, the -- when we operate the structure is going to have to be dependent upon stage in the Golden Gate Canal and also what's going on down there at Henderson Creek.

So we can -- so the Water Management District has the ability to use these SCADA systems to read what's going on at different locations and operate structures accordingly.

So that is certainly an issue that has to be recognized in terms of the pumping schedule for this thing, because we can't pump it all the time.

COMMISSIONER MURRAY: I appreciate that.

MR. deGOLIAN: You know, we're -- we would anticipate that during rainy season maybe you can pump it 40 to 50 percent of the time, and during dry season maybe 20 to 25 percent of the time, just because there's not enough -- not always enough water upstream of the Golden Gate 3. And we don't want to pump it all out of there, because we still need to have the groundwater protected up there for recharge.

So -- but that's a very good -- very good question. Thank you.

Next one we looked at is the flowway restoration project that we're talking about doing the TDR and the mitigation area.

So essentially -- and this is -- really what we've laid out here is the plans as they were originally drawn in the Phase I of Horsepen Strand study where they put -- are proposing to put a number of culverts under the roads and increase connectivity of the wetlands. We think it's going to require a little more work to make it work more efficiently with some ditch blocks and some additional connectivity and allow it to move further to the south as opposed to just having it go through these wetlands and fall right back out into the canals again.

Next thing we looked at -- and this is up near the GG5 and 6 structures in here, which is next to the agricultural extension service office out here, the fairground. And there's a canal here that right now doesn't have any control on it, and we think we could build a structure on there which would allow us to create more storage in that canal and also reduce some of the groundwater recharge into that canal up there.

And the costs are very comparable with what the district would be paying to rebuild the GG6 and 7 structures, which is on their to-do list.

Next thing we looked at -- and this was off of Wolfe Road which comes in right here. This is actually some existing -- I guess they're dredge spoil ponds or something. I don't know exactly what they are, but there's five existing little ponds down there. And right now the water comes down this canal here and goes through a drop structure into the Indian Walk -- Indian Lakes subdivision, and they are responsible for managing the water that comes through that structure.

Now, we think we could divert some of that water and bring it down and put it through this series of existing ponds and use it as a stormwater treatment area to get some water-quality treatment and to capture some of the flow and prevent it from going out there. And we're utilizing existing features, so it's not incredibly expensive to do that, and we would have to put it right back into the Indian Walk Lake when it's coming through, but it would be less volume of water that's going into their system that they would have to manage.

Another one we looked at is -- let's see. This is another one where we're putting a structure in a canal, right here on this Orangetree Canal. We're talking about adding a structure into this canal, again, just to stage up the water in there, reduce some of the base flow, and increase some storage in that canal system.

COMMISSIONER MURRAY: Sir?

MR. deGOLIAN: Yes, sir.

COMMISSIONER MURRAY: Of the -- of a canal versus a pond, which has the greater -- or the higher rate of evaporation?

MR. deGOLIAN: It really depends on the surface area. I mean --

COMMISSIONER MURRAY: That I can understand.

MR. deGOLIAN: Yeah.

COMMISSIONER MURRAY: But you were reflecting on some ponds that you saw were down.

MR. deGOLIAN: Uh-huh.

COMMISSIONER MURRAY: I was just wondering about whether that -- whether we -- you know, we could do some cleaning, et cetera, but I'm wondering if we don't just -- I'm assuming those dots are fairly representative.

MR. deGOLIAN: Yeah. What we -- yeah, what we would -- well, those dots are where we would recommend putting culverts to connect those ponds together to allow a flowway through the system. But you do have -- I don't know if you can see there -- and I apologize. I don't know the total acreage of those ponds right there. And I

--
COMMISSIONER MURRAY: I'm just wondering. A pond is generally open to the atmosphere as opposed to a canal, which is often shaded.

MR. deGOLIAN: Well, these are -- there's -- the edges of these canals are wooded. And I've been out there, and there is a lot of canopy overhang over the first 4 or 5 feet of the pond on either side, but the center of the ponds is

very open.

COMMISSIONER MURRAY: All right.

MR. deGOLIAN: Then we get out of Golden Gate and we get into Rookery Bay, and actually this is a project that's drawing water out of the Golden Gate Canal into the northern part of the Rookery Bay watershed north of I-75 and adjacent to where these proposed mines are supposed to be going in there and to the east of the Wilson Boulevard extension that's going to occur. And the idea is to pull water out of the Golden Gate Canal when it's available and put it into a spreader system and let it flow via overland flow down south into the canal system on the north side of I-75 where it would then either go under the canals at I-75, or potentially it could go off to the east into the Miller Canal and then be pumped down into Fakaunion.

So we think this project has a lot of potential and could be implemented as part of the construction project with the Wilson Boulevard extension, or another possibility is there's -- I think the mines are talking about doing mitigation in that area. It may become maybe that this is their mitigation plan is to implement something like this as part of their implementation process, but that would have to be negotiated with those mining companies.

Next thing we looked at in Rookery Bay -- and this kind of plays off the one we just looked at. This is another spreader swale. It's located south of I-75 in the Picayune Strand State Forest area right there. And, again, it's just to pick up the water that's coming underneath the I-75 canals that's resulting from the other system and putting it above the ground surface and helping us rehydrate the wetlands and increase the hydroperiod in this Picayune Strand area and letting this water then migrate through these wetlands and restore the hydrology in there.

COMMISSIONER MURRAY: But, sir, isn't that part of the big project?

MR. deGOLIAN: This is actually west of that big project and is not part of that. It's not -- this would not be affected by the restoration project in the Miller, Fakaunion, and Fakahatchee Canals.

COMMISSIONER MURRAY: That's good to know. Thank you.

MR. deGOLIAN: Or Merit Canals, excuse me. Another thing we looked at -- there's this existing mine over here off of Henderson Creek and Collier Boulevard, and we think that sometime in the future when its finished mining, we ought to grab this thing and use it for a storage to grab water during the wet season, store it, and be able to pull it -- let it -- gravity flow out during the dry season.

And we think this one's more viable. We looked at this opportunity at some of the other mines up in the Golden Gate watershed, and those actually were so close to the canals that we thought there was going to be so much interaction between the mine and the canal from just seepage that we didn't think those were very practical.

But this one is far enough away from the canal, and the general direction of gravity flow is to the south where we don't think there would be as much interaction with the canal system in here. And, again, that would allow us to capture excess flow during the dry season and put it all in the wet season or to use it as water supply for the folks in Marco Island.

Last one in Rookery Bay is down here on U.S. 41 just to the east of where Henderson Creek comes out. And we're talking about building on publicly owned land a small stormwater treatment area where we just pump water up into this -- into this wetland system and let it, kind of, pond up and get water-quality treatment before gravity flows back out and works its way south through the existing canal system out into Rookery Bay.

Then we go into the Fakahatchee and Okaloacoochee watersheds. And the things we've recommended in here are more directed solely to restoration with a lot of ditch blocks and things of that nature. What we're looking at here are some isolated wetlands where historically somebody went in there and dug some ditches to drain the wetlands, whether for agriculture or logging or whatever. So we would suggest we go back in there and just put some small ditch blocks to capture the water and keep in these wetland areas and improve the hydrology and the habitat of these areas.

So we see this same type of thing.

Now, this one here is actually in the main slough of the Okaloacoochee. And we have to be a little bit more careful here. If we start doing ditch blocks here, we can have -- we're going to have -- potentially increase inundation over a very large area, so we have to be very careful about the size of these ditch blocks. But we think the improvement that we can get from these things could be very, very large from an ecological perspective, hydrological perspective, and also from a water-quality perspective.

And we have three different projects like this along the -- along the Okaloacoochee Slough flowway. So there's a second one that's a little bit farther south and then one down here at Highway 858, just north of that.

So this would probably -- potentially take some of the stress off that bridge under the main road there by ponding some of the water up father. Of course, we do have to look at potential ramifications to the agricultural and pasture lands around there.

Then we had a couple other of these small, isolated wetland-type projects in the Okaloacoochee Slough. Same type of deal, just put in some ditch blocks and do a very isolated restoration. Very inexpensive little projects to do.

So anyway, we have this whole list of projects that we looked at. And so the question is, how do we prioritize them? If we're going to implement these things, we've got to have a way to prioritize them.

So we have a couple of different weighting factors that we considered, and the first one is related to the overall restoration purposes. And from everything we've heard from everybody we've talked to is getting the flow right with the estuaries is by far the most important thing we've got to do. So we gave that a weight of 2, and everything else got a weight of 1.

And the other thing we looked at is, again, trying to balance things across the watersheds, because all the watersheds are very unique characteristics. So we wanted to start looking at things relative to the improvement, relative to the drainage area and see what we could do.

So we looked at the watershed drainage area, the size of the estuary relative to that drainage area, and the different types of land uses. And I'll talk about this.

So for water quantity where we're talking about the flow to the estuary, we took the estuary area, divided it by the drainage area. So the smaller the estuary relative to the drainage area, the higher the score.

And for water quality we looked at the amount of urban or agricultural lands, because we're only interested in anthropogenic load, and looked at that relative to the volume of drainage area. And in that case, the higher the percentage, the higher the score, because we want to reduce that pollutant load from these areas.

And the last one related to the hydrology. And, again, we looked at inland wetland area relative to the drainage area. And in this case, as we said, if it has a very small amount of wetlands relative to the drainage area, it got a high score because it's -- if it doesn't have wetlands now, it's important to restore the wetlands that are there and protect them for future.

So these are the weighting factors that we ended up coming with -- up with for each of the -- of the watersheds that we applied to the projects after we evaluated the individual benefits.

And just to kind of show you a scoring matrix, you know, we have a score for water quantity related to the flow to the estuary, a water-quality score, a hydrologic-benefit score.

And you can see on some of these projects, you know, some of them -- like the diversion projects have a water-quantity benefit but has no benefit in terms of water quality or hydrologic benefit. You know, it's really not doing anything to restore wetlands, and it's really not doing a whole lot to restore -- to fix water quality. But it scores very high because of the reduction, that 10 percent reduction in flow to the Naples Bay Estuary during the course of the average year.

So this is kind of the ranking of the things based on just the quality benefits. And then we said, well, let's do a calculation based on cost and get a benefit-per-cost ratio. And it kind of juggles the things up. And we actually see that that while the Henderson Creek diversion is still our top project -- and kudos to the Water Management District for identifying that -- but we see that this middle Okaloacoochee Slough wetland restoration project, which really doesn't have much flow benefit to the estuary, scores very high on a dollar-per-benefit cost because it provides a really nice hydrologic jump, and it provides a nice water-quality benefit and is very -- and is relatively inexpensive to implement relative to some of these other projects.

And we do see that some of these other projects that score very, very low down here, that's the scale of the project. You know, if you're looking at an isolated wetland project, it's not going to -- you really don't see the benefit at a watershed scale, so it looks like the benefits are very, very small, even though it might have a nice very -- a very nice benefit at a very local scale.

So to kind of wrap up my part of the presentation, you know, the projects that divert water between the watersheds are probably going to provide the most benefit and protect the estuaries. We do see that relatively inexpensive wetland-restoration projects can have significant hydrologic-restoration benefits on a regional scale, but even though a lot of them we only see it at the local scale.

But coming out of this, nonstructural and policy issues are going to be the most important thing, because even

looking at these big diversion projects, we were only looking at, you know, reducing flow to Naples Bay by, like, 20 percent, which is not very much. So we really need to start looking at some of these -- some of these nonstructural and policy-related issues and make sure that they're going to be applied for the future.

And, you know, one of those big things is structure operations. We've talked about this a number -- you know, throughout my presentation. So the primary issues, we've got to reduce base-load contributions, and we've got to use structure operations where we can to divert water to the other watersheds.

And as I mentioned earlier, the base flow is the primary contributor of flow to the Golden Gate Canal network.

And I'll just skip through this. But I guess just the key point on this slide is, you know, the dry season water-surface elevation is held about a foot higher than wet season. So the gradient from groundwater is actually higher during the wet season, because groundwater is higher, but the water level in the canal is lower, so you get more base flow.

Yes, sir.

COMMISSIONER MURRAY: Relative to what you just said about the bang-for-the-buck type thing.

MR. deGOLIAN: Sure.

COMMISSIONER MURRAY: I'm trying to think about that \$5.07 million for Henderson Creek, and I'm trying to figure -- trying to relate it to what you just said, and it doesn't -- I'm not clear on it.

Can you tell me why that would -- why would we want to go out heavy-duty with that one relative to the others? And it's going to do quantity, not quality.

MR. deGOLIAN: It is going to do quantity, and because -- and --

COMMISSIONER MURRAY: If you back up two slides, we might be able to focus more effectively on --

MR. deGOLIAN: On this slide here, or this slide here?

COMMISSIONER MURRAY: Yeah. No, the one you just -- yeah, there you go.

MR. deGOLIAN: Yes, sir.

COMMISSIONER MURRAY: You know, when you look at that, you see a pump station. You called it -- you made it sound very inexpensive earlier with your statement about putting a plug in there.

MR. deGOLIAN: Well, this is not putting a plug in Henderson -- in the Henderson Creek --

COMMISSIONER MURRAY: Well, that's what I'm trying to rationalize now. I'm trying to understand, because before we were talking about something that I thought was something simple, and now I'm seeing 5.708 million.

MR. deGOLIAN: Well -- okay. If you'll bear with me for a minute, I'll jump back up to that slide, because this one is -- this is the structure that -- where they're rebuilding the Golden Gate 3 Canal or Golden Gate 3 structure, and they're putting in a pump station immediately upstream of that structure to send water directly to Henderson Creek.

COMMISSIONER MURRAY: But is that part of watershed protection?

MR. deGOLIAN: Well, from a protection of Naples Bay Estuary, it's very important, because it does reduce that volume of flow going out there.

COMMISSIONER MURRAY: Well, that I could appreciate. So in other words, that's part of this.

MR. deGOLIAN: That is certainly part of it.

COMMISSIONER MURRAY: And I can relate and understand the -- there are several objectives in this whole program.

MR. deGOLIAN: Yes, sir.

COMMISSIONER MURRAY: And do we stack the objectives? Apparently we do. Apparently that's a No. 1 on the objective.

MR. deGOLIAN: Well, they -- well, when -- and, you know, we did talk about when -- in this weighting factor that -- and, you know, we're -- this is an initial weighting, so we're -- we're still in -- I guess we can still talk about this. I mean, this is not at a final thing, but, you know --

COMMISSIONER MURRAY: Well, I'm trying to understand.

MR. deGOLIAN: Yeah. Based on everything we have heard throughout the course of this project, the thing we have been told that is most important by everybody we've talked to is get the flow right to the estuaries.

COMMISSIONER MURRAY: Okay.

MR. deGOLIAN: And if we get -- so we doubled the weight on that to get that as our highest priority.

COMMISSIONER MURRAY: And maybe it's -- maybe it's something that I have a prejudice based on prior awareness of things, but it seemed to me up on Immokalee Road, up in that area by Twin Eagles and so forth --

MR. deGOLIAN: Yes, sir.

COMMISSIONER MURRAY: -- there's areas up there that we're watching the watershed just, you know, eventually being chopped apart. And I'm wondering, where does that stack up relative to this? You know, if you've got No. 1, Henderson Creek, where does that -- where does that stack up? Is that No. 17 or what?

MR. deGOLIAN: In terms of restoration in --

COMMISSIONER MURRAY: In terms of improvement, whatever it may be.

MR. deGOLIAN: Well, I think what we're going to find in -- and we'll talk about this in a second -- in the Cocohatchee watershed, you know, our flow --

COMMISSIONER MURRAY: Yes. That's the one I think I'm talking about.

MR. deGOLIAN: Yeah. The flows into the Wiggins Pass estuary right now are actually pretty good. I mean, they're pretty close to historical.

COMMISSIONER MURRAY: Okay. And you and I now are talking about the same thing, and that's good for me.

MR. deGOLIAN: Sure, yes, sir.

COMMISSIONER MURRAY: But the fact is there's tremendous -- there was, and there will be again, tremendous pressure for development in that very area.

MR. deGOLIAN: Yes, sir.

COMMISSIONER MURRAY: And that's what I'm looking to find out. If we spend our bucks doing certain things, we don't have money for that, and then we're behind ourselves again.

MR. deGOLIAN: Well --

COMMISSIONER MURRAY: I want to understand where that stacks up.

MR. deGOLIAN: Well, that actually falls into the policy recommendations that we're making that would govern that new development and how that occurs.

COMMISSIONER MURRAY: Are you doing that here and I missed it?

MR. deGOLIAN: We are doing that here.

COMMISSIONER MURRAY: Did I miss it?

MR. deGOLIAN: No, we haven't done that yet.

COMMISSIONER MURRAY: Oh, okay.

MR. deGOLIAN: It's coming. What I'm talking about right now is actually physical projects in --

COMMISSIONER MURRAY: I got you. I'm trying to follow. There's a lot of data here.

MR. deGOLIAN: And then -- oh, there is a ton of information, and I'm sorry we're dumping it all on you at one time.

COMMISSIONER MURRAY: That's all right. We're used to it.

MR. deGOLIAN: So -- but we will be talking about that in just a second.

So structure operations, of course, the difference there is the groundwater elevations versus the canal elevation that's driving that base flow in there.

And this kind of -- this is the -- we saw a map of this for dry season. This is the base flow during wet season into the Golden Gate, and, you know, we don't see those losses to the groundwater network here, which makes sense because the additional infiltration in the area ends. But this kind of let's us know where the most base flow is occurring. So this is going to be useful for us in terms of talking to the district about how to manage the structures.

So from a structural-operation perspective, we want to work with the Water Management District to operate those structure operations so that the canal stage more closely matches the groundwater elevation. And that will reduce base flow.

Of course, we do have limitations because the structures themselves have physical tops that we can -- that -- you know, there's just so high you can go without building a new structure, and we have to think about the septic tanks and where those -- where those leach fields are, because we cannot affect those things.

Now, we saw in the Golden Gate watershed that managing this may be more important in the dry season because the percentage of base flow is about 70 percent of total flow, and it's easier to manage it in dry season,

assuming that the structures are physically capable to let us raise that water-surface elevation a little higher.

And the other things we want to look at are operating, like, the Miller 3 structure when it get replaced, is make sure it has the flexibility in there to allow us to let water shunt off into the Miller Canal and down into the Fakaunion watershed as opposed to sending it out Naples to Naples Bay.

And we want also want to look at how the C1 connector canal is set up right now, because right now the culvert's in their control flow. And conceivably you could do some more work in that canal and put a new structure in there that, again, would allow flow to migrate to the east.

And with that, I'm going to finish, and I'm going to turn the presentation over to Moris to talk about development issues.

CHAIRMAN STRAIN: Before you do.

MR. deGOLIAN: Yes, sir.

CHAIRMAN STRAIN: When Ray Bellows put this on the agenda, unfortunately he never gave a hint that this was going to be any more than a ten-minute presentation --

MR. deGOLIAN: Yes, sir.

CHAIRMAN STRAIN: -- as you well know by the discussion we had before lunch. And I'm sure Mr. Bellows will never do this again. But at the same time, there are a lot of things that still need to be done for some of us today. Based on the fact our agenda did not expect to go this long, there are other commitments that have got to be made, or committed to. I need to know how much longer you're going to take, because I have to make some phone calls, and I did not expect this to take so long today.

MR. CABEZAS: I'm Moris Cabezas. We still have some ways to go.

CHAIRMAN STRAIN: Okay.

MR. CABEZAS: So you know --

CHAIRMAN STRAIN: You'll -- we're going to --

MR. CABEZAS: You know, we would be very glad to come back at another time if you so desire.

CHAIRMAN STRAIN: Well, you'll have to because I'm --

MR. CABEZAS: Whatever you want to do.

CHAIRMAN STRAIN: What about the rest of this panel? What time --

COMMISSIONER SCHIFFER: I have a question. In Mac's memo he calls this a brief update. What is the full one going to be like?

MR. CABEZAS: I know. It takes a week.

COMMISSIONER SCHIFFER: I mean, do we bring cots to that one or what?

CHAIRMAN STRAIN: I just need to know what this board's desire is before we go further, because this could take many, many more hours at the rate we're going.

COMMISSIONER MURRAY: I think we ought to listen to the public speakers, and then from this forward we postpone for the next, whatever piece is coming in.

COMMISSIONER AHERN: How much time --

COMMISSIONER SCHIFFER: The problem I have, I based it on the -- I never thought we'd be this far. I've got to --

COMMISSIONER CARON: I have to leave at no later than four.

COMMISSIONER SCHIFFER: I'm in kind of trouble.

CHAIRMAN STRAIN: You've got to leave at four, you've got at --

COMMISSIONER MURRAY: Look at how many slides --

CHAIRMAN STRAIN: Just wait a minute, Mr. Murray.

COMMISSIONER SCHIFFER: I'll be leaving in 15 minutes. I can't --

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: I'm fine.

CHAIRMAN STRAIN: Okay. And I need to leave no later than four. I had two other appointments this afternoon which have already more or less canceled.

What's another date we could finish this up on, Ray?

COMMISSIONER SCHIFFER: And I think it would be nice if you sent it to us, and then we start where we just left off.

MR. CABEZAS: You may want to consider -- you know, and I'll go real quickly on these.

CHAIRMAN STRAIN: I'm not only worried about you.

MR. CABEZAS: Maybe in fifteen minutes -- in fifteen minutes I can give you an introduction of what we're thinking about --

CHAIRMAN STRAIN: We have --

MR. CABEZAS: -- and that may be --

CHAIRMAN STRAIN: We're not trying to short sell the issue. We have public involved in this. The problem is, this was not presented to us in a manner that we -- even any of us here, I think, anticipated three or four hours on this subject today.

COMMISSIONER SCHIFFER: Mark, let me ask another qu- -- how come -- how did the public know this was going to be a lengthy presentation? Because I don't think they came down for a brief update.

CHAIRMAN STRAIN: I don't either.

Ray, what's the next available date?

MR. BELLOWS: It would be April 7th. April 7th is the next Planning Commission meeting, and there's one land-use item on there, the Cope Reserve PUD.

CHAIRMAN STRAIN: And he's shaking his head no for the 7th.

MR. CABEZAS: I'm sorry. I won't be here April 7th.

MR. BELLOWS: Well, then the next meeting after that is the 21st of April, and that one shows also one item.

CHAIRMAN STRAIN: Okay. What about the 21st of April?

MR. CABEZAS: It's my wedding anniversary, but that's okay. My wife will understand.

CHAIRMAN STRAIN: Well, that was the appointment I had this afternoon with mine, so I'm in as much trouble as you are, so --

COMMISSIONER EBERT: And it's two days after mine.

CHAIRMAN STRAIN: Well, honestly, what should have happened is this should have been workshopped for a morning meeting where we could have met at CDES in 609 and just sat down and discussed this issue. And had this even been suggested at being the length and the detail it is, we would have gotten paperwork ahead of time, been prepared to have better questions and gotten into it a little bit more. This is not turning out as effective as it could have been, obviously.

We're going to lose some of our people here quickly. So with that in mind, what's this panel's wish?

COMMISSIONER MURRAY: I wonder if the public can't have the opportunity between now and the time that, say, 15, 20 minutes, to express their views and then continue.

CHAIRMAN STRAIN: Well, we're going to get to that. What's the panel's --

COMMISSIONER MURRAY: Well, I'm expressing my view.

COMMISSIONER SCHIFFER: Well, I mean, it's something of interest. I'd like to hear it, but I mean, we got kind of ambushed here, and --

CHAIRMAN STRAIN: Okay. Well, I think the consensus is we're going to cut this a little short for today, and we're going to reschedule for the 21st. In that regard, for what has been presented so far, does anybody from the public wish to discuss, or you want to hold off until the 21st? It's your option.

MR. CABEZAS: Twenty-first of April?

CHAIRMAN STRAIN: Twenty-first of April, yes, sir.

MS. CROOKS: My comments are going to be about fertilizer.

CHAIRMAN STRAIN: We haven't even talked about fertilizer yet.

MS. CROOKS: You have heard --

CHAIRMAN STRAIN: You need to use the mike if you want to address us, please. You have to state your name for the record.

MS. CROOKS: Hi. Amber Crooks from the Conservancy. I was going to speak about the fertilizer ordinance. It's something that you have heard -- been briefed on previously. I can hold my comments. I know there's others here from the public also about the fertilizer-ordinance component.

CHAIRMAN STRAIN: Okay. Well, it's a matter of we haven't -- I don't think they've discussed fertilizer yet. Have you guys gotten into the fertilizer issue yet? I mean, I didn't see that so far.

MR. CABEZAS: No, not yet.

CHAIRMAN STRAIN: Okay. Tim, did you have something you want to --

MR. NANCE: Well, I wish to speak again -- and thank you for your continued courtesy to me. But I would just like to advise the commission members that I would like to speak on the fertilizer ordinance at your April 21st meeting and advise you that it is a much greater topic than perhaps you realize at the time, and that I hope they will supply you with a great deal of material on it because it has blown into something that's beyond reasonability, shall I say. Thank you.

CHAIRMAN STRAIN: Well, thanks, Tim. And just so -- I don't think we have ever refused anybody speaking to this board.

MR. NANCE: Oh, absolutely.

CHAIRMAN STRAIN: So you will always have the time to speak.

MR. NANCE: Absolutely not, and I do appreciate it. I do appreciate your courtesy. Thank you.

CHAIRMAN STRAIN: The only thing I think we're looking at today is, is let's focus on what has been presented so far. And if there's no comments from the public on what's presented so far, we'd like to defer the rest of it until the 21st when we can be better prepared.

However, prior to the 21st, it would be nice if you guys gave us whatever backup material that we should have to understand better what maybe the public's going to talk about in regards to the fertilizer ordinance.

I certainly would expect that you provide us with the -- your PowerPoint in hard copy prior to that time so we can review it. This is a little kind of awkward today. We were caught off guard in the intensity of this, and I think you would have had a -- it would have been more effective to have a little preamble before we got here today with some backup information in our packet.

So does that work for everybody?

COMMISSIONER SCHIFFER: It's working perfect.

CHAIRMAN STRAIN: Okay. Ray, we are going to continue this item till the 21st of April.

Mr. Murray?

COMMISSIONER MURRAY: I was just going to say, if you want to send it to me electronically, I'll be happy to get it electronically rather than paper.

CHAIRMAN STRAIN: Okay. I'd like mine in hard copy, but you can go ahead and do it black and white just to save money in color, if you'd like to. And the reason for the hard copy, I can circle my questions and bring it with me, rather than have to print out 100 pages on my color copy -- color printer.

MR. CABEZAS: Would it be okay we provide three slides per sheet?

CHAIRMAN STRAIN: Doesn't matter. That's fine. That's fine. Just so we have something ahead of time to give us an idea of what's going on so we can do a preread. Okay.

That work for everybody?

Mac, we're going to cut you off.

COMMISSIONER SCHIFFER: One thing -- Mark, let me just add to that.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: It wouldn't be a bad idea to have it electronically also in case we wanted to go look at a map or something that wouldn't work on the three-per-sheet. So if you could do it both ways.

MR. HATCHER: The staff summary that I provide you all has good links to all of these documents on the web. So I will include links and hard copy of the presentations.

COMMISSIONER MURRAY: I'd just be happy to get the balance of the presentation electronically, and then I can see what I can see and do what I can do. That's what I'd appreciate.

CHAIRMAN STRAIN: Okay. Mac, thank you.

Now, as far as anything else on the agenda, I don't believe we have any new business. That was the only item of old business.

Any members of the public have any comments to make at this time?

(No response.)

CHAIRMAN STRAIN: Then is there a motion to adjourn?

Melissa?

COMMISSIONER SCHIFFER: So moved.

CHAIRMAN STRAIN: Mr. Schiffer, seconded by --

COMMISSIONER AHERN: Melissa.

CHAIRMAN STRAIN: -- Melissa.

All in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: We are adjourned.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 3:36 p.m.

COLLIER COUNTY PLANNING COMMISSION


MARK STRAIN, CHAIRMAN

ATTEST

DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 4-21-11, as presented or as corrected

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