

February 17, 2011

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION

Naples, Florida  
February 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:

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

ALSO PRESENT:

Heidi Ashton-Cicko, Assistant County Attorney  
Jamie French, Director, Operations and Regulatory Mgt.  
Ray Bellows, Planning Manager  
Thomas Eastman, Real Property Director, CC School District  
Bill Lorenz, Director of Land Development Services

CHAIRMAN STRAIN: Thank you, Ray.

Good morning, everyone. Welcome to the February 17th meeting of the Collier County Planning Commission.

If you'll all please rise for pledge of allegiance.

(Pledge of Allegiance was recited in unison.)

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

COMMISSIONER HOMIAK: Sure.

Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney is absent. Ms. Caron is absent.

Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Mr. Murray?

COMMISSIONER MURRAY: Here.

COMMISSIONER HOMIAK: Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: And Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN STRAIN: Okay, thank you.

\*\*\*Addenda to the agenda.

Ray, is anything changing on today's agenda? To be that lucky.

MR. BELLOWS: Not that I know of.

CHAIRMAN STRAIN: No, okay.

Just so the audience knows, we have a small consent item to start with. It will be quick. Then we have three items all involving Olde Cypress, that will be up next. They'll be heard simultaneously but voted on separately.

(At which time, Commissioner Midney enters the boardroom.)

CHAIRMAN STRAIN: After that we have the Immokalee Master Plan for anybody -- well, actually, we have Addie's Corner after that and then the Immokalee Master Plan. And we'll finish up with the Davis Boulevard/County Barn Road mixed use district.

Mr. Midney has shown. Hi, Paul.

\*\*\*Okay, Planning Commission absences. The next meeting is March 3rd, is it, Ray, or somewhere around that neighborhood?

MR. BELLOWS: The March 3rd meeting was canceled.

CHAIRMAN STRAIN: But we're having it as a workshop --

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: -- for the new attendees over in Developmental Services, Room 609; is that right?

MR. BELLOWS: That's correct. And that meeting starts at 9:00.

CHAIRMAN STRAIN: And for those that wish to attend that, that's where it will be. There will be no issues on the agenda, there will be no voting, it will simply be an orientation meeting.

MR. BELLOWS: That's correct. And I'll be sending the agendas out within a week or so for that meeting.

CHAIRMAN STRAIN: Okay. And the meeting after that in March would be the 17th again?

MR. BELLOWS: That's correct. And that meeting will also start at 9:00. And that will be the start of our regular 9:00 meetings.

CHAIRMAN STRAIN: The meeting on the 3rd starts at 9:00 as well?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Okay. And Ms. Ebert had made the recommendation, it was followed through by

staff, we are going to be meeting at 9:00 in the morning starting in March for all our meetings heretofore.

And that's kind of nice for those of us that have distances to travel.

Mr. Midney, I'd love to see if he's going to be 9:01 or 9:02 on those meetings.

COMMISSIONER MIDNEY: Probably.

CHAIRMAN STRAIN: Okay, does anybody know if they're not going to be attending the March 17th meeting?

(No response.)

CHAIRMAN STRAIN: Looks like we'll have a quorum. Great.

\*\*\*Approval of the minutes. The set that we have e-mailed to us was January 20th, 2011.

Does anybody have any changes or corrections on those minutes?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to approve?

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: Barry makes the motion. Is there a second?

COMMISSIONER EBERT: I second.

CHAIRMAN STRAIN: Seconded by Ms. Ebert.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

\*\*\*Ray, the BCC report and recaps.

MR. BELLOWS: Yes. On February 8th the Board of County Commissioners heard the PUD rezoning for Marsilea Villas PUD. That was approved on their summary agenda, subject to Planning Commission recommendations.

CHAIRMAN STRAIN: Thank you.

\*\*\*Chairman's report. Due to the obvious length of today's meeting, I will forego any further waste of time and move directly into the matters at hand.

\*\*\*The first one up is the consent agenda items. Item 8.A. It's CP-2010-1. It's the Future Land Use Element for the Growth Management Plan to modify language on the Vanderbilt Beach Road Neighborhood Commercial Subdistrict.

That is on our consent agenda from last time.

Does anybody have any -- see any corrections or clarifications needed to that submittal?

(No response.)

CHAIRMAN STRAIN: If not, there is a motion to approve?

COMMISSIONER AHERN: Motion.

CHAIRMAN STRAIN: By Melissa.

Is there a second?

COMMISSIONER EBERT: I second.

CHAIRMAN STRAIN: By Ms. Ebert.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

Thank you.

\*\*\*Now we get into the issue that's probably going to consume most of the day. If it does, that's fine, that's what we're here for.

I'd like to ask anybody that -- for disclosures first. Anybody wishing to testify on behalf of any of the following items, please rise to be sworn in by the court reporter. They are all items to do with Olde Cypress. I'll have to read them off for the record: PUDA-PL2010-388, DOA-PL2010-1052, PUDZ-PL2010-1054. The names are read as Olde Cypress Development LTD, Olde Cypress Development LTD and Vita Pima, LLC. And then Vita Pima, LLC, which is formally or is part of -- known as HD Development RPUD.

Anybody wishing to testify on behalf of those, please stand so the court reporter can swear you in. And I've got something to say about our court reporter in a minute.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: And I want to welcome Cherie' back to our board. She abandoned us last month. Although Terri was here and did a great job, Cherie', it's good to see you back. So thank you for gracing us with your presence today.

With that, is there any disclosures on the part of the Planning Commission on any three of those items?

Let's start with the Barry on the end.

COMMISSIONER KLEIN: Okay. On the 11th of this month I had a conference call with Mr. Yovanovich. And on the 12th I received an e-mail from Mr. Cavanaugh and responded to it and we went back and forth for about a day or two on a couple things.

CHAIRMAN STRAIN: You need to pull that mic a little closer, too, Barry.

COMMISSIONER KLEIN: Okay. Should I start all over again?

CHAIRMAN STRAIN: No, no, that's fine, I think we're okay. Just as we go on for the day, it would be handy.

COMMISSIONER KLEIN: Thank you.

CHAIRMAN STRAIN: Ms. Ebert?

COMMISSIONER EBERT: First of all, I have to say this is my community, I do live in Olde Cypress, love Olde Cypress, and I will give my ex parte of whom I have spoken with.

I met with Mr. Brian Stock, Mr. Keith Gelder, Mr. Ken Lannagan. I have talked to Ross McIntosh, Mr. Paul Hardy, Mr. Dan Trescott. I have spoke with several staff members. I've had several e-mails. And several people have stopped me in Olde Cypress. I have spoken with the Big Cypress Basin and the South Florida Water Management District and God.

CHAIRMAN STRAIN: You've been pretty busy, young lady.

Mr. Murray?

COMMISSIONER MURRAY: No contact.

CHAIRMAN STRAIN: Ms. Homiak?

COMMISSIONER HOMIAK: I spoke with Mr. Yovanovich and e-mails.

CHAIRMAN STRAIN: Okay. And I too spoke with Mr. Yovanovich, I've had numerous e-mails, and I've read them all, from various members of the community. But I think they're the same e-mails that this board has received. And I had forwarded those -- even though they came to my county site, I still forwarded them to Kay for

distribution. So I think most of you have gotten them.

Mr. Midney?

COMMISSIONER MIDNEY: No contact.

COMMISSIONER SCHIFFER: No contact.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: E-mails, and I spoke with Mr. Yovanovich.

CHAIRMAN STRAIN: Okay, thank you.

Okay. And David?

MR. WEEKS: For the record, David Weeks.

CHAIRMAN STRAIN: Now who are you representing here today? I'm afraid to ask.

MR. WEEKS: Comprehensive Planning Section for the county.

Commissioners, I think we need to backtrack. Unless I misunderstood, I believe your motion on consent agenda only covered --

CHAIRMAN STRAIN: Oh.

MR. WEEKS: CP-2010-1, and we do have a second petition --

CHAIRMAN STRAIN: I didn't turn the page. You're absolutely. David, thank you for the reminder.

We will interfere with our Olde Cypress issues for just one moment. Is there any -- we have CPSP-2010-2.

It's for the Bayshore/Gateway Triangle redevelopment overlay.

(At which time, Commissioner Caron entered the boardroom.)

CHAIRMAN STRAIN: The modification that we heard last time and approved.

Is there any corrections or changes or clarifications needed to that?

(No response.)

CHAIRMAN STRAIN: None. Okay, is there a motion to approve?

COMMISSIONER MURRAY: So moved.

CHAIRMAN STRAIN: Mr. Murray.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Ms. Homiak.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 8-0.

And let's make it -- for the record, Ms. Caron is here and looks like she's anxious to jump in --

COMMISSIONER CARON: Such as it is.

CHAIRMAN STRAIN: Okay, with that we'll move back on track.

David, thank you for the reminder. Appreciate it.

And Richard --

MR. YOVANOVICH: Are we ready?

CHAIRMAN STRAIN: -- is there a presentation? I asked -- I want to ask the Planning Commission, we have three issues involving this: We have the DRI level issue of Olde Cypress; we have the PUD issue of Olde Cypress; and then we have the PUD issue of the HD Development modifications.

I'd suggest that we just listen to the discussion on all of them, the presentation all wrapped up into one, we ask our questions to whatever degree we want to and on each piece of it, but we vote on them separately. Does that work

for everybody?

(Nods of affirmation.)

CHAIRMAN STRAIN: And Richard, hearing that, you'll need to proceed that way as well, okay?

MR. YOVANOVICH: Okay. Good. Because that's how I had my presentation set up.

CHAIRMAN STRAIN: Well, let's change it then.

MR. YOVANOVICH: And actually in the same order you just described them.

Good morning. For the record, Rich Yovanovich, on behalf of all three petitions.

With me today are Brian Stock with Stock Development, Keith Gelder also with Stock Development, and Chris Mitchell with Waldrop Engineering to answer any questions regarding the project that I can't answer.

As the Chairman has pointed out, there are three separate petitions, although they are related.

The first -- I put up on the visualizer an aerial which outlines Olde Cypress in yellow. And I note that there's an error that I need to point out. And it will be clearly -- it will be shown better when I show you the DRI master plan.

But this project right here is also within the DRI, and that's also shown as part of the Olde Cypress PUD. So the yellow line didn't go far enough to the east. But I'll be able to clarify that by showing you the DRI master plan boundaries, as well as the Olde Cypress PUD master plan. And I have those as exhibits to go through.

CHAIRMAN STRAIN: Okay. But while you're clarifying what's in front of us, DaVinci Estates, is that now a part of the DRI or not a part of the DRI?

MR. YOVANOVICH: No, DaVinci Estates, as you can see on here, is a hole in the doughnut, if you will. And let me put the DRI master plan up.

CHAIRMAN STRAIN: It's not outlined in yellow, that's why I was wondering.

MR. YOVANOVICH: Let me put the DRI master plan up, and let me hand that out to you all as well. Because Commissioner Caron pointed out a couple of the parcels didn't match the Olde Cypress master plan, so I need to correct that on the record.

The DRI master plan, as we're proposing to amend it, would add in one of the out parcels that's referenced on the Olde Cypress PUD master plan, which would be this property right here, which is your third petition, which is the amendment to the HD Development PUD.

The map that's in your packet incorrectly showed this parcel as C and did not identify these two parcels around the lake as "R"s. And that's inconsistent with the Olde Cypress PUD master plan, so we needed to correct that inconsistency.

So the DRI boundaries, as we're proposing to amend it, does not include the DaVinci Estates outparcel that was separately owned at the time Olde Cypress was done, and has its own separate PUD. It's about 40 acres in size and I think it was approved for 61 units. That is not part of what we're proposing today as part of the DRI amendment.

The DRI amendment is to add about 64 acres. There will be no increase in the overall number of units in the DRI. And we're also proposing to delete the reference to the 3.9 acres of parks that was in the ADA. Not the actual DO, but the ADA as referenced in the DO. And that was a response to question 27.A of the original ADA application.

So that's the first petition is to add that 64 acres in and delete the reference to the 3.9 acres of parks.

The second application is to amend the Olde Cypress PUD. And although we're not making any changes to the Olde Cypress PUD master plan, I'll put it up there for information purposes.

The Olde -- and that's where you'll be able to see that the parcel that was shown on the proposed DRI map was really not at C, it was an R on the original Olde Cypress.

The proposal -- the proposed changes briefly, and I'll come back to this particular petition in a few minutes, is to delete 158 units from the Olde Cypress PUD. These units will be assigned to the HD Development PUD. That's why we're able to keep the DRI overall density of 1,100, because we haven't used all the units in Olde Cypress, we can transfer those to HD, the HD Development PUD.

That application amends the existing HD Development PUD by adding -- I'm sorry, I confused my petitions.

And then we're also deleting the reference to the 3.9-acre parks that are found in Section 4.5 of the PUD, and also deleting the reference to the nature trails that are also in Section 4.5. And I'll explain why we believe those should come out in a few minutes.

And then finally, the last petition is the amendment of the HD Development PUD to add the 18 acres to the west that's currently zoned agricultural.

The current HD Development PUD for the acreage of roughly 46 acres allows 71 single-family units as well as 33 multi-family units. We would be increasing the single-family units from 71 units to 125 single-family units under the PUD. We're not doing anything to the 33 multi-family units because we do not own the property on which the multi-family units are located. And here is the HD Development master plan.

So we're adding about 18 acres in this area. As you can see, we've laid it out as single-family lots. The multi-family parcel is actually located here. We don't own it. It has access directly to Immokalee Road. And it doesn't come through the gates of Olde Cypress.

The original HD Development PUD has its access through Olde Cypress, and so with the new, the single-family portion of the HD Development project had its access through Olde Cypress and so would the new single-family portion of Olde Cypress.

The current HD Development PUD limits single-family units to one story. We're requesting that they can be two stories, which is compatible with and consistent with the Olde Cypress PUD.

We're requesting to reduce the lot size to 6,000 square feet from the originally approved 9,000 square feet. 6,000 square feet is the same lot size that's found in the Olde Cypress PUD.

To put the product that we want to put on these lots, we're requesting to reduce the side setback from five feet -- I'm sorry, to five feet from six feet. And again, five feet is consistent with what's within the Olde Cypress PUD as far as the side yard setback.

We're requesting to reduce the minimum square footage from 2,400 square feet to 1,600 square feet. The Olde Cypress PUD has a minimum square footage of 1,200 square feet, so we're still larger than the minimum size authorized in the Olde Cypress PUD.

And as I previously mentioned, we're not making any changes to the multi-family parcel, since we don't own the multi-family parcel. And in fact the multi-family parcel's not actually going into the DRI boundary for the fact because we don't own it.

The issue that --

CHAIRMAN STRAIN: You just said the multi-family parcel is not going into the DRI boundary?

MR. YOVANOVICH: That's correct, it's not going into the DRI boundary because we don't own it and we can't include it into the DRI since we don't own it.

CHAIRMAN STRAIN: So the multi-family parcel is not going to be part of the DRI?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: But it is going to be part of the PUD, which is part of the DRI.

MR. YOVANOVICH: It's part of the HD Development. And part of the HD Development, yes, will be part of the DRI.

Now keep in mind, if we were starting all over, and we're not -- if we were starting all over, we wouldn't even be a DRI, because the thresholds for single-family are now 2,000 units and we're at 1,100.

CHAIRMAN STRAIN: We're not starting all over, so let's deal with what we have at hand today. I didn't realize that little subtly. You are familiar with aggregation?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. I didn't study that 33-unit parcel for the aggregation, so -- although I did study another parcel for that issue.

Do you feel confident you can exclude that from the DRI?

MR. YOVANOVICH: Absolutely. There's no common ownership, there's no common sharing of infrastructure, there's no promotion, common promotion. We don't trip any of the five aggregation criteria on that piece of property.

CHAIRMAN STRAIN: How are the people going to get in and out of that parcel?

MR. YOVANOVICH: They're going to come in off of Immokalee Road, like they currently do now. That's always been the way it's been set up.

CHAIRMAN STRAIN: Through what other parcel?

MR. YOVANOVICH: I guess they're going to come through the commercial parcel within the Olde Cypress project.

And as you know, if you're required to share infrastructure based upon a government approval, it doesn't count as sharing infrastructure.

CHAIRMAN STRAIN: If the government approval is the only option that you had, if you have other options, you certainly can't --

MR. YOVANOVICH: That was the only --

CHAIRMAN STRAIN: -- dump it on the government's reasoning for that. And that's going to come up in just a few minutes on that other parcel.

MR. YOVANOVICH: Keep in mind that the HD Development we're talking about, we're not touching anything in that area that isn't already approved. That project was -- you couldn't get access through Olde Cypress because of the preserve, okay, so the only option was -- because county transportation wouldn't give them direct access onto Immokalee Road -- was to require the sharing of access with the commercial parcel.

CHAIRMAN STRAIN: Well, there are five paragraphs that trigger aggregation. Paragraph number one has three options in it. During the breaks today, because this will go on longer than our breaks will, I'll have to take a look at that separately.

MR. YOVANOVICH: And --

CHAIRMAN STRAIN: Something coming back to discuss.

MR. YOVANOVICH: Okay. The issue that certainly has received the most comment regarding -- of the three petitions, the issue that seems to have received the most comments from the public has been the deletion of the 3.9 acres in parks, which is the second petition, which is the amendment to the Olde Cypress PUD.

And I need -- we kind of need to go a little bit back into the history of the development of Olde Cypress PUD.

I should have highlighted this. It's highlighted in the your agenda in your staff report.

But the original what is now known as the Olde Cypress PUD was approved in 1986 and was known as the Woodlands. And there was a corresponding Woodlands PUD that went with the DRI approval and it was approved by Ordinance 8675.

The original PUD allowed 1,460 residential units. It allowed 200,000 square feet of retail on about 15 acres. And it included both in the text of the PUD and on the PUD master plan a reference to 3.9 acres of parks. And for purposes of people in the audience, the parks were located here and here.

This park, the only way you were able to get access was to go through the moderate income multi-family parcel and walk through the preserve to get to that park. The other park was basically at the end of one of the two main roads into the project.

So -- and you can see that that project originally contemplated access on the east side of the project and included development on the east side of the project.

In 1996 the PUD was -- the PUD and the DRI were both revised to reflect the reality of the environmental permitting that occurred with this project.

And this is the current PUD master plan. But the only real difference between -- oops, that's not the PUD, that's the -- that's the current PUD master plan. The only real difference between it and what was originally approved in '96 was the addition of the parcel to the east and the inclusion of the driving range and the boundaries of the PUD.

But what you can see, there was a significant change to the development plan that occurred in 1996 as a result of the PUD -- as a result of the permitting. The development that was previously on the east side of the project and the access road and the two parks went away. They became preserves. Okay?

What -- the error that happened in our opinion was they forgot to delete the reference to the 3.9 acres of parks within the text of the PUD to make it consistent with the change of the master plan. It was a mistake, in our opinion, because the development change; we lost development footprint. It went -- and the project went from 1,460 units to 1,100 units, the commercial acreage went from 15 acres to 13 acres, and the square footage went from 200,000 square feet to 165,000 square feet.

And, you know, I went back and I reviewed the Planning Commission minutes and the Board of County Commissioner meeting minutes and they were both very quick hearings, because the focus was on there was going to be additional preserve, there was going to be reduction in number of units and the park issue was never addressed in any of this, other than it was addressed on the master plan.

Now, keep in mind, back in 1986 when the DRI was approved, the ADA, which is the question and answer



document, it was very specific as to the location of where the parks were going to be. And it specifically referenced the two locations I showed you on the 1986 master plan.

So the ADA said the parks will be where they are depicted on the master plan. The new DRI master plan and the new PUD master plan do not depict any parks.

So again, it's our belief that the requirement to provide these 3.9 acres of parks was intended to go away when the new development scheme was approved.

In addition, in 1986, single-family homes or any residential didn't have the obligation to pay community park impact fees or regional park impact fees, so I think back in 1986 we weren't -- we didn't have the sophisticated park system as we had in 1996. And since this project has been developed a conservatively low estimate of the payment of park related impact fees is a half a million dollars.

And as you all know, because we've had this debate for several PUD's where -- there is no requirement at all to provide neighborhood parks in the Land Development Code or in the comprehensive plan. So a park is not required under the current regulations; it was not required in 1996 when the amendment occurred. There was -- the park that was included in the original DRI was not a regional issue. It was purely a local issue that the RPC said sure, if you want to provide the park, go ahead, just tell us where it's going to be. And it was identified in the original master plan. Since that time, it's no longer identified on the master plan.

So it's our belief -- and the RPC has basically said the DRI references a park. It's not a regional issue, it's a local issue. We just think you need to clean up the documents. If you're going to do a park, do a park. If you're not going to do a park, take it out of from the DRI documents. That's why we're cleaning up the paperwork for the reference to the park in the DRI.

Interestingly, the last time this PUD was amended, it was in the year 2000. At that time the entire Olde Cypress project -- and I'm calling it -- when I refer to Olde Cypress, I'm talking about the area within the gates. The entire Olde Cypress project had been platted.

So all the single-family lots were platted and shown. And on none of those plats was there ever a reference to any parks.

So again, we believe it was never intended that this 3.9 acres of parks actually be built.

Now, the PUD document, as its currently structured, allows parks in only one area of the PUD. And it's those areas that are designated R for residential. And they're permitted uses.

So under the PUD documents, should we be required to build a park, we can build a park anywhere on the property designated R, and we don't need any further approvals from -- other than doing a Site Development Plan, probably, from either the Planning Commission or the Board of County Commissioners. Because that issue is addressed in the PUD document if we're going to talk about having to continue to do those 3.9 acres of parks.

We don't think we're supposed to do them, but if we have to do them, they'll have to go on property designated "R" within the Olde Cypress PUD.

In addition, since it's both a PUD requirement as currently written and as a DRI requirement, we believe that all owners of property within the DRI or PUD would have access to those parks. And that includes the two multi-family parcels that are outside of the gates of Olde Cypress. And I'll point those out on the master plan.

It would be this project and this project. And one of them is fairway preserve. Which one is it? Which one is my finger on?

This is Amberton, which is a condominium project, and this is Fairway Preserve, which I understand is an apartment project or it could be a condo project. They're both multi-family.

So both of those projects, as the documents are currently written we believe would have access to those parks if we are in fact required to build them.

Your county staff acknowledges that there is no requirement under the current regulations of the county to build neighborhood parks. Your staff also correctly points out that this community is in fact a recreational type community. It has a golf course, it has tennis courts, it has a swimming pool, it has fitness facilities.

And I would point out that the fitness facilities are commonly found in county parks. So they should count towards our park requirement as well, if we're in fact required to provide the 3.9 acres of parks.

Now, we have, and I will point out to you, the Land Development Code does not require any certain facilities to be in these parks. It doesn't require any minimum sizes for these parks. So what I -- a lot of the comments that we're seeing in e-mails is that people want a big 3.9-acre park, which was never the intent under the original

development scheme that it would be one 3.9-acre park. And that they want a kids park. Which again was never in the PUD documents or the DRI documents, or required under any definition the county has of parks.

So if we have to do the parks, we'll follow the county regulations dealing with what the parks will be and we'll put them on the RP's.

Now, this is not a one-way street, as it has been described so far.

COMMISSIONER MURRAY: Good.

MR. YOVANOVICH: What happened is in about -- a little over a year ago the parcel that everybody knew as HD Development originally, the original 46 acres, had been cleared. And the development had started and it stalled. And it failed. And the project was up for -- it went through the foreclosure process and it was up for sale at the courthouse steps.

Brian said hey, I think I'll buy this project, and I'll coordinate my efforts with the residents of Olde Cypress, including the master association, to talk about how it's beneficial for me, Brian Stock, and my companies to buy this property instead of someone else going to the courthouse steps and buying this property. And he basically builds a nice quality project, quality product, so you know if he buys the project he's going to build a nice quality single-family community fitting in the character for Olde Cypress.

He also offered to provide additional landscaping along Logan to the tune of about \$100,000. And he also agreed to double the size of the fitness facility from its current size.

Our belief is buying the land next door and assuring these people a quality subdivision that will have access through Olde Cypress, doubling the size of the fitness center and providing the residents with additional landscaping makes up for the perceived loss of that 3.9-acre park.

The park, to my knowledge, was never identified on any master plan document out there. I believe since -- if people believe they were going to have an active park in their community, they would probably want to know where that was going to be. Because most people don't want -- they like to have the park, but they probably don't want to live near the park or next door to the park. Some might, but most people don't really want to live next to that amenity.

It would have been very important to those people, and I believe we do that now when we do our PUD master plans, we identify where these community type facilities are so people can buy in and know what they're buying next to.

Right now the way this PUD master plan is set up, I could put it anywhere labeled "R".

We believe if the park was truly important to the community, they would have wanted to know exactly where it is so they could have made purchase decisions based on that.

And we believe, if you look at the entire history of this project, it was an error that occurred in 1996 when the reference to the 3.9-acre parks was left in, because the whole master plan had changed, the whole development plan had changed to go from 1,460 units to 1,100 units.

And in fact, as Olde Cypress has developed over time, it has changed. It is a -- I think it's a high end single-family golf/country club/tennis facility community, and we think it never was intended to have children's parks within the park facilities.

Your staff's recommending approval of the three petitions, and we're available to answer any questions you might have regarding our three applications.

And I focused on the park issue, because I think that's mostly what the community wanted. But we can answer any questions regarding any of them that you may have.

CHAIRMAN STRAIN: I think we're going to have a long period of questions. And we'll start with Mr. Schiffer.

COMMISSIONER SCHIFFER: Yeah, Rich, two points. One is prior to you bringing up the desire to strike it out, what was the community's plans to do for parks?

MR. YOVANOVICH: There wasn't any. The entire project had been platted as a single-family project. There was never a -- there's no plans to put a park in there.

COMMISSIONER SCHIFFER: So this was a silent issue until you wanted to cross it off?

MR. YOVANOVICH: It became an issue when we were getting ready to look at PUD close-out. And there was the recognition that the PUD still said 3.9 acres.

COMMISSIONER SCHIFFER: Okay. Next question, and it's kind of on the site plan. The elevated walkway, is that something that's new to this plan? If you -- or that is an existing walkway?

MR. MITCHELL: Chris Mitchell for the record.

It is a reservation for a boardwalk easement, should the county have the funds and desire to build an elevated boardwalk through that area, based on there's a concrete weir where an asphalt path goes, and it drains the Slough into the Cocohatchee Canal. And for six months out of the year, according to the transportation department, it's under water. So it's just a reservation.

COMMISSIONER SCHIFFER: And the one I'm talking, looks like it's connecting. If you look on your map, you'll see the dark -- like it's connecting a golf hole.

MR. MITCHELL: Oh, I'm sorry.

COMMISSIONER SCHIFFER: Is that existing or not?

MR. MITCHELL: That is existing. That's part of the golf development. Sorry, I thought you were talking about out front.

COMMISSIONER SCHIFFER: No, I just wondered why it's on the master plan if it's existing. But just to point it out, just to point it out.

Okay, thank you.

CHAIRMAN STRAIN: Okay, anybody else have any -- Ms. Ahern. Melissa, that's easier.

COMMISSIONER AHERN: Rich, do you know when the first lot was sold?

MR. YOVANOVICH: About 2000. Is that right? I don't know that there were any in 1999. I know there were some in 2000.

CHAIRMAN STRAIN: Anybody else?

Mr. Murray?

COMMISSIONER MURRAY: If you know, on sales literature offering to the people, at any time was any indication of a park located on any of the sales literature?

MR. YOVANOVICH: Not to my personal knowledge.

COMMISSIONER MURRAY: How about to --

MR. YOVANOVICH: Not to Brian's personal knowledge either.

COMMISSIONER MURRAY: Thank you, that's more important.

Okay, thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Richard, can you put the -- what you believe is the DRI master plan that you had previously to this one up?

MR. YOVANOVICH: The original or the one that we're proposing?

CHAIRMAN STRAIN: The one you handed out. I guess then for definition purposes, can you tell me what that one is?

MR. YOVANOVICH: This is what's commonly referred to as map H in DRI documents. And that's the DRI master plan.

CHAIRMAN STRAIN: Okay. And this is the one that you would prefer we use and substitute into the record as the master plan for this project, is that --

MR. YOVANOVICH: For the DRI, yes, sir.

CHAIRMAN STRAIN: Okay. For the Olde Cypress PUD, the only -- is it going to be a similar -- do you have a master plan for that?

MR. YOVANOVICH: No. We're not changing anything in the Olde Cypress PUD master plan.

CHAIRMAN STRAIN: Okay. Do you have a copy of it?

MR. YOVANOVICH: I just -- it was just up.

CHAIRMAN STRAIN: That's the Olde Cypress master -- okay, then that's fine. Leave this one up, it's clearer.

In both master plans there's an error on the plan. And I think it's one that should be changed and I think it's one that's relevant to the Regional Planning Council and DCA.

The legal access to that out-parcel is not there. That legal access is a golf course. The legal access happens to be an internal road to Olde Cypress. I found all this out yesterday. When I had met with you, this was the plan I thought we were talking about. But the fact that that entranceway to that outparcel changes as internal to Olde

Cypress does change some parameters. It brings in the question of aggregation for this project.

MR. YOVANOVICH: That was always part of the original DaVinci Estates PUD. There was an option for alternative access going through the project.

CHAIRMAN STRAIN: Right. But I believe that you believe that option was a requirement of Collier County, and it wasn't. It says, prior to approval of the final subdivision plat for access in the northeast corner of the property, an access agreement shall be provided to the county for permitting legal access through the Olde Cypress PUD.

That was the alternative. The -- in number 7.4 in the DaVinci Estates says: Existing legal access as depicted in the southwest corner of the property in the PUD master plan and planned alternative future access is also depicted in the northeast corner of the property.

So the aggregation rule that you can avoid if required by a government agency really doesn't fit this. That was your choice to use that.

MR. YOVANOVICH: Mr. Strain, in 2000 when the Olde Cypress -- the DaVinci Estates at Olde Cypress -- which ironically was called something different, I think it was called La Siena, and the county's addressing department said La Siena I believe was an overly used name so they forced the owner of DaVinci Estates to change the name of the project and he picked DaVinci Estates at Olde Cypress.

The owner of that outparcel was not the same owner of Olde Cypress. There was no common ownership. There was no common promotion.

We didn't -- even if you want to argue that we tripped the sharing of infrastructure, we didn't trip two out of the five.

CHAIRMAN STRAIN: Let's talk about that. I'm glad you brought that up. Number one, and this is the aggregation rules: The same person has retained or shared control of developments.

B, the same person has ownership or significant legal or equitable interest in the developments. Or there is common management of the developments controlling the form of physical development or disposition of parcels in the development.

The president of DaVinci Estates is also vice president of the Olde Cypress Homeowners Association. So there's a connection there. And his name --

MR. YOVANOVICH: When?

CHAIRMAN STRAIN: Pardon me?

MR. YOVANOVICH: When was that?

CHAIRMAN STRAIN: Right now. I got --

MR. YOVANOVICH: Is that ownership?

CHAIRMAN STRAIN: It's control. His name is Jeffrey Folkman. He's registered -- and I pulled this up last night, because this is when I found all this out. The DaVinci Estates Homeowners Association, he's registered as their president/director. He's also on the Olde Cypress Master Property Owners Association as vice president/director.

That does pertain to some control that would trigger number one.

Number two: There is a reasonable closeness in time between the completion of 80 percent or less of one development and the submission of a governmental agency of a master plan or series of plans or drawings for the other development which is indicative of a common development effort.

I went to the county assessor's website and I pulled up the maps from 2001. I have it right here. And if someone could pass it down so Ray could put it on the overhead. It looks like the projects were both started at the same time and they built out as time progressed.

And the interesting thing is this particular center parcel, the out-parcel, was only accessed from the very beginning. If you look on this map, you'll see where the northeast corner is their access point. The golf course and the legal access was never used.

That becomes important because that was an alternative access. The county didn't care if you used that, you had a legal access. The county didn't require you to use that access, you chose to use that access. And because you did, that's what triggered the need to have a legal access through this interior Olde Cypress.

Which triggers number four, which is the voluntary sharing of infrastructure. Now -- and then number five, there's a common advertising scheme or promotional plan in effect for the development sought to be aggregated. They're all called Olde Cypress.

I would argue you've got some triggers of aggregation there. Now --

MR. YOVANOVICH: And you know who enforces that?

CHAIRMAN STRAIN: Who?

MR. YOVANOVICH: DCA.

CHAIRMAN STRAIN: Right. Did you -- and that's where I'm going, thank you.

MR. YOVANOVICH: That's fine. Well, you know what we'll do?

CHAIRMAN STRAIN: What?

MR. YOVANOVICH: We'll apply to DCA for a letter after this is all done and ask them if we need to come back with another petition to add DaVinci Estates to the DRI. If that's what you would like us to do, we will go do that.

CHAIRMAN STRAIN: It's an issue that's got to be resolved, Richard.

MR. YOVANOVICH: And we'll resolve it by going to DCA after we get through this process. And if they say that an error occurred in the year 2000 for two already completely built out subdivisions and they say come back and clean up the map, we'll do it.

CHAIRMAN STRAIN: Okay. I'm not asking for any more, and I want to say out of fairness to your client, had I known this on Monday when I met with Richard I would have got into an intense discussion with him on it and we could have had some better answers for today. I honestly didn't find this information out till last night.

MR. YOVANOVICH: That's okay. And I found out about it Monday as well and called Dan Trescott and I said Dan, what's going on? And Dan said, Rich, it's an issue that I would like to see cleaned up but it's not required that we clean it up. That's what I heard back.

Now -- so I said fine. I let it drop. We talked about it with our client -- my client about that. But if we need to take it another step up to find out if we need to fix the DRI map to bring in 61 units, we'll do it.

CHAIRMAN STRAIN: I want to see the DRI issue resolved so we've got -- if we have an error on the books, I want it corrected. That's all I'm trying to do.

MR. YOVANOVICH: I just keep --

CHAIRMAN STRAIN: Now, as far as how you propose this argument to DCA, a lot of an answer to a question is the way you ask it. And I'm not sure, based on your presentation, how much of what I just told you you were aware of. But I would certainly hope that you disclose all this information to DCA in the way you describe the workings and operations of this project in relation to the rest of it.

MR. YOVANOVICH: If I had known this was an issue, Commissioner Strain, there's no question in my mind adding 61 units to this project or DRI would have amounted to an insubstantial change to the DRI, and it would be very easy to fix. Worst case scenario.

So we'll go give them all the facts as you've pointed them out, and if they say you need to do another amendment to the DRI to include the out-parcel in map H, we'll do it.

CHAIRMAN STRAIN: Okay. And I'm not disagreeing with you on what you just said. I'm just saying if it needs to get done --

MR. YOVANOVICH: We will do it.

CHAIRMAN STRAIN: -- do this right, it needs to be done.

MR. YOVANOVICH: We will do it.

CHAIRMAN STRAIN: Okay, we move into -- and again, if any of you have any questions, I don't mean to dominate, but I have got a lot of questions. But you guys can ask yours in between.

Brad?

COMMISSIONER SCHIFFER: Yeah. I'm a little blurry on the point you brought up.

What you're saying is that to the best of your knowledge you think that that parcel should be included and not be an outparcel on this DRI?

MR. YOVANOVICH: I don't believe that at all. Mr. Strain and I have a difference of opinion. And we'll let DCA decide. And if DCA sides with Mr. Strain, we'll fix it.

CHAIRMAN STRAIN: No, what Mr. Strain did was present the facts. The facts need to be presented to the right agency so they can come back with the right answer. It's like a poll. When you take a poll and you say do you want something, everybody says yes. But do you want something under these conditions, somebody might come back with a different answer.

Same thing applies here. When you approach the agency, you approach them with all the facts, they come back with a good decision. It's clean, it goes away for everybody, including Mr. Stock and his development. And I don't think anybody needs anything hanging over them as the future goes on.

So that's where I was coming from, Brad. It's DCA's call, in my opinion, on whether or not this is a problem. Whether it is or not, I'm not the one to tell you legally. That's something I would expect DCA will do.

COMMISSIONER SCHIFFER: But affecting the issues we're dealing with, does it have an affect on it?

CHAIRMAN STRAIN: Only in processing wise. It just means they got to come back in the process again.

COMMISSIONER SCHIFFER: All right, thank you.

CHAIRMAN STRAIN: The part of it that came about, I think one of the homeowners notified staff and that's how I heard about it, so --

COMMISSIONER SCHIFFER: Okay, got it, thank you.

CHAIRMAN STRAIN: Okay, now, let's get back into the --

MR. YOVANOVICH: Do you still need this?

CHAIRMAN STRAIN: No.

Ray, if you could pass that back up to me so when Richard wants all this in one package, I'll be glad to give it to him. I'm sure he'll want it.

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes, ma'am.

MS. ASHTON-CICKO: At some point I'd like to clarify some of the facts that Rich stated, make sure that you understand the park in both the DRI and the PUD. So if you'd like me to do it now or do it later, whatever you'd prefer.

CHAIRMAN STRAIN: Well, I bet you my questions are going to do that, but lets have your clarification first and then I won't ask my questions.

MS. ASHTON-CICKO: Okay. I think this is what Rich said. And if anything I state is not correct, I wasn't sworn in, let me know.

The DRI DO-86-1, that was the Woodlands DRI, that did not depict a map on -- excuse me, it didn't depict the park on the map, nor did any of the text reference the park. Where it was referenced is in the ADA.

MR. YOVANOVICH: No, no. What I said was the DRI map did in fact depict the two locations of the park. And also, the ADA answered a question, 27.A, said they are located on the master plan.

What I said was the DO, the development order itself made no specific reference other than by incorporating in by reference the answers to the ADA and the map.

CHAIRMAN STRAIN: The question 27.A in the DRI did not refer to the master plan. So if you're going to say that, you need to say it accurately.

What it says is, and I'll read it for you: Two areas in the northeast corner of the project totaling 3.9 acres adjacent to the Cypress Preserve and access from the moderate income garden apartments provide additional active open space for community recreational facilities to supplement individual tract amenities.

It does refer to the location, it just doesn't refer to the master plan as being the location in which it's at.

Now, it's a minor point, but I thought for what it's worth.

MR. YOVANOVICH: No, look at the question. It says locate on map H where the facilities will be.

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: And it did.

CHAIRMAN STRAIN: It did.

MR. YOVANOVICH: And we said they're in the northeast corner, so you go look at map H.

The question asked you to put them on the master plan.

CHAIRMAN STRAIN: It doesn't say it has to be, though. It tells you located on the master plan, but it doesn't say on this particular you'd -- you're refrained from moving it around and changing it, or that if it's in the text it still has to be on the master plan.

Go ahead, Heidi.

COMMISSIONER SCHIFFER: Well, let me just ask a question on that.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: We do have in our packet that Ordinance No. 86-75 showed a park and they

blew it up. Is that true?

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: The 86-75 I believe is the PUD, correct?

MR. YOVANOVICH: Sorry? 86-75 --

MS. ASHTON-CICKO: 86-75 is the PUD.

MR. YOVANOVICH: Yes. But also concurrent with that was a resolution that adopted the development order for the DRI. And the PUD master plan and the DRI development order master plan were the same.

And in your packet is where the parks were located in 1986.

COMMISSIONER SCHIFFER: And the location of that is a really lousy location. First of all, you have to walk through the preserve -- I mean, what was the intent that that park was going to have? You couldn't even access it. Okay, you don't have to answer.

But I'm saying, was this an afterthought where somebody said quick, show the park and then they --

MR. YOVANOVICH: That's the park I'm -- you know what, that was originally what I was supposed to build, okay, was these two small 1.7 and 2.2-acre parks. One of which you had to wade through the preserve to get to.

COMMISSIONER SCHIFFER: But was it located because somebody was reviewing it said hey, the park's not shown, quick, find three acres and stick it somewhere? Because this is an area that's not even accessible.

CHAIRMAN STRAIN: I can tell you it's common for developments to use filler spaces and just say they're parks. And they call them linear parks. That's not an uncommon thing to see. I wasn't surprised to see it where it was located. But it also makes its value questionable into what you really would do with it. Which brings into the whole play of if it's dropped what does it mean, so --

COMMISSIONER SCHIFFER: Right. I mean, in the reality it's in a swamp, a wetland, so -- thank you.

CHAIRMAN STRAIN: Did you have something, Donna? Ms. Caron?

COMMISSIONER CARON: Well, I think on the original -- weren't there also -- that's where the multi-family was going to be, closer to there, and I think it was -- there was a road access. I don't know that it would -- again, I don't think it was a really functioning situation ever, but -- this up here was --

MR. YOVANOVICH: Yeah, I'll point to it.

COMMISSIONER CARON: -- was multi-family. Which got moved to that additional piece that hangs out to the east, right?

MR. YOVANOVICH: It went away. I mean, that piece, that whole development went away, as well as the other development coming up the eastern boundary. That all became preserve. And that's when they lost the 360 units is because they lost acreage related to the project.

COMMISSIONER CARON: But when that went away because of --

MR. YOVANOVICH: Permit.

COMMISSIONER CARON: -- whatever permitting agencies, South Florida Water Management or whomever, said that this is a wetland and we need to it to be preserved. Is that when you had to go out and buy the land to the east where the multi-family is --

MR. YOVANOVICH: No.

COMMISSIONER CARON: -- right now?

MR. YOVANOVICH: No. That was added in much -- that was added in later.

CHAIRMAN STRAIN: Okay.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: Mr. Yovanovich, can you tell me, how many PUD's have you written?

MR. YOVANOVICH: No.

COMMISSIONER EBERT: Approximately?

MR. YOVANOVICH: Approximately? 25 to 50. Maybe more.

COMMISSIONER EBERT: Do some of the things change in PUD's from your first plan, from your first conceptual plan?

MR. YOVANOVICH: Sure.

COMMISSIONER EBERT: In looking at the first one here of the Woodlands, I notice that only 125 single-family homes would be in that whole community.

MR. YOVANOVICH: Which -- where are we talking about now?

COMMISSIONER EBERT: In the Woodlands, in reading their master development plan. It was only going to be 125 single-family homes throughout all of Woodlands.

MR. YOVANOVICH: Are you talking about HD Development now?

COMMISSIONER EBERT: No, I'm talking about the Woodlands, the whole site plan.

CHAIRMAN STRAIN: Woodlands was the predecessor to Olde Cypress, which I imagine you know.

MR. YOVANOVICH: I will go back and pull that ordinance out. I don't -- I can't tell you that I remember the breakup of the 1,460 units.

COMMISSIONER EBERT: Okay. Well, I did have that. And I looked at it and I went wow, 1,460. And there were only going to be 125 single-family homes. That's what was in there.

And also -- let's see, also on there were depicted the bike and jogging trails on the original Woodlands map. I did not see that on the new revised map for Olde Cypress. Can you tell me why that wasn't put on that?

MR. YOVANOVICH: You're talking about the nature trails now?

COMMISSIONER EBERT: No, we are talking about the bike and jogging trails.

MR. YOVANOVICH: Presumably because there were changes in the plan of development.

COMMISSIONER KLEIN: Your mic's not working.

MR. YOVANOVICH: I don't know why it's not working. Where's the hand-held?

I guess presumably because there were changes in the plan of development. That's our whole point. Our whole point is the plans for Olde Cypress changed from the original Woodlands project to what's currently known as Olde Cypress. The whole development scheme, the number of single-family versus multi-family changed. The number of units went down. The areas that can be developed went down.

I think most people are very happy with how Olde Cypress turned out and wouldn't want what was originally proposed in 1986.

COMMISSIONER EBERT: Absolutely. I agree, we are -- actually, we are like three separate portions, because Amberton is also gated, and so is the Preserve also gated.

I just was wondering where the bike and jogging trails went to, because they did not take away the roads. And in this one, if we would have had a big blow-up, you could have seen where it was shown on there, where it was shown where the bike and jogging trail would be on the inner roads. That's all.

CHAIRMAN STRAIN: Okay. Before we go on, anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Richard, on the -- let's go back to the master plan that isn't a master -- that isn't complete, the one that you handed out to us.

I'm going to ask you about a correction on that plan for the record.

MR. YOVANOVICH: On the map H?

CHAIRMAN STRAIN: The one you handed out to us when we got here this morning.

No, the one you just took off I think is it.

MR. YOVANOVICH: The writing's a little small.

CHAIRMAN STRAIN: Ray, would you straighten that out for him so he can read the map? Thank you.

That entryway to the out-parcel, I just want one more comment on that. Since it's not being used, I think it should be -- this should be corrected to show the real entryway to that outparcel and that the one that's not being used be removed from the master plan.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Okay? Then at least it would be -- that's what misled me. I didn't know there was any other entry until I found out yesterday. And then that changed the whole dynamics of that outparcel, at least from my perspective.

Now, as far as residential goes for parks, is there any residential in this property that's not been developed?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Can you show me where those are?

MR. YOVANOVICH: Absolutely.

CHAIRMAN STRAIN: I mean, there's not houses, they are lots.

MR. YOVANOVICH: No, we've got two R pieces. Now, I can't show them to you on -- can I go back to the



master plan, please?

CHAIRMAN STRAIN: Well, this is the master plan.

MR. YOVANOVICH: This is the both the combination. But if you look at right here, can you see that that's an R?

CHAIRMAN STRAIN: Yep.

MR. YOVANOVICH: And can you see that that's an R?

CHAIRMAN STRAIN: Yep.

MR. YOVANOVICH: Those are two parcels that are undeveloped, there are no homes on them. They are both over 1.3 acres each. And then there is where we have currently built the fitness facility, not counting the tennis courts or the swimming pool, is also about 1.3 acres.

CHAIRMAN STRAIN: Okay, and that's an interesting point. Because where the fitness facility is, and unfortunately the maintenance facility, that parcel is 3.94 acres, which would have ironically met the 3.94-acre size you needed for a park all at one location. But you've got half of it being used for a maintenance facility, which probably isn't useful as a park.

Now, the two "R"s you got right there, what were your plans for development of those two "R"s?

MR. YOVANOVICH: Well, I guess if we have to they'll become parks.

CHAIRMAN STRAIN: In your eyes could they be anything else? Considering their location, blocked in by a golf course.

MR. YOVANOVICH: Probably not.

CHAIRMAN STRAIN: Okay. Their accessibility, do you still retain control of the clubhouse as developers.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. So you could provide access to those through the clubhouse site.

MR. YOVANOVICH: Yeah, there's parking for all that compound, if you will, of those three parcels.

There's adequate parking.

CHAIRMAN STRAIN: Is the club house accessible within our outside of the gatehouse?

MR. YOVANOVICH: No, you have to --

CHAIRMAN STRAIN: No what?

MR. YOVANOVICH: -- go through the gates.

CHAIRMAN STRAIN: You have to go through the gates?

MR. YOVANOVICH: No, no, no, mile bad, my bad, my bad, you're right. You don't.

CHAIRMAN STRAIN: Yeah, I've been there, I didn't think you had to.

Okay, so what that means is if this had to be opened up to the entire DRI PUD, even by the parcels that are further to the east, for those people to get access to those two park sites, they could still come in will without going through the security gatehouse, they could go through the clubhouse parking lot and walk to those two sites.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay.

Ms. Caron?

COMMISSIONER CARON: Yeah, just a quick question.

On the original DRI master plan which you corrected to put the "R"s where they belonged, the southerly most R that's showing up on the visualizer right now was labeled driving range.

MR. YOVANOVICH: When this project was originally done, they had an aqua-driving range.

COMMISSIONER CARON: Oh, okay.

MR. YOVANOVICH: And then they later on added the driving range parcel to the PUD and moved it to a non- aqua-driving range.

COMMISSIONER CARON: So there is nothing there right now.

MR. YOVANOVICH: Just a nice lake and nice green area, yes. And a putting green, I think on the southern -- the one you pointed to specifically is a putting green?

CHAIRMAN STRAIN: Right.

Okay, the other thing you're striking from the language besides the parks is the nature trails. And the nails trails were depicted on a previous plan.

Is there any reason you couldn't put those in if you were required to?

MR. YOVANOVICH: Well, the only place you could put them, based upon the current PUD language is in the preserve areas. And the preserve areas specifically allow for nature trails subject to approval by the community development director, which is old terminology. But yes, we could do them if we had to. They would be -- access would be a little tricky because all of the preserve areas either abut residential homes or the golf course. But we'd have to work out access. But we could put nature trails in the preserves if required to do so.

CHAIRMAN STRAIN: And it looked to me like the nature trails ran along the very perimeter edge of the preserves. Is that what you guys --

MR. YOVANOVICH: That's where generally the upland boundary -- you know, you have the wetland and then you have an upland boundary within the preserve. The upland boundaries would be on the outside of the preserves, closer to the homes and fair ways or roves.

CHAIRMAN STRAIN: So if the nature trails were put in as planned, you'd end up having to put them in the back yards of quite a few of the homes that border the preserves where they now don't have trails.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. That's -- the only reason I'm pointing that out is during the discussion and the public's discussion with us, I want to make sure everybody knows the options that are on the table.

Ms. Caron?

COMMISSIONER CARON: Just personal comment. As somebody who lives in a home backed up to a preserve, it would not be good to have people walking along the backs of your houses. I'm not sure about you, but I appreciate my preserve and it allows me certain freed elms that other people don't have, so I wouldn't want other people walking behind my building, for sure.

CHAIRMAN STRAIN: Because that is, though, being an issue being struck, I certainly want to make everybody aware of it.

COMMISSIONER CARON: Can be careful.

CHAIRMAN STRAIN: And when the public that is going to speak comes up today, I'll be asking you some questions, and that will be one of them, what your thoughts are on that. So --

COMMISSIONER EBERT: I --

CHAIRMAN STRAIN: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: I do have a question, Mr. Yovanovich.

On these two park proposals that you have, if we have to -- if you have to put them in, this is really on the golf course. What about liability? How are the children going to get there? Even if it's just open green space and they go to kick a ball or something, they have to go on the golf course to get there?

MR. YOVANOVICH: Well, they don't have to go on the golf course for the southern piece.

COMMISSIONER EBERT: But the northern piece --

MR. YOVANOVICH: On the northern piece we'll have to put signage up, and hopefully they'll be accompanied by an adult to make sure that they're walked into the park. But you know what? That's no different than the one that was out in the swamp that was originally approved. This is probably better than what was originally approved by having it walk through the swamp to get to the park area for -- and hopefully maybe the kids won't go to that one, people will just -- adults will go there to sit and relax. And, you know, I don't know, but we'll have to put signage up and hopefully parents will take responsibility for their children and walk with them.

CHAIRMAN STRAIN: Well, for that matter, of the two parks, the one that would be the most concerning involving golf balls would be the one to the north, because that would have to be accessed alongside the fairways. The one to the south is far enough from the tees and could be buffered enough on each side that the liability or the accidents would be hopefully minimal, if there were any at all. But that's something to consider when we get in more today.

In the NIM -- oh, Ms. Caron, you had one other question, I'm sorry.

COMMISSIONER CARON: Could you just remind me again how many units have been platted in Olde Cypress?

MR. YOVANOVICH: Keith, do you know off the top of your head?

COMMISSIONER CARON: Since they're all done and --

MR. YOVANOVICH: It's in your packet, I just need to find it.

COMMISSIONER CARON: I know, and I just can't remember, and I couldn't find it here.

MR. YOVANOVICH: I didn't tab that particular page. I know there's 400 and something I believe that's in the multi-family. And --

COMMISSIONER CARON: No, no, no, just the --

MR. YOVANOVICH: No, I know. And the remainder minus 158 is -- are platted lots. Correct? I'll find it, Commissioner, while we're --

COMMISSIONER CARON: Thanks.

MR. YOVANOVICH: I know it's in your backup material. I just didn't tab that particular page.

CHAIRMAN STRAIN: In the neighborhood informational meeting, Richard, Mr. Stock said the following: We are going to have to do some type of fence or security structure on Immokalee Road. At a minimum we'll have a security fence. And your response to that was that we will let your association know.

What was the outcome of that question and answer period? What did you let the association know?

MR. YOVANOVICH: A final answer wasn't made, but he's prepared to put a wall across Immokalee Road -- or across the boun -- you know, not across Immokalee Road, I know I said that wrong.

CHAIRMAN STRAIN: Yeah, that was good. Good luck.

MR. YOVANOVICH: Along. Along is the word I was looking for. I'm still trying to find the --

CHAIRMAN STRAIN: Would this be similar to what they have at Longshore Lakes?

MR. YOVANOVICH: I think that's a -- isn't that a wooden fence?

CHAIRMAN STRAIN: No, that's a -- I think it's cedarcrete, which is a concrete cedar appearing looking fence.

MR. YOVANOVICH: Yes, it would be concrete. I don't know that it would necessarily -- I don't know the design yet, but there would be a wall versus a chainlink type fence thing.

CHAIRMAN STRAIN: And you do know you can't put it across the flow way.

MR. YOVANOVICH: We'll have to -- obviously we'll put it where we can legally put it and not block that -- Commissioner Caron, I think I found the right page.

COMMISSIONER CARON: Tell me.

MR. YOVANOVICH: The answer is the total lots that have been platted is 366; built to date is 360. And multi-family is 576; built to date is 396.

COMMISSIONER CARON: Built to date is what?

MR. YOVANOVICH: Built to date is 396 between the two projects. And if you want me to break those two multi-family projects down, I can.

COMMISSIONER CARON: No, that's okay.

CHAIRMAN STRAIN: Okay?

COMMISSIONER CARON: Yeah, thank you. I just --

CHAIRMAN STRAIN: Okay. And at the NIM, Richard, you said the following: Let's cut to the chase, we believe that this project and the improvements to the entrance more than offset the obligation to build a park.

Can you tell us what those -- because we weren't there, what the improvements to the entrance are?

MR. YOVANOVICH: Those are landscaping improvements that were coordinated with the association.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: And then the improvements to the fitness center.

CHAIRMAN STRAIN: Okay, well, I'm just worried right now about the --

MR. YOVANOVICH: They're all -- this is all proposed.

CHAIRMAN STRAIN: -- the entrance. The entrance.

MR. YOVANOVICH: This is all proposed.

CHAIRMAN STRAIN: So the entrance improvements haven't been made, they're proposed?

MR. YOVANOVICH: No, everything's proposed.

CHAIRMAN STRAIN: Well, that's an interesting twist. So if you haven't done it yet and you're proposing it and the proposal is based on what?

MR. YOVANOVICH: Getting approved.

CHAIRMAN STRAIN: Okay. So that means we have to stipulate all that. Otherwise what's tying you to do that proposal?

MR. YOVANOVICH: Well, you could make it a condition. We don't have a problem. We were willing to

put it in writing. We're willing to put it in writing.

CHAIRMAN STRAIN: That's good. The problem is, to make it a condition we need something succinct that we can sink our teeth into to improve the landscaping. You go out there and put one cabbage palm and say well, we improved it.

MR. YOVANOVICH: No, we have a plan that we can easily enter into an agreement with the association that has exhibits to address everything that was proposed. And we're not far away from being able to do that.

CHAIRMAN STRAIN: Okay. I asked the County Attorney to research an issue -- and I'm just going to go in order of my documents, some is going to be repetitive, so we'll have to wade through it -- concerned the LLC designation. The Olde Cypress LLC that I believe that is the question today is owned by Stock Development. Stock Development is listed -- in the name and address section of our disclosure, they listed Brian Stock and Kenneth Stock at 50 percent ownerships. But I believe I saw on the website Stock Development actually is -- has several other people, or couple other people involved in it.

Did you check any of that out, Heidi? Did you have time to?

MS. ASHTON-CICKO: Well, somewhere in your agenda package there's the corporate checks. I agree that the disclosure part may have been incomplete in naming any of the, you know, officers of this entity. But the corporate checks were in the backup that provided the additional names.

CHAIRMAN STRAIN: Okay. In the references to the ownership of the company, it also said officers as well. Since this isn't -- it's an LLC, which is limited liability corporation, I just suggest that you want to list officers. It's not a big deal, it's just part of the completion of the paperwork.

In the current PUD that's in effect for Olde Cypress, I believe it's 2000-37, is that right? Do you agree with that?

MR. YOVANOVICH: Well, there was a scrivener's error, and 2000-53 is that ordinance. So the combination of the two is yes.

CHAIRMAN STRAIN: Okay. In that document under Section 3, Page 1, 3.02, general plan of development, it calls out some items. I want to know if they're there, and if so, where they are. One is water recreational facilities.

Do you have water recreational facilities?

MR. YOVANOVICH: You know, at the risk of trying to -- can people fish in the lakes?

CHAIRMAN STRAIN: Well, do you have a swimming pool?

MR. YOVANOVICH: We have a -- I was going to say a swimming pool, but I was afraid you were going to say --

CHAIRMAN STRAIN: This is not that hard.

MR. YOVANOVICH: I wasn't sure if you were going to count that. So the answer is yes, we have a pool. And if you consider that water recreation, we have it.

CHAIRMAN STRAIN: I'm just going through a check-off list.

MR. YOVANOVICH: I didn't know if you were talking about the lakes.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: No, no, I was just going to help him along that he had a pool.

CHAIRMAN STRAIN: Do you have any bicycle trails?

MR. YOVANOVICH: I think you just ride along the roads, the sidewalks and the roads of the bicycle trails.

CHAIRMAN STRAIN: Okay. I'll eventually ask county staff if that's acceptable for bicycle trails.

Do you have any jogging trails?

MR. YOVANOVICH: Not specifically identified.

CHAIRMAN STRAIN: In the nature preserve section of the current PUD it talks about the function of that area and it says: The area will also provide unique recreational opportunities and an aesthetic experience for the pleasure of project residents.

I certainly understand the aesthetic experience. What unique recreational opportunities were provided, if any? Do the residents have a right to access that preserve area? Are there any restrictions on that?

MR. YOVANOVICH: I'm not aware of any signs.

Are there signs prohibiting people going into the preserves?

COMMISSIONER EBERT: Yes.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Are there signs prohibiting people from going in the preserves?

COMMISSIONER EBERT: It says, preserve area, do not disturb.

CHAIRMAN STRAIN: Okay. And the reason I'm pointing all this out, if it isn't accurate, you're cleaning this PUD up, you may want to clean it all up, assuming that's the outcome of today's meeting. Because these are -- these other things to me are the same hooks that you've got dealing with on your park and your walking trails.

The treatment and use. It says you could put these things in, which include jogging trails, boardwalks -- are there any boardwalks?

MR. YOVANOVICH: In the preserves?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: Yes. Mr. Schiffer pointed at least one of them out.

CHAIRMAN STRAIN: Well, that's for the golf course.

MR. YOVANOVICH: It goes through the preserve.

CHAIRMAN STRAIN: Okay. But is it limited to people using -- members of the golf course?

MR. YOVANOVICH: It's for the golf.

CHAIRMAN STRAIN: Okay.

Nature trails. Do you have any nature trails?

MR. YOVANOVICH: No, we'd have to -- we're trying to strike that as a requirement.

CHAIRMAN STRAIN: That's the same as the walking trails then.

MR. YOVANOVICH: Uh-huh.

CHAIRMAN STRAIN: And that's -- all those are subject to approval of developmental services director.

And it says permitted uses and structures, you are permitted to put paths and bridges to provide access from and through the uplands of the area.

MR. YOVANOVICH: Uh-huh.

CHAIRMAN STRAIN: In fact, you've already done that in one.

I saw a request in the staff report that it be defined who is in charge of maintaining all these recreational facilities if they are installed under 9.06 in the PUD. It says that they shall be funded through a system of revenues collected by the homeowners association. So the maintenance is clearly already defined --

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: -- if that happens.

Conservation areas. I have found a conservation easement, but it did not include a large section of the conservation area. And I brought this up to staff. I think I mentioned it to you as well, Richard. Has anybody found the balance to see if you've actually got conservation easements covering all the property that is shown to be conservation on your master plan?

MR. YOVANOVICH: My understanding is there are areas within what is depicted as preserve on the master plan that are not within a conservation easement.

CHAIRMAN STRAIN: Okay. Now, if they're outside a conservation easement, that gives you a little more flexibility in how you can use that area; is that correct? Because you don't have to go through other agencies, you basically go through the allotted uses that are in the preserve area of your PUD.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. Do you have a map showing us where the preserve areas are that are not included on the conservation areas?

MR. YOVANOVICH: I don't have that. We had not intended to use the preserves. We had hoped to leave them as is.

CHAIRMAN STRAIN: Well, and that may be fine. That may be the way today ends up. I'm just trying to make a list of alternatives in case it turns out these are badly wanted by the community and it's something that should be there. And we'll just have to deal with it when we get down that far.

In your question 27.A in the ADA, you went into the following: Residents of the Woodlands will have access to the lakes and preservation areas, which I believe they do. Improvements such as docks, picnic areas and nature trails may allow their uses predominantly passive open space while protecting them from unlimited intrusion.

Are there any docks or picnic areas?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: A bike/jogging path will parallel the major interior roads. Does such a path parallel the roads now, or are they just the roads?

MR. YOVANOVICH: We have sidewalks.

CHAIRMAN STRAIN: But do you have a bike/jogging path --

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: -- parallel to the major interior roads?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Now, for the record I want to make it clear, Mr. Stock's company is not the company that committed to all this originally.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: It was done by somebody else. The only thing I have to suggest is the due diligence done at the time this was acquired hopefully would have picked all this up and figured out some way to address it.

In addition to the above private recreation facilities that are planned within the larger residential tracts, are there any private recreational facilities within the larger residential tracts?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: They will be sized to serve the needs of residents of that particular parcels residents and may include swimming pools, recreation buildings, tennis, shuffleboard, racquetball and barbeque areas.

But you've provided some of that in the clubhouse or that area to the south that's your tennis court area; is that

--

MR. YOVANOVICH: Correct, we have -- yes.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Those are all things that, you know, when you get into the actual marketing of subdivisions within the project you'll provide what the residents want. And as you know, as we've talked about, the whole project has taken on a different form than originally contemplated in '86.

CHAIRMAN STRAIN: And I agree with you. The reality of the problem is, though, is when you come before a panel such as this and the BCC trying to sell a project, this kind of language is highly beneficial in convincing people you're doing a very well amenitized (sic) project. And the fact that it's not there, I'm not sure it would have risen to the level of a denial, but it sure may have had impact on some people as to why they did or did not vote on the project originally.

MR. YOVANOVICH: And generally we list these uses as we may provide these uses. In this case the language doesn't say shall, but has been interpreted to mean shall provide all these things. But generally we include the authority for the developer to include all of these and then as you get into the actual development of the project, you'll let the market decide what amenities that community in actuality wants. And that's the way it worked in the real world. It may not have worked that way on paper, but in the real world it worked to what did the market really want for Olde Cypress to become.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: That piques my curiosity

That information would somehow be translated into sales literature inducing people to buy property based on what they would perceive are the full range of amenities related. But you're now stating that they were there and you really have no obligation to do any of them, or you may do some? And you say the market. So when we say the market, who are we talking about, the people who purchase it or how much the developer can afford?

MR. YOVANOVICH: Well, what people -- what the people who move in there want.

And if we want to get into the entire sales history, there's a master property owners association declaration that was referenced in everybody's deed that bought from the developer. And that declaration recognized that there was a development order, and it also recognized that the developer can change the plans because -- in reaction to what does the market really want.

So the declaration that everybody took their property subject to -- and I'm paraphrasing, I can put the exact language up if everybody wants to see it -- reserved to the developer the right to make changes. And that's what in fact happened, the developer made changes as the project went along. From '86 to where we are in the year 2011 right now.

But basically all the lots were sold. The single-family lots were sold by the year two thousand -- by the end of 2005.

COMMISSIONER MURRAY: Okay, we may be chasing dogs that have died already, but I will tell you this, I think you're aware of it, that there have been in the past developers who have promised the world and given the people a lot less. And this government entity has one bite at that apple, and that's what I'm -- you piqued my curiosity when you indicated that way.

I think yes, everybody who acquires property should do their due diligence. But the use of the word may there is not often used in sales literature. There will be a, there will be these, that's what the typical thing is. That's why I asked the question before about the sales literature. Because what's in --

MR. YOVANOVICH: I've asked for it as well.

COMMISSIONER MURRAY: Excuse me?

MR. YOVANOVICH: I've asked for it as well. Because I've asked people, you know, was there a big map? When you go into a sales center, usually there's a big map that says here's your community, pick your lot. Was there something on there that said here's the park? I've been told no, you know. So I'm just -- I've asked the same thing, is there something out there that said you are going to have one big 3.9-acre park that's going to have children's facilities in it. And to date I haven't seen it. I haven't seen it.

COMMISSIONER MURRAY: Okay, I'm not going to beat the dead horse here. But quite frankly, if someone is an avid bicyclist and they say there may be bike trails, they're induced, I don't have a problem that changes may be necessitated due to the market and the decisions of the people. But I do think it's important that we get it clear what it is that we do want to. Maybe it should have been shall, I don't know, we'll find out.

CHAIRMAN STRAIN: This is a piece of sales literature that was included in some of the e-mails --

COMMISSIONER MURRAY: Oh, good.

CHAIRMAN STRAIN: -- that I think we all received. That may be why Mr. Murray's asking the question. Because when I got this, I didn't see the parks in it, but I did happen to catch the fact that there's talk of trails. Do you know where this came from?

MR. YOVANOVICH: I don't.

CHAIRMAN STRAIN: Okay. I don't know if it was Brian Stock's, I don't know if it was the prior owners, but that is something that apparently the owners were told at one time or another.

MR. YOVANOVICH: Okay. So again, if we need to put the trails in, we can put the trails in.

CHAIRMAN STRAIN: I'm just responding to Mr. Murray, that's the only literature I seen that was e-mailed. I think we all got it, but it was an attachment and it was a little hard to open. So that was the only one that -- yeah, we may have gotten it in the packet, but that's the only one I saw with a reference to some of the issues we're talking about.

COMMISSIONER MURRAY: Thank you very much. Because that is what I am relating, that oftentimes we have people frustrated who acquire property because they have inducements that collapse. Thank you.

CHAIRMAN STRAIN: And before I get into the HD Development PUD, which is the next issue, then I'm going to --

COMMISSIONER EBERT: Mr. Strain, I have a question.

CHAIRMAN STRAIN: -- move on.

Okay, go ahead, Ms. -- we're going to be taking a break here in a few minutes, that's what I was --

COMMISSIONER EBERT: Mr. Yovanovich, do you know the original owners of the Woodlands?

MR. YOVANOVICH: Do I know them personally? I need to look --

COMMISSIONER EBERT: Do you know who the original owners are?

MR. YOVANOVICH: I'm sure if I go back and look in the ordinance I can find that out. I haven't focused on who they were. I came into this project well after all the documents were done, so I haven't gone back and looked at who they were.

COMMISSIONER EBERT: And when did -- could you tell us when your clients acquired this property?

MR. YOVANOVICH: The entity was acquired by my client in -- end of 2002, beginning of 2003.

Now, Mr. -- Brian's dad was essentially the bank for the original project. They acquired the entity in total in around -- end of 2002, beginning of 2003.

COMMISSIONER EBERT: So you're saying that Mr. Stock was not involved in this from the beginning?

MR. YOYANOVICH: Not in -- not till 1986.

COMMISSIONER EBERT: No, when this was purchased from the original owners.

MR. YOYANOVICH: When Olde Cypress, Ltd bought the property, Brian's dad was essentially the bank that helped finance the acquisition.

COMMISSIONER EBERT: And when was that?

MR. YOYANOVICH: I don't know. I'd have to look. '98, '99 sometime; around that time frame.

COMMISSIONER EBERT: Okay. It was a question that I had on this.

Before we leave, I have one other question on the parks.

Did you ever read the recommendations from the Regional Planning Council?

MR. YOYANOVICH: Sure.

COMMISSIONER EBERT: 1986, in August. May I read something?

MR. YOYANOVICH: You can, but what the legally binding document is is what was actually approved.

CHAIRMAN STRAIN: Well, Ms. Ebert, you can read anything into the record you'd like.

COMMISSIONER EBERT: Okay. Recreation and open space. It said the project impact. Now, this is coming from the regional planning. It says: The Woodlands DRI will contain 377 acres of open space and parks. And this is referring to your 27.A. It says: Table D-1 gives the breakdown of acreage.

County standards recommend neighborhood parks of two acres per every 1,000 residents. Based on an estimated population of 3,500 people at build-out, 6.2 acres of park would be required, and only 3.9 acres are planned. Additionally, the 3.9 acres of park are remotely located in the northeast corner of the project. They are further isolated from the project by wetlands, meaning the cypress preservation areas, and from major internal collector roads.

The remedial action said: The total park size needs to be increased to Collier County standards. The park should be more strategically located throughout the project. The parks planned for the northeast corner require pedestrian access, either boardwalks to go through the preservation area. All open space should have general pedestrian access.

Prior to any development or construction, the applicant should meet with Collier County Parks and Recreation Department to determine park needs, locations and degree of facilities to be provided.

Did your clients meet with the park people?

MR. YOYANOVICH: Again, these are recommendations that came from the RPC. They did not find themselves into the approved development order. So they make comments. The Board of County Commissioners -- staff and the Board of County Commissioners decides which recommendations to follow or not. And clearly they did not follow that recommendation because they only approved -- well, required 3.9 acres of parks with two locations identified on the master plan.

And I would point out today there is no neighborhood park requirement. And we have shown you where we can meet the requirements that currently are in writing on the master plan.

COMMISSIONER EBERT: Is this not a DRI?

MR. YOYANOVICH: Yes, it is.

COMMISSIONER EBERT: Meaning development of regional impact?

MR. YOYANOVICH: Yes.

COMMISSIONER EBERT: In 1986, if you were going to put 1,460 homes west of I-75, would that have been big for this county? In 1986.

MR. YOYANOVICH: Yeah, because the DRI threshold in 1986 I believe was 799.

COMMISSIONER EBERT: 1,000 units.

MR. YOYANOVICH: Well --

CHAIRMAN STRAIN: No, it was --

MR. YOYANOVICH: -- 80 percent of the 1,000.

CHAIRMAN STRAIN: -- 800 or above.

MR. YOYANOVICH: And you stay under that by doing 799. That's why you'll see that magic number in a lot of projects. And the rules have since changed, but yes, it was a DRI. And there was a DRI development order issued that required 3.9 acres of park through reference to the application for development approval and the master plan. And we're trying to clean it up.



CHAIRMAN STRAIN: Is that all for now, Ms. Ebert?

COMMISSIONER EBERT: Yes, that's all for now.

CHAIRMAN STRAIN: Okay, let's take a break and we'll come back at 10:15. Thank you.

(Recess. )

CHAIRMAN STRAIN: Okay, if everybody will please resume their seats, we'll get on with the meeting. And we left off moving into the third part of our packet. At least that's where I was going. But I want to make sure at all times everybody on this panel has opportunity to ask any questions they have.

Ms. Ebert?

COMMISSIONER EBERT: I just have one question for Mr. Yovanovich.

Mr. Yovanovich, when we talked about these local issues and everything, I believe you said that it was voluntary from the recommendations of the Regional Planning Council?

MR. YOYANOVICH: I said that the regional -- if you're going back to the documents you said to us --

COMMISSIONER EBERT: Uh-huh.

MR. YOYANOVICH: -- that was a recommendation. And it was a recommendation that apparently the Board of County Commissioners did not follow. Because it didn't find its way into the approved development order. And that's not unusual.

COMMISSIONER EBERT: Well, may I read something from the '86 original development order? In the conclusion of law it says: Now, therefore, be it resolved by the Board of County Commission of Collier County in public meeting, constituted and assembled November 6th of 1986, that the development of regional impact application for development approval submitted by Ross McIntosh, agent, is hereby ordered approved subject to the following conditions, as recommended by the Southwest Florida Regional Planning Council, or in response to their recommendations and the commitments specified in the PUD which are hereby adopted as conditions of approval of this development order.

MR. YOYANOVICH: What was the map attached to that resolution?

COMMISSIONER EBERT: There's no map.

MR. YOYANOVICH: There is a map that went with it, Ms. Ebert, and that map was the map that's map H that showed the two separate preserves. And the board -- the PUD that was adopted on that very same agenda had a reference to 3.9 acres in parks. That's what the board adopted. They considered the recommendation and they took the recommendations that they wanted and put them into the PUD document. Similar to the recommendations that you all make. They generally follow your recommendations, but sometimes they don't. They were recommendations that did not find themselves into the original documents.

COMMISSIONER EBERT: I have no further questions.

CHAIRMAN STRAIN: Anybody else, before I go into the HD Development?

Go ahead, Melissa.

COMMISSIONER AHERN: I just want to follow up.

Rich, did this -- once the change was made by environmental, did it go back to RPC?

MR. YOYANOVICH: The RPC has seen a few notice of proposed changes to this document. So to answer your question, they've had multiple opportunities to review this PUD; when we added the driving range, when we added the multi-family piece that I believe was Amberton. So yes, the RPC has seen this and other amendments to the development order.

Specifically in 1996 when the changes to the density were made, it went to the RPC and they saw it and the new master plan was approved by it.

CHAIRMAN STRAIN: Okay, I'm going to be on the HD Development package for now.

First issue I have with that package is the -- well, one that's not really mentioned. The entryway, we need to put that master plan so we can read it. Or if you want to put the HD Development master plan on there, that would probably be easier.

Okay, the entryway for this project, is that where it's shown? I think it's on Treeline.

MR. YOYANOVICH: Correct.

CHAIRMAN STRAIN: Is that inside the gatehouse, Olde Cypress?

MR. YOYANOVICH: Yes, sir. I wanted to make sure I didn't make a mistake again. Yes, it is.

CHAIRMAN STRAIN: You're going to be bringing in a lot of construction traffic for this project. And

since I have built projects like this, it always is nice not to bring those heavy trucks and all that equipment and all those construction workers through the gated entrance. It ends up slowing traffic down and being a problem for anybody trying to get in and out of the facility easily.

For this project, would you have any objection with putting a construction entrance in in the northwest corner through one of those pie-shaped lots? Because those don't need to be your first sale. And then when you're 90 percent built out you can undo the construction entrance and finish it up through the other entrance.

MR. YOVANOVICH: What Brian just told me is those are actually part of the first phase of sales.

CHAIRMAN STRAIN: Well, maybe you will need to change your phase of sales; it would be worth it.

I'm just -- you know, you really could do better for this community. I've been through their gatehouse. Going through that gatehouse with the dump trucks, the loaders, you're going to have backhoes coming in on multiple lowboys. It's going to be a mess. And you really ought to consider building out, maybe from -- and, you know, you don't want to build your best first, but from the south side north and then get the east and do that corner last.

Well, I'm throwing it on the table, you guys can consider it before the day's over, I'll ask you about it. Okay? Go ahead, Ms. Ebert -- Ms. Caron. I'm so used to calling Diane lately.

COMMISSIONER CARON: Could you indicate here where the gatehouse actually is? I thought the gatehouse was west of that corner as well. Maybe not.

MR. YOVANOVICH: This is your gate.

CHAIRMAN STRAIN: Oh, so you can't --

MR. YOVANOVICH: You would have to go through the driving range before you go through the gate.

CHAIRMAN STRAIN: Right, but what's that -- where your thumb is, is that just a tee box?

MR. YOVANOVICH: This is the driving range.

CHAIRMAN STRAIN: Right, is that part of the tee -- is that your northern tee? So you have double tees, dual tees both south and north?

MR. YOVANOVICH: No, we just have north. I don't think we have dual.

CHAIRMAN STRAIN: Okay. Well, that won't work. Because you're going to have a lot of traffic coming through that gatehouse to build this project out.

Is there any alternative you can look at for a construction entrance?

MR. YOVANOVICH: We told the community, you know, we would work to minimize the impact, because, you know, a lot of it -- we're going to go in and hopefully do all the land clearing at one phase and do that quickly. Then we're talking about individual homes as they get built.

But yeah, we talked to the community about -- you know, we understand that that's an inconvenience, but, you know, we'll do our best to coordinate our efforts to minimize it.

CHAIRMAN STRAIN: Okay, well, that brings me to a reason why I started asking this. I looked at your deviation number two. And deviation number two asked for a change in your lake slopes. We have a 10 to -- we usually go four-to-one down to 10 feet below control. Control fluctuates with the water table. In the your area I heard from county engineering it was around four feet. You want to go down I think to seven feet instead of 10. That leaves a three-foot ledge for anybody trying to get out of the lake. The whole purpose of the 10-foot from control is so if someone falls into the lake they have an area to swim out and crawl out of.

You would basically leave three foot if the accuracy of the four-foot drop in the water table is accurate. Therein lies my question. I did not see any documentation in here to show what the low season water table fluctuates on that property. Do you have any? I don't have.

MR. MITCHELL: I got a response to a comment from the engineer, county engineer, saying that that area, based on his research -- and I'm paraphrasing conversations between Stan and the current county engineer --

CHAIRMAN STRAIN: Your mic's not picking up, is it? No, I'm sorry, that thing seems to be -- I thought Kady fixed it, but maybe not.

MR. MITCHELL: Sorry.

The response of seven feet below control was issued from a comment response from the county engineer. He looked at and actually was involved in the change of the code. The code changed in 2004, I believe 2004, where the code was that the break point on the slope from a four-to-one slope to a two-to-one slope was three feet below the low water. And the opinion was at the time that low water wasn't being determined for projects. And based on his research reviewing the county and the area that seven feet below control pretty much took care of all of Collier

County. And again, I'm paraphrasing the conversation I had, not with the current -- or with the former county engineer.

So it became 10 feet below so we wouldn't have issues.

Now, as far as swimming out, I have not heard that. I know that it was a safety issue based on exposed lake bank and a four-to-one slope. So his information said that it was about four feet below control for low water.

I do have canal data history for 10 years showing that there's two elevations, two control elevations out there, the highest being one 3.5, which is adjacent to the slough, and 11.75, which is the western half of the property.

And the canals in the dry season get to about a seven and a half, seven. With a 10-year data, I think the lowest I saw was a 6.7. So that's your seven feet from your 13.

Now, you will have a gradient from the canal up to the lakes such that it won't get that low. And that's the high side was -- and the low side were about the same in the dry season. There's a weir right there kind of in the middle of the property.

CHAIRMAN STRAIN: And weirs tend to hold back the water?

MR. MITCHELL: The purpose of the weirs are to hold back the water, yes, in the dry season, and they let the water out during the preparation for hurricanes.

CHAIRMAN STRAIN: Do you know how the study was done by the county engineer to determine the depths of change in that lake?

MR. MITCHELL: I do not.

CHAIRMAN STRAIN: Okay. He went around during a period of one -- one period of time during I assume the dry season and looked at the lake and said wow, it looks like a four-foot drop in this lake and went throughout the county and did that. That's not too scientific.

And I was hoping that if you're asking for a deviation that affects public safety and welfare as an exit does from a lake that you'd provide backup data significantly enough so we could look and see yes, you deserve the deviation --

MR. MITCHELL: I do have the canal data that I can provide.

CHAIRMAN STRAIN: Well, I would rather see on-site data. Canal data is subject to the weir. And I don't know if that's as reliable.

So I would rather see you have seasonal data tables. Has there been any monitoring done on that site through South Florida or anybody else that you could pull water table data from?

MR. MITCHELL: We put some shallow wells in. I don't know that we monitored them throughout the whole time. It was more related to the environmental, but I can get that information and take a look at what we have.

CHAIRMAN STRAIN: And how much additional fill would be generated through your calculations by going from a 10-foot -- from control to seven foot?

MR. MITCHELL: I haven't done that calculation. We're not in that part of the development. I wouldn't assume that it would be a substantial amount.

CHAIRMAN STRAIN: So you're asking for this and going to the effort of doing this without even knowing if it's worthwhile?

MR. MITCHELL: Well, it provides on-site fill, which reduces impacts to the county infrastructure, so I would say that it is worth it.

CHAIRMAN STRAIN: Well, digging deeper provides on-site fill. And I'm assuming you're going to the maximum depths you can?

MR. MITCHELL: We will be going to the maximum depth you can, and we're still on a fill depth.

CHAIRMAN STRAIN: You're going to modify the lakes, or had any lakes been dug on that site? I thought there were some already dug.

MR. MITCHELL: They were and and they were filled in.

CHAIRMAN STRAIN: They were filled?

MR. MITCHELL: Yes.

CHAIRMAN STRAIN: Oh, that will be easy dig to get them back out, you're not going to hit any rock.

MR. MITCHELL: It should help.

CHAIRMAN STRAIN: Okay, I'm not comfortable with this without data. If you provide the data, that would make it a lot simpler. If you've got the data, that would be helpful. And before the day's over, we'll talk about

how we could get ahold of that data.

MR. MITCHELL: Sure.

CHAIRMAN STRAIN: And Jack, you seem anxious to jump in.

MR. McKENNA: For the record, I'm Jack McKenna, your County Engineer. Good morning.

As I walked in, I heard you questioning how the data that we do have was obtained, and my understanding was that your previous county engineer, Stan Chrzanowski, he went out and measured lakes throughout the county, yes, during the dry season. I don't know how many seasons that was over, but it was more than a visual yeah, this is about three foot or four foot, it was actually measuring from the control structure down.

This was really done as a result of -- historically the way the break point was determined was the engineer of record would indicate what the low or the dry season water table was. And that was really often a very arbitrary number. And so Stan went around looking at different areas of the county and determined gee, we were -- in a lot of cases this may have not been an accurate number. And he logged all this. There is a map in my office that has the various readings that he got around the county. At that --

MS. ASHTON-CICKO: Mr. Chair?

CHAIRMAN STRAIN: Yes.

MS. ASHTON-CICKO: Excuse me, this witness has not been sworn in.

CHAIRMAN STRAIN: Oh, I believe him, though.

Would you swear him in for everything he's about to say and has said?

(Speaker was duly sworn.)

MR. McKENNA: So in any case, when the code was rewritten in 2004, Stan Chrzanowski thought that to simplify it they'd take the worst case scenario, which was about a seven-foot drop in the water table out to the far east and utilize that as the standard, understanding that that may be overly conservative as we move further west. He did have readings in the neighborhood of this project of a four-foot drop. And so if we go to the three-foot below low water as historically had been done in the county, and I think provides for adequate safety, because a person can climb out at that point, that was his recommendation in reviewing this amendment, which was just prior to my coming on board with the county.

CHAIRMAN STRAIN: Okay. The burden of proof to show that part of the fluctuation is what Stan estimated it to be really is on the part of the applicant when a deviation like this is supplied.

And the reason this is important, not so much for this one, but the precedent that it's going to set throughout every application. Richard has a tendency to find if something works, he uses it in all the future clients.

We have a road now, a standard for a road of 50 feet. If you look at all the deviations we get, we get 50-foot road deviation requests almost in every PUD. And I can see that if this one has a value to it, it would be a logical one to include as a deviation request in future PUD's. But I'd certainly like to set the precedent that in doing so we have the proof needed to say that this is a legitimate deviation and the public safety and welfare is not impinged by it.

And to get there we need some backup data in our packet that shows there's been a study done to show the dry season water table. Stan going around at some time during the dry season is one way to approach it, but not as hard evidence with an engineer saying it's that way. And the engineer's liability being put in the record in case anybody ever has a problem in that lake.

So I would certainly like to see the proper documentation done before this kind of deviation is approved. A lot because of the precedent that it sets and that it will set in future applications.

So thank you, Jack, I appreciate your -- and by the way, you said something, I love it when people say things. You said the county eng -- you have a map in your office. Can we be getting copies -- can you give us copies of that map? I don't care if it's electronically or hard copy.

MR. McKENNA: I'll see what I can do about getting that, yes.

CHAIRMAN STRAIN: Okay, thank you.

Just before the day's over, this will come back as a discussion item, I'm sure.

MR. McKENNA: Sure, thank you.

CHAIRMAN STRAIN: Thank you.

In the HD Development document, Exhibit A, list of permitted uses, the Item A.2, it says principal uses and structures, there are two of them. Single-family dwelling units and then you have multi-dwelling units.

By your testimony today the only multi-family are going to be used on the existing multi-family tract; is that

correct?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: And the master plan reflects that.

CHAIRMAN STRAIN: Right. But I would like the language here to indicate that the multi-family dwelling units will be isolate to that tract. Because you do not have that tract's property owner's permission to change the PUD. And you don't want to change anything that affects him. If you were to have competition with him, I'm sure that would affect him. So I would like to get this item isolated to only his tract by some reference on here that references that tract.

MR. YOVANOVICH: That's fine. Can we just say as depicted on the master plan? Because all the others are identified as single-family on the master plan.

CHAIRMAN STRAIN: Okay. Works for me.

Ms. Caron, did you have something?

COMMISSIONER CARON: So you would not -- I'm just concerned about not being specific in the language there.

MR. YOVANOVICH: Again, if you look -- I don't know, either in your packet you should have a larger version of the PUD master plan.

COMMISSIONER CARON: Right.

MR. YOVANOVICH: And it is very clear that the lots are laid out on it. So you have -- it says single-family all over the master plan.

COMMISSIONER CARON: I understand that. But as we are here today, we know that master plans and maps change, so we need to -- so why wouldn't we try to be as clear on both, that's all.

CHAIRMAN STRAIN: Heidi?

MS. ASHTON-CICKO: I would suggest you label it Tract A and then in a couple locations on the exhibit under -- on Page 1, A.2 and --

CHAIRMAN STRAIN: Page 2, D.2.

MS. ASHTON-CICKO: And then there's another page in here somewhere.

The reason is the language single-family is so small, and I agree that he's attempted to depict it on the master plan, but it will make it more clear for whoever that is to administer this later, especially if they can't read that fine print.

CHAIRMAN STRAIN: Any problem with that?

MR. YOVANOVICH: No, sir.

CHAIRMAN STRAIN: Okay. So you'll -- the master plan would be changed in approval is granted to the make that a Tract A and the multi-family will be limited to Tract A.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. On the next page, page two of 11, D.2, you'd have to make the same reference there.

And while we're on that interesting page, C.1 and 2, are you going to do those things? Are you going to do passive recreational areas, are you going to do biking, hiking, nature trails and boardwalks, now that you're bringing it up again?

MR. YOVANOVICH: They're not required uses, they are allowed uses. And we should have the flexibility, should we want to do that, to do that.

CHAIRMAN STRAIN: I'm not trying to take it away from you.

MR. YOVANOVICH: It doesn't say we shall do those things.

CHAIRMAN STRAIN: Okay. This is just another one of those things that makes everybody feel good that you have the opportunity to do it.

MR. YOVANOVICH: Right. I mean, we don't want to have to come back to you and say, you know what, we've decided that putting a passive -- you know, putting a nature trail in a preserve area I had to come through and amend the PUD. Is it okay to have one in there or not? If it is, then give me the right to do it if I so choose.

CHAIRMAN STRAIN: Well, the conservation tracts that have been dedicated to South Florida and items like that may be difficult to put stuff in, but the ones that are not dedicated, which I'm hoping one of the things we'll

get out of this meeting today is the conservation map showing which ones and who they're dedicated to.

If we go to the development standards table, which is Pages 3 and 4, on Page 3 under front yard setback, the 19 feet has a parenthetical two. The parenthetical two is substantially different than the normal one that we see for the 23-foot setback and different from the one that's in the approved PUD master plan that exists today for HD Development.

Now, that's one of these items that started years ago and we keep it intact and it's been the same language. I don't like the fact you're trying to change it again, because what you're saying here is a little hard to follow. Is there a reason you can't live with our regular language so that it becomes somewhat of a standard we've always used?

MR. YOVANOVICH: I need the -- the engineer's going to look at that to see if there's any impact of going back to the other language.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: I mean, the important thing is we're keeping the 23 feet.

CHAIRMAN STRAIN: Well, then say it simply, you're keeping the 23 feet. You've got multiple added language here that differs too much. It makes me wonder what you're trying to do. Why couldn't you just live with the language you've always used? It's simple.

So we'll look at that then before this finishes out today.

And this -- well, I've got a question for staff about the landscape buffer, so I'll defer that to them.

In the old PUD there was a long paragraph to discuss the construction traffic in the Olde Cypress neighborhood. And that's why I was trying to find a solution to this project. And it said, to minimize overall effects of construction traffic on the Olde Cypress neighborhood, construction related traffic including but not limited to earth moving equipment and dump trucks -- but specifically not including pickup trucks shall only access the project site through the Cocohatchee Canal maintenance easement.

Now, that's the easement that you can't do because South Florida won't let you do it, if I'm not mistaken. And so your alternative is to bring everything now through the gatehouse. And that's why I brought up the idea of a construction entrance. If you do own the driving range, if there's a possibility of making a modification to the northeast corner of that driving range to bring a road in before the gatehouse on a temporary basis to let access to your project, I'm not sure how disruptive that would be to that driving range. Because in the way that it's located, it might be just a very small piece. But I think it's something you ought to carefully look at. I've experienced, as you know, a lot of heavy traffic coming through gatehouses, and they do not leave it in good condition afterwards.

COMMISSIONER MURRAY: Mark?

CHAIRMAN STRAIN: Yes, sir, Mr. Murray?

COMMISSIONER MURRAY: I want to go back to the side yard setback. You're reducing the lot area, you're reducing the square footage for the building, you're putting people a lot closer together. As you well know, I've many times said that I'm unhappy with the idea of five and five.

How critical a factor is this? I mean, you're going to build two story and you're going to have visualization from one location to another. How critical is it?

MR. YOVANOVICH: It's important to the product type that we're proposing to construct. And it's also consistent with what's already allowed under the Olde Cypress PUD. The five feet is already allowed under the Olde Cypress PUD and the minimum unit size that we're proposing is greater than allowed under the Olde Cypress PUD. And we have product that we're building in other parts of the county that has five foot, 10 feet between structures. That's popular. And --

COMMISSIONER MURRAY: Popular.

MR. YOVANOVICH: Popular. And from the market's perspective they're selling.

COMMISSIONER MURRAY: They will if they don't have any other choices. And as you've indicated, you'd like to have us believe that they should be that way.

MR. YOVANOVICH: I'm pretty confident that in today's market there's plenty of choices. And I don't mean to be flip, but there are plenty of --

COMMISSIONER MURRAY: Well, it sounded flip.

MR. YOVANOVICH: I didn't mean to be. And I apologize if that came that way. But --

COMMISSIONER MURRAY: I'm very sincere about that. I made the comment before and I'll make it again, and maybe I won't even vote in the positive because of it. People are entitled to have distance so they don't have

to listen to each others conversations and smell the cooking odors, et cetera. And particularly when you get into two story you now have a question. So I think you ought to give that consideration during the course of this morning.

COMMISSIONER EBERT: Mr. Strain?

CHAIRMAN STRAIN: Yes, ma'am.

COMMISSIONER EBERT: I have a question and I'm hoping Brad can help me out.

CHAIRMAN STRAIN: Brad's a very helpful individual.

COMMISSIONER SCHIFFER: Go ahead. I'm ready.

COMMISSIONER EBERT: Okay, on Page 4 when they are talking, it said the second one, number two, it said the front yard setback for side loaded garages may be reduced to 18 feet with the home remaining at 19 feet where the applicant demonstrates that two vehicles can be adequately parked and da, da, da.

How can you have a side load garage at 18 feet and the house at 19 feet? Can you help me on that?

COMMISSIONER SCHIFFER: I mean, what they're saying is that if you swoop in through your front yard and hit the garage on the side, then the requirement we have for making sure that cars aren't backed up over the sidewalks --

COMMISSIONER EBERT: Is 18 feet.

COMMISSIONER SCHIFFER: -- doesn't need to apply -- yeah.

Theoretically you could make it less, I think, so I don't have heartburn with that.

So what they're saying is the drive is not going straight into the garage. The garage door is not facing --

COMMISSIONER EBERT: I understand. But on a 50-foot wide lot and you put a side load garage which can be reduced down to 18 feet but the house is going to remain at 19 feet, unless -- I don't know.

COMMISSIONER SCHIFFER: Will it look good? I don't know either. But there's room to do it.

COMMISSIONER EBERT: The garage sits here and the house is a foot -- I mean, attached but still within one foot. Okay.

COMMISSIONER SCHIFFER: I think what they're saying is that, you know, the house will stay back 19 feet, but you can bring garages as close at 18 feet.

CHAIRMAN STRAIN: Do you have a graphic that would help us depict what you're trying to do?

MR. YOVANOVICH: I can tell you that on our 50-foot lots we don't have any side loaded garages.

COMMISSIONER EBERT: Okay, so they're all front loading.

MR. YOVANOVICH: On the 50's. On the 60's we would have the side loaded option.

COMMISSIONER EBERT: Okay, thank you.

CHAIRMAN STRAIN: Okay. And I'll try and finish up. I've got a few other points and then hopefully will be done for now.

On February 11th, 2011 Stock Development sent a letter to the Olde Cypress residents indicating that -- basically they're hoping to get the approvals. They have certain things they're going to do. Some of them are based on whether or not the approval is successful.

The new sidewalk in between Strada Bella and Terramar apparently is already in, you've already done that.

The Logan Boulevard fence repair -- and the reason I'm asking all this is you guys can say everything you want to the residents. Unless it's in writing somewhere and agreed to, either on -- through a board level here, if it's such a matter we can address or through agreement with them, it becomes hard to enforce once we walk away. And I don't think you're trying to do that, so let's just get it on record.

The Logan Boulevard fence repair, is that a white fence that separates you guys from Long Shore Lakes, or --

MR. YOVANOVICH: I'm sorry, I missed what letter you're reading from. Can you tell me the date? That's all.

CHAIRMAN STRAIN: February 11th of 2011.

MR. YOVANOVICH: Yeah, I think it was -- it says it's been fixed. It's done. It says completed.

CHAIRMAN STRAIN: Okay. But I think you got it in the wrong location.

Mike Greene, can you come up and tell me what you told -- tell us what you told me?

MR. GREENE: Do I need to be sworn in also?

CHAIRMAN STRAIN: Yeah, you've got a beard, you got to swear the guys with beards in.

(Speaker was duly sworn.)

MR. GREENE: It's come to our attention that that fence is actually located inside of the road right-of-way

and not on private property. And as part of this opening of the PUD, we would ask that the fence be relocated.

CHAIRMAN STRAIN: Now, I'm assuming you've had surveys done or someone has a survey to know how this happened or that it is -- you're actually speaking from factual measurement?

MR. GREENE: I do not have a survey.

CHAIRMAN STRAIN: Okay. Is that something you think the developer ought to do or somebody ought to do to prove your concern?

MR. GREENE: The developer should be responsible to survey the location of that.

CHAIRMAN STRAIN: Was a permit issued allowing for the current location, or was the permit issued showing it was outside the right-of-way?

MR. GREENE: I do not know how the permit was issued. Since it was not a right-of-way permit it would have been through a different section of the county.

CHAIRMAN STRAIN: Okay. Those are all facts we ought to know, but I wanted to make sure we got it on record, because before the day's over that's an issue we have to deal with. Thank you.

COMMISSIONER EBERT: Mr. Strain?

CHAIRMAN STRAIN: Yes, ma'am.

COMMISSIONER EBERT: Before Mr. Greene leaves, I would like to also put something on the record.

As long as this PUD amendment was opened up, Mr. Stock did tell us at the town hall meeting that he knows the golf cart path -- I don't golf so I can't tell you what hole, I think it's two and three -- is on the county property and that he would be willing to move it. Can we also put that in the record?

CHAIRMAN STRAIN: Well, you just did. But I think that --

COMMISSIONER EBERT: But it's different than the fence.

CHAIRMAN STRAIN: Okay. These are items that we need cleared up.

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: So you have a golf cart path you believe is in the county right-of-way.

COMMISSIONER EBERT: It is, for Logan Boulevard.

CHAIRMAN STRAIN: Okay. I'm making notes. I've got a list that is about a dozen items long right now, but we'll continue.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Thank you.

There are six bullets. The third one is in that letter, enhanced community landscaping. And it said we have committed the funding for additional landscaping to enhance the front entry of the community.

We talked about that earlier. Apparently there is a plan, and at some point we'll discuss about how to -- getting our hands on that plan.

The fourth bullet is Olde Cypress pool and tennis center update. In October we completed an update to the pool and tennis center with new pool and patio furniture, along with new awnings for the tennis center and additional landscaping. In addition we will be adding seating for grandstand viewing at the tennis center and court improvements.

That's not an issue relative to the Planning Commission but it is something you could work out an agreement with the homeowners.

2011 fees and dues, you've made another commitment about not to increase their fees and dues.

And the last one, Olde Cypress fitness center renovation. You've hired an architect, David Humphrey, and you've retained Hole-Montes to work on it. Those issues are outside of I believe the purview of the Planning Commission, but they're not outside of you working out an agreement to hopefully give us that -- mitigate some of the concerns of the residents. And that's why I was bringing it up.

Before we finish today and after we hear all the public comments, I'm certainly going to suggest to you a path that might help with finishing up today's hearing.

That's the last question I have right now. Anybody else have any?

(No response.)

CHAIRMAN STRAIN: Okay, Richard, thank you. it's been entertaining. Kay's the next individual. Ms. Caron?

COMMISSIONER CARON: Yeah, just to clean up the record as well, because I wasn't here for disclosures,



I have received numerous e-mails and did have a conversation with Mr. Yovanovich.

CHAIRMAN STRAIN: Thank you.

Oh, it's the Nancy and Kay duo team. That's good. I want to thank you guys, you did a good job. And we'll certainly look forward to what you've got to say now.

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

Can you hear me?

COMMISSIONER EBERT: Yes.

MS. GUNDLACH: Okay, good.

I prepared the staff report for the Olde Cypress PUD amendment. And just wanted to let you know that staff is recommending approval of that PUD amendment. And if you have any questions, it would be my pleasure to answer them this morning.

CHAIRMAN STRAIN: Anybody have any questions?

(No response.)

CHAIRMAN STRAIN: Nancy, when I talked with you on this one, I briefed you on a couple questions I was going to have. Actually, it's only one that's left, and that's a comparison of the landscape buffers that were in the old PUD versus the one in the new PUD. We had three ranges of landscape buffers in detail. We've now condensed that to one smaller paragraph in the new PUD, and I wanted to make sure that we were getting the same buffers. And you were going to check on that.

MS. GUNDLACH: Commissioner, can I answer that when we discuss the HD Development PUD, which is Kay's PUD?

CHAIRMAN STRAIN: I'm sorry. That's fine. Sure. There's been so many --

MS. GUNDLACH: I know.

CHAIRMAN STRAIN: I agree. No problem, I'll wait till then, thank you.

Mr. Murray?

COMMISSIONER MURRAY: There are three of these things so I want to be sure I'm not on the wrong track here. PL-2010-1054, is that what we're discussing right now?

MS. GUNDLACH: No, actually, mine is --

COMMISSIONER MURRAY: All right.

MS. GUNDLACH: I just drew a blank.

COMMISSIONER MURRAY: Well, I'll wait then.

MS. GUNDLACH: Okay.

CHAIRMAN STRAIN: Okay, Melissa?

COMMISSIONER AHERN: Nancy, there was a poll that went around to the residents. I'm not sure how involved you were. Do you feel confident that the residents understand that the other developments would also have access to any additional amenities inside Olde Cypress?

MS. GUNDLACH: That's a difficult question for me to answer, because I did not conduct the poll. I'm just a recipient of the information.

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

(No response.)

CHAIRMAN STRAIN: Thanks, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Kay, I guess you're going to wrap up the other two, huh?

MS. DESELEM: Good morning. For the record, my name is Kay Deselem. I'm a Principal Planner in Zoning in the Growth Management Division.

And I was a coordinator for the staff reports for the Olde Cypress DRI and the HD Development PUD. But before I begin, I'd like to enter some documents into the record. I will provide them to the appropriate person.

I have the regular minutes of October 22nd, 1996 of the Board of County Commissioners. It says, wherein, Ordinance No. 96-64 for the Olde Cypress PUD referenced by Petition No. 86-261 was adopted.

Also Resolution 87-2007, which was a resolution adopted after the settlement agreements by DCA on the Olde Cypress DRI.

Development order 86-1, which was the original development order for Olde Cypress. Ordinance 86-75, which is the original PUD document that was adopted along with that original DO ordinance.

And Ordinance 96-64, which was an amendment to the PUD done in obviously 1996.

And going on from there, as I said, I did do the staff report for the HD Development and Olde Cypress. And you've seen several things change today. We've gotten a new map H that more correctly depicts the residential area. I did go back and check the map H that was in effect prior to this and it did depict those areas. So somewhere in the process of the submittal of this DRI note of proposed change, that error was made. But to change that does not change or effect the notice of proposed change.

You do have the staff report. It is last revised 2/3/11 for the DOA, and it does incorporate the information from the Regional Planning Council and from staff, and it identifies the park issue as a local issue.

And there is is a discussion in there regarding the park, and there is information showing you where the park was. And we go into some detail about the park and the Immokalee Road impacts.

Staff is recommending that the petitioner's request to remove the park be approved. However, noting that if the park issue remains, we need some clarification just so that staff can ascertain later on that the commitments are met. Because it makes it kind of difficult if there's no timing or no -- you know, the who, what, when and where, if that's missing, it's very difficult for staff to ascertain if commitments are met within the PUD and the DRI documents.

Going on to the HD Development, again you have a staff report. It is last revised with a parens 201-31, and it discusses the action, the location, provides the maps to describe what's being proposed, it has a project description, goes into the surrounding land uses, has a Growth Management Plan discussion that includes both the FLUE and the transportation element as well as the conservation and coastal management element.

Staff is recommending that the petition be found consistent with the Growth Management Plan. We did provide analysis, both of zoning, environmental and transportation issues, as well as zoning issues, providing some comparison between the original ordinance from 2005 and the proposal, as well as comparison between Olde Cypress, its neighbor and the HD Development amendment proposal.

Staff is recommending that the petition be found consistent and compatible with what's in the area.

And there are two deviations. Deviation one is that one that you mentioned earlier about the roadway widths of 50 feet. And deviation two again, as was already discussed, is a deviation from the slope.

And staff is at this time recommending approval of both deviations.

Staff has provided both PUD and rezone findings in support of our recommendation. And again, we are recommending approval of the petition to rezone the land to HD Development PUD.

And there is an ordinance for the PUD document, and there is a resolution for the DO. And I'll be happy to attempt to answer any questions if you have any.

COMMISSIONER MURRAY: I do.

CHAIRMAN STRAIN: Thank you, Kay.

Mr. Murray?

COMMISSIONER MURRAY: Kay, with regard to the deviation having to do with the road width, did any issue regarding guest parking come up with --

MS. DESELEM: No, sir.

COMMISSIONER MURRAY: -- respect to that?

MS. DESELEM: No, sir. Nothing --

COMMISSIONER MURRAY: Do we ask people -- I mean, we're cutting a road down in size. I know we've done this before. And I know there are a number of gated communities that have roads that are pretty narrow. And when guests come, it can be a real dog trying to get parking and people's lawns are ruined and the common property and the whole business. It's not the responsibility of the county to look at that?

MS. DESELEM: There are separate requirements for guest parking and within the parking regulations, and we've never really addressed it as part of the deviation process for a road right-of-way width reduction.

COMMISSIONER MURRAY: Okay. Well, just seems reasonable to me that if you have this and you make it that and you're asking vehicles to be there like that and although it probably doesn't happen that often that people have large numbers of people over, it does present I think an eyesore. But beyond that it's potential safety issue.

I'm not going to make a big deal out of it but would think that may be in the future we might start thinking

about looking -- connecting that to that. I think it's important. If we're going to reduce the size of the road, we ought to facilitate parking for people who are going to inevitably come to visit.

MR. YOVANOVICH: Keep in mind the pavement width doesn't change.

MS. DESELEM: Thank you for your concern. We will look into that in the future.

COMMISSIONER MURRAY: Thank you.

COMMISSIONER SCHIFFER: Just to follow up on that, Kay, when you get a permit for the structure, it has to have required parking. And would not you deal with it on a lot-by-lot basis?

MS. DESELEM: Yes, that's what I said, there are separate requirements for parking, aside from what the right-of-way width requirements are.

COMMISSIONER SCHIFFER: Right. So you would look to see that the parking requirements of the code are met on-site, right?

MS. DESELEM: I personally wouldn't, but yes, someone would.

COMMISSIONER SCHIFFER: Okay, thank you.

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

Ms. Caron?

COMMISSIONER CARON: No, just to follow up with Mr. Murray, I think Mr. Murray is stating a very real and practical problem living in communities, as a lot of us do, where the road widths have been narrowed and we are -- we all have driveways that will fit the two cars that go in the garage and not much more than that. And it becomes a real issue of when people have company, you see it all the time, people pull over onto grass areas in front of homes and there goes the landscape, you know, sprinkler system. And it becomes a cost to the overall development, not just the individual homeowner.

So I don't know, I think perhaps it is something that in the future we need to look at. Because it's a real practical issue. It has nothing to do with whether a car can drive down the road in this development or any other development.

MS. DESELEM: I see Rich hanging over my shoulder, I think he'd like to address your question.

COMMISSIONER CARON: He just wants to say that the road width will be the same.

MR. YOVANOVICH: Exactly. The pavement width remains the same. And the county's ordinances prohibit parking in streets. Now, whether that's ever really enforced would probably be a very unpopular thing for county to do in any community. 24 feet is 24 feet. Whether you have a 60-foot wide right-of-way or not, you're only getting 24 feet of pavement. And I doubt the county -- 20.

COMMISSIONER CARON: Which is why I said that this is not -- it's a practical issue --

MR. YOVANOVICH: Right.

COMMISSIONER CARON: -- of what happens in these communities. And should we have some requirement for some additional parking is probably a good thing for us to be discussing. Because in practical terms people do park within these private gated communities on the roads. And they upset landscaping and other things when they do that. It is a practical issue, not an issue of how wide the road in particular is.

COMMISSIONER MURRAY: Well, if I may?

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: In addition, if they're single-family lots that there -- people are effectively parking on other persons properties. And that -- I mean, I realize it's commonly done because there's no alternative. It doesn't make it right. And so I'm just -- thank you, Commissioner, for your view.

CHAIRMAN STRAIN: Okay, are there any other questions of Kay?

Melissa?

COMMISSIONER AHERN: Well, not of Kay.

Aren't these issues normally addressed in the HOA policy as well?

CHAIRMAN STRAIN: They are. And, you know, besides the two-car garage, there's two spaces used in front of the garage. There's a lot of issues that this would open up far beyond what we're talking about in this project today.

COMMISSIONER MURRAY: Yes.

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

(No response.)

CHAIRMAN STRAIN: Okay, Kay, thank you.

Now comes the opportunity for the public to participate --

COMMISSIONER CARON: Just, I have one question before the public. And I think it's one for Mr. Yovanovich.

There's a boardwalk easement that's required in this project. Can you show that to me on this plan? Is it this darker line that's running along the preserve?

MR. YOVANOVICH: Let me get it for you.

COMMISSIONER MURRAY: You're talking about this one?

COMMISSIONER CARON: I mean, I just -- I can look on the little plan that is labeled PUD Exhibit H for HD Development, and there's a little tiny map there.

MR. MITCHELL: Right up here is the location.

MR. YOVANOVICH: If you look at the bigger map H -- and it won't all fit.

COMMISSIONER CARON: Got it.

MR. YOVANOVICH: You'll see --

COMMISSIONER CARON: Where does it show it on this one?

MR. YOVANOVICH: It's this area right here. And it's labeled 15-foot -- I'm sorry. It's labeled 15 feet, boardwalk easement, and it's starting right here. Can you see how -- and it goes all the way along the preserve area.

And then if you look -- if you want to -- on the insert you can see kind of where it's depicted. That's where it's real difficult to see it. But in the blown-up version you should be able to see better the 15-foot width of the boardwalk easement and its location.

COMMISSIONER CARON: Okay.

MR. YOVANOVICH: And that's the bigger version of map H, I believe it is.

COMMISSIONER CARON: Thank you.

MR. YOVANOVICH: Or Exhibit H. I'm sorry.

COMMISSIONER EBERT: Mr. Strain?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: May we have Mr. Greene from Transportation come up and explain that for everyone?

CHAIRMAN STRAIN: Sure.

MR. GREENE: Again, Michael Greene, Transportation Planning.

The requirement for the easement came about when the original pathway was being built along the canal. And that South Florida Water Management required the asphalt pathway to be pushed down at grade for almost 800 feet. During seasonal high water events you have nearly three feet of head flowing over this area. This easement is to put an elevated boardwalk section so that the pathway can be used year round.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Okay, are there any other questions of staff or anybody at this time?

(No response.)

CHAIRMAN STRAIN: I need one question finished, which I had started asking Nancy about, and that's the landscaping issue.

MS. GUNDLACH: Did you want me to go ahead and answer the question?

CHAIRMAN STRAIN: Of course.

MS. GUNDLACH: I just wanted to make sure there weren't other portions of the question.

Anyways, to refresh everybody's memory, the question was whether the language in the current HD Development PUD regarding the landscape buffering along the northern edge of HD Development PUD was the same as what was previously in the old PUD.

And it is. It's stated a little bit differently, but it's the exact same landscape design.

And for the record, I just wanted to clarify the name of that exhibit. It is Exhibit G. And it was called Olde Cypress south buffer. And I'd like to change -- revise that to state the new name, which is schematic buffer design.

CHAIRMAN STRAIN: Okay. So under Exhibit F, number two, you're going to change Exhibit G to instead of Olde Cypress south buffer it's going to say?

MS. GUNDLACH: Schematic buffer design.

CHAIRMAN STRAIN: Okay, thank you, Nancy.

MS. GUNDLACH: And we're changing it in the PUD document under Exhibit F to A.

CHAIRMAN STRAIN: Gotcha. Great, thank you.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Okay, that brings us to the public participation part. And everybody that is going to speak for the public, first of all, we don't have the strict time limits. And we don't ask that if you want to register, although it's nice if you do, I'll still when everybody's done ask if anybody else would like to speak. I've got to make sure you're all -- anybody that does speak was sworn in, and if you weren't, it's just a simple matter of standing up and being sworn in by the court report.

However, when you do speak, those of you that can, I would like you to try to address for us a couple of issues that have been predominant in today's meeting. That is this 3.9-acre park. There is a location that it could possibly go. But it would certainly open your community up to everybody within the DRI/PUD.

If you have concerns about any of these, we'd like to know it.

The nature trails. Nature trails were called for, but putting them in will disrupt a lot of your homesites, to some degree, and may not be something you want. And if it's not, we'd like to know that as well.

The bicycle and jogging trails, they're not there, and most likely can't go in at this point, but I'd sure like to know your thoughts on these.

Now, we're going to go through this process today, and at the end we will have a lot of comments to the applicant based on everybody's input. So your input is valuable and we're looking forward to hearing from you.

And with that Ray will be calling people, and we use both -- either podium is the one to use.

So Ray?

MR. BELLOWS: The first speaker is Charles Slaght.

MR. SLAGHT: It's still morning. Good morning.

I'm a resident in Olde Cypress. My name is Charles Slaght. I live at 2918 Lone Pine Lane.

I've written a number of e-mails to everyone concerned in county staff referring to this.

I have been in previous times a bicycle pedestrian coordinator for Duval County. So those are sort of my credentials right now. I'm also a board member within that homeowners association that's probably most impacted. And I have some suggestions, if you'd like to ask for them.

One of my big concerns is that I filed a code enforcement violation, and at that time I was told, and Mr. Yovanovich communicated with county staff, that the PUD was not closed and therefore that the notice must be rescinded.

And so here we are today, you know, and the code violation was in regards to parks, nature trails, et cetera. Here we are today talking about amending that. And therefore, you know, sort of my rights are then vacated because you're going to wipe that out. And then when I go for a code enforcement violation when the PUD is closed, I have no recourse at that time. So if I can't file that code enforcement violation, I feel that that's an infringement on my rights.

CHAIRMAN STRAIN: We haven't made a decision yet, sir.

MR. SLAGHT: Right, right. I'm just saying that should you make that decision, that would violate my rights and open up litigation as well.

So my big thing is I've got a letter here, I have nine copies which I'd like to give to be included in the record. And it's just sort of that, a summation of everything that I've already written to you. And I wanted to make sure that you had that as well. Thank you very much.

CHAIRMAN STRAIN: Okay. While you're -- while those are being passed out -- and make sure there's one for the court reporter as well.

Mr. Slaght, I'd like to ask you, we have discussed some alternatives, and their alternatives I think are viable and well within the code, they wouldn't be a code enforcement violation. Are you in favor of such alternatives? Do you see that as a solution to the problems, or do you still think there's a problem?

MR. SLAGHT: I think there's some things that we can do together as a community with Stock Development, with Brian Stock. I'm sure he'd be glad to work with us. And with county staff working on the pocket park concept. We went from 91 acres of preserve to 149 acres of preserve. And mentioning the nature trails and access to the back of the properties, there's enough room in the preserves to do a out and back elevated boardwalk, per se, which would

take care of that situation.

The pocket parks, when I went through with the Stock representative at that time for sales in the community, and later you're handed off, but it was pointed out to me that at the end of Wild Orchid and also the end of Lone Pine Lane there could be possible access to a future park or with nature trails in that area.

If you look at the end of Wild Orchid, very easily you could extend an out and back type of boardwalk or nature trail with the preserve and it would not be unsightly. And you don't have golf cart path issues then with people in the community going onto a golf cart path to get access to a park. Which is a liability issue for the owner.

All the other things I think that were presented are beneficial to Stock Development, because he still does own all the amenities that are outside the gate.

CHAIRMAN STRAIN: You said you live on Lone Pine. Do you have a preserve in your backyard?

MR. SLAGHT: Yes, I do.

CHAIRMAN STRAIN: Do you want a walkway between the preserve and your house?

MR. SLAGHT: I wouldn't mind that, absolutely. I don't have any qualms with people being in my backyard, so that would be okay with me.

CHAIRMAN STRAIN: And as far as the boardwalks, elevated boardwalks, they're very costly. There is no obligation to provide those. I mean, those are nice and I certainly think it would be an asset not only to the community but to future sales, but that's really a developer's decision on the way the --

MR. SLAGHT: Absolutely.

CHAIRMAN STRAIN: -- language is written, so --

MR. SLAGHT: And I understand that.

CHAIRMAN STRAIN: Okay, thank you very --

COMMISSIONER SCHIFFER: I have a question.

CHAIRMAN STRAIN: Mr. Schiffer?

COMMISSIONER SCHIFFER: When did you file your complaint with code enforcement?

MR. SLAGHT: That was November 18th of last year, 2010. On or about that date.

And I never received any formal notification back from county until I started to investigate. It had come out from I believe this organization that you were actually going to hold a hearing on February 17th. And that's when I telephoned and started e-mailing to county to see what the deal was with my violation, and I would told that it was rescinded.

COMMISSIONER SCHIFFER: How long have you lived there?

MR. SLAGHT: I've lived there since -- I believe we bought in 2004.

COMMISSIONER SCHIFFER: All right, thank you.

MR. SLAGHT: Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Next speaker?

COMMISSIONER AHERN: Mark, one more question.

CHAIRMAN STRAIN: I'm sorry, Melissa?

COMMISSIONER AHERN: Where did your violation come from? Was that after the neighborhood information meeting or what?

MR. SLAGHT: It was in a combination of the town hall meeting and the neighborhood information meeting. Sort of concurrent with that I said what are my, you know, remedies here? So I sought out just the least possible impact to try and give notification to the county that I was unhappy with what was going on.

COMMISSIONER AHERN: Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, thank you, sir.

Next speaker, Ray?

MR. BELLOWS: Greg Schmidt.

MR. SCHMIDT: Hello. I'm Greg Schmidt, a resident of Olde Cypress. I've been a resident for almost 10 years there.

And I'd like to touch on just two things. One is, if this is approved a couple key things happen: The fitness

center is doubled in size, there's bleacher seating put in for the tennis center, there's additional landscaping involved at the front entry, and a huge vacant lot that has weeds growing on it and dust blowing around when the wind blows from the south goes away. And the houses that are built are commensurate with Olde Cypress. All those things I think are really positive. And --

CHAIRMAN STRAIN: You need to slow down just a little bit. She's trying to type as fast as you're talking and I -- she gets mad at me a lot, so you're doing pretty good too.

MR. SCHMIDT: Is this better?

So those I believe are positive things for the community for me as a resident who's been there 10 years.

If for some reason this is not approved, I think it's been made very clear that there will be no expansion on the fitness center, that there will be no additional tennis court seating added, there will be no landscaping added at the front entry. And in all likelihood that parcel will be resold to another party who will take their run in developing it, which is a big unknown for me as a resident as to whether that would be higher density, anything commensurate with what's already in Olde Cypress. A lot of unknowns with a future builder in there and what kind of track housing and so forth might go in.

And the third point would be is if for some reason a requirement for a park is determined to be required, and that's an interpretation. And based on the questions that I've observed and heard, I think that the correct interpretation inevitably will result from that, and I have confidence that that will take place.

But if a park were to be required, the options that I think are very clear to where they would be to me is just not acceptable. And a park's not worth it. Taking over the areas that are designated "R", and attributing those to park space that would affect the area by the clubhouse or the golf course or areas that inevitably will not be used, will not have any equipment, nothing on them, but they'll become park land that nobody uses to me is just not a prudent use of space.

And I would agree with the comment made by Commissioner Caron and others that I can't imagine people, the majority of the people, wanting paths right next to the back of their home. There's a preserve area near my home. I personally would not want to have a path right next to that.

And so as a resident I fully support the development that's been proposed from the standpoint that I think it's the best alternatives compared to the other options that exist. Thank you.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray?

MR. BELLOWS: Doyle Boyd.

MR. BOYD: Good morning. I think it's still good morning. Almost noon.

I wasn't planning on speaking today, but I did have a couple of points that I wanted to address. I've been a resident there for nine years or so at the end of Wild Orchid. Therefore, an access to a park at the end of Wild Orchid is not high on my list of things to see.

There's no parking. There's no access other than sidewalk to get there if you don't park in the cul-de-sac.

I'm kind of curious as to how that would even work out, so I of course don't even want to see it.

The other point that I would like to address is that when we bought, the salesman said to my wife and I there's potential for a park. We could also do something around trails -- he didn't say anything about bike paths. There was nothing promised, there was nothing in writing. I didn't see anything on a map. And I thought, well, if they do that, that might be great. So it wasn't something we really expected. And this was nine years ago.

So I don't know if I was miss -- the salesman misspoke to me. I don't think so. But I have not seen anything in writing, I haven't seen anything on a map, and I wasn't expecting anything.

CHAIRMAN STRAIN: Thank you.

MR. BOYD: Any questions?

CHAIRMAN STRAIN: Well, as far as the park goes, if the developer were to actually build part of the park or a portion of it where we're suggesting and the other outside areas outside of Olde Cypress, the multi-family over to the east and the other access to it, is that a -- do you see that as a problem for your community?

MR. BOYD: I bought in that community because we wanted to be in a gated community without outside access. So I wouldn't prefer to see unlimited access to anything in the area.

CHAIRMAN STRAIN: Thank you.

Okay, next speaker, Ray?

MR. BELLOWS: Henry Floreani.

CHAIRMAN STRAIN: By the way, how many speakers do we have total?

MR. BELLOWS: Approximately 15.

CHAIRMAN STRAIN: Okay. Just so everybody knows, about a quarter of 12:00 we break for an hour for lunch. So we'll have to come back and finish up after lunch for anybody that hasn't spoke and probably have a conclusion to our meeting at that point.

Yes, sir, go ahead.

MR. FLOREANI: Hi, everyone. Henry Floreani. I'm a nine-year resident in Olde Cypress and I'm one of the few people that does have a child in Olde Cypress.

And I have to say that if we had a park, we would not use it. The alternatives of where it's going to go, it covers a putting green area. I'm a golfer, I use the club. I don't think it makes sense, as Greg Schmidt said.

And I am not in favor of the walkways, preserve paths. I live in a preserve, would not like to see one. I consider -- if there's a park that's required, I consider the fitness center, the tennis courts, the basketball hoops in the parking lot next to the tennis courts, that's goods enough park for me.

I'm in favor of Stock building this development for the reasons that Greg Schmidt illustrated. And he's a known local developer, not a big national. We know what we're getting. He's been very fair I think as far as I'm concerned in everything he's done in the development, and I support what they're doing. I know they're going to do a good job, given what they've done in the rest of the county. And I hope that you guys vote in favor of what he's proposing.

COMMISSIONER MURRAY: I have a question.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Sir, do you play tennis?

MR. FLOREANI: Occasionally. Very, very rarely.

COMMISSIONER MURRAY: All right. Mr. Stock wants to put in some additional seating in there, presumably for events that occur from time to time, some kind of tournament or what have you. Would you be offended if as a result of that that you were precluded from using the park -- I'm sorry, the tennis courts, unless you had to pay a fee?

MR. FLOREANI: I don't understand the basis of the question. Why would I be precluded if he puts in bleachers?

COMMISSIONER MURRAY: Well, perhaps if he holds a tournament and decides to sell tickets to it. You wouldn't necessarily then have the right to go there unless you bought a ticket.

MR. FLOREANI: I mean, if he wants to do it I may buy a ticket because it may be fun to watch. Otherwise, I'll wait till the tournament's over. I'm not going to be petty over it.

And honestly, I think this issue has gotten very large, in my opinion. In speaking to some of my neighbors, they can't believe that it's gotten as big as it has. And I think that some people have gotten some personal issues letting them cloud their better judgment.

COMMISSIONER MURRAY: I'm sorry you thought I was being petty.

MR. FLOREANI: Oh, no, I wasn't referring to you. I'm talking about some of the community scuttlebutt. It wasn't referring to you specifically at all.

COMMISSIONER MURRAY: Okay, thank you.

CHAIRMAN STRAIN: Thank you, sir.

COMMISSIONER AHERN: Just --

CHAIRMAN STRAIN: Oh, Melissa?

COMMISSIONER AHERN: Real quick.

CHAIRMAN STRAIN: Sir? I'm sorry, Melissa had a question.

COMMISSIONER AHERN: Real quick. The same question in terms of having the other communities have access.

MR. FLOREANI: Oh, I absolutely am against that. Yeah, just as Mr. Boyd said, we did buy in a gated community for that reason, and if you take that out -- that's why we bought.

And also, I want to make it clear too that I had no expectations or no representations were made to me when I bought about a park or walking trails, and that did not make my decision. And I wasn't even aware of it until this



thing arose years ago.

COMMISSIONER AHERN: Great, thank you.

CHAIRMAN STRAIN: Next speaker, Ray?

MR. BELLOWS: Herbert (sic) Bud Grane.

MR. GRANE: My name is Hubert Bud Grane. I reside at 2750 Olde Cypress Drive. Olde Cypress Drive is the main access road for about 70 percent of the community.

I want you to know that I love Olde Cypress community, its people, the clubhouse and the golf course. I am a charter member, having joined in 2000. I want Olde Cypress to succeed. But in order to ensure success, it is necessary to achieve all that was originally promised.

In 2003 I was elected the first president of the Olde Cypress Homeowners Advisory Council. Later as head of this association, I was exposed to a lot of its history, which I will not go into at this time.

Olde Cypress is primarily a golfing community with approximately 38 percent of the residents being golfers. We also have a number of non-golfing residents who purchased homes in a non-condo area to raise a family. There's a family across the street that has two young teens and a grade school girl. Almost every afternoon I see them playing in the street because there's no park available.

The reason I'm here is about two and a half, three weeks ago I witnessed almost a tragedy. A car passed a landscape truck, applying screeching breaks, to avoid hitting one of the teenagers on a dirt bike. Do we have to wait for some child to be injured by passing traffic before anything is done?

I urge this committee to recommend a park or parks be kept in the documents and to be installed as soon as possible.

Like the proposed expansion of the fitness center, it's long overdue.

Now, with reference to your question, Mr. Chairman, regarding the parks area and so forth, as chairman, I spent time with Mr. Hardy, Mr. Stock and a number of his staff.

One of the things that we proposed was the fact that we -- instead of having one big park, that we would have some smaller parks. One of the areas involved was the area between the driveway and the practice range, which is about 30 foot wide, which we were going to put in a kiddie park and recommend some benches for picnic tables. That would extend all the way to the far south end and there would be an expansion at the back end of that facility. There is room for all of that back there.

Also at the same time there's an entranceway there for heavy truck traffic which can go through the back end. All you have to do is stone it down.

But I thought I'd bring that up at this time, since that was one of the questions that you had asked.

CHAIRMAN STRAIN: Okay, thank you.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Thank you very much, sir.

Ray, next speaker.

MR. BELLOWS: Liz Hines.

MS. HINES: Hi. My name's Liz Hines. I've been a resident in Olde Cypress for about seven years.

I'm very much in support of vacating the requirement for the park and the PUD and the DRI documents.

I think everything that's been outlined today in terms of the accommodations that Stock has made and has proposed make up for the value of the park as it was stated in the original documents.

Also, just echoing what other people have said is having Stock develop the HD Development area is in the best interest of Olde Cypress. The quality of the product that has been proposed there, the density, is consistent with Olde Cypress.

To the issues that you've asked about nature trails and bicycle and jogging trails, when we bought, frankly, I don't remember any of that being mentioned. It was not a decision point in terms of us buying in the community. I do jog, I bicycle now and then, but I use the sidewalks and use the fitness center for those things, or use the path along Immokalee Road. So I don't see any issue with those being vacated.

CHAIRMAN STRAIN: Thank you.

MS. HINES: Any questions?

CHAIRMAN STRAIN: Anybody?

(No response.)

CHAIRMAN STRAIN: Thank you, ma'am.

Ray?

MR. BELLOWS: Andy D'jamoos.

MR. D'JAMOOS: Good morning. My name is Andy D'jamoos. I live at 7465 Treeline Drive. I've been a resident in Olde Cypress since 2003.

I'm a parent with two young sons who prefer to play outside instead of inside, fortunately.

And we find Olde Cypress to be very conducive to our lifestyle. They actively use the tennis courts. The Stock group has made a basketball net available to them near the tennis courts, which they actively use. We're not allowed to keep basketball nets up overnight in our association, and I'm getting too old to take it in and out every night, so we take advantage of that.

I bought a lot that allowed enough room for my kids to play outside. It was -- we looked at Saturnia Lakes, which was a very kid friendly neighborhood and we chose Olde Cypress, so -- we were never told about a park or anything like that, and it wasn't an important decision for us with young children.

Regarding the preserve opportunity, I can tell you, I've been out at night walking the golf course and I literally came face-to-face with a black bear right next to the preserve down the fairway from me. And I wasn't more than 10 feet. And I watched that bear go from the neighborhood back into the preserve where I believe it came from. So.

I for one would not allow my children to go anywhere near a preserve where I have physically seen a black bear go into the woods. I've chased enough golf balls in the preserve to know there's snakes out there and other kinds of animals, so it prefer not to have that as an option.

The clubhouse is a very wonderful amenity that we have there. And I feel that if we lose Stock -- and Stock has always been forthright, in my opinion. They've done what they said they'd do. He and his family and the company have been very responsive. I'd be very concerned as a resident there if Stock was not able to accomplish what they're trying to accomplish. They'd put the clubhouse up for sale and the golf course up for sale and then we don't know what we have anymore.

We've got a beautiful facility, something to be proud of. If you're trying to sell your home, it's a nice amenity that people buy into. And I would hate to see that go away in hands of people we don't know and what they could do to it.

So Stock has been very forthright in supporting the club in a very turbulent time, and I think we need to consider that as well. And that's it.

CHAIRMAN STRAIN: Thank you, sir.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay, next speaker, Ray?

MR. BELLOWS: Marie Rotunda.

MS. ROTUNDA: They all said everything I wanted to say. Positive stuff.

My name is Marie Rotunda. I live on 3033 Renaissance Court in the DaVinci section.

And the only thing that I really want to add here is that when the county -- when you wanted the vote as to -- or take a poll as to whether we wanted a park or not, it was very, very close. But less than half of the population in Olde Cypress voted.

One of my new neighbors questioned me about it because she said she had voted for the park and she asked me what I did and I said well, no, I didn't vote for the park. And she said -- I said, well, why did you?

And she says, well, everybody told me, the group of people that I was having lunch with, that if I voted for the park then we could get more concessions from Stock Development. That's all I have to say.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray?

MR. BELLOWS: Kelly Peffes (sic).

MR. PAFFEL: Good morning. My name is Kelly Paffel. I live at 3064 Strada Bella Court.

CHAIRMAN STRAIN: Could you spell your last name for this young lady?

MR. PAFFEL: P-A-F-F-E-L.

CHAIRMAN STRAIN: Thank you.

MR. PAFFEL: Resident of Olde Cypress for about five years. I have children that lived in Olde Cypress. And if you have a park, my children -- or child would not be using the park, you know.

Just a point. You know, the thing is that years ago parks were for kids and so on. Today if you put an X-Box in, they'd probably go to the X-Box to the rec area or whatever. But a park?

You know, between Santorini and Strada Bella we do have a little park. Not classified on the plot as a park, but it has a bench, has grass and it has trees. I've been there for five years, I've seen one person use the bench. One person.

So, you know, I'm 1000 percent in favor of Stock doing the development and increasing the rec. area and things like that. But to make us put a park in that no one's going to use -- and I have children. And other people say oh, we need a park. For what? We don't need a park, you know.

The other thing about it is here in Collier County is very special because of the park areas we do have available for our children with soccer, football, with the water park, everything there. That's where we go. So we're not going to use a park in our community. I've got a park 50 feet from my house nobody uses, you know, so why would I put a park in? We live in a park, really. I mean, it's beautiful. My kid fishes and everything else.

So that's all I have, so -- and I am in agreement with everybody else that's in favor.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray?

MR. BELLOWS: Charles Kansy.

MR. KANSY: Good morning. My name is Charles Kansy. I live at 7499 Treeline Drive.

We purchased our lot in 2001, moved in in 2002, and at no time was a park, walking trails, biking trails ever mentioned to us. I'm an avid biker, I'm an avid runner. I don't run in Olde Cypress, I don't bike in Olde Cypress. It's not really designed for that. Olde Cypress, as mentioned before, is a park. We play golf, we use the fitness center, we play tennis, but we don't use a park.

When I moved in, my daughter was five at the time. And she never would have used the park. She's 14 now. And somebody was mentioning teenagers. If I could get my daughter to go to a park, that's like pulling teeth. She wants to go to the mall, as most teenagers want to do. They're not going to use a park.

I believe that Mr. Stock has made some concessions for us in expanding the fitness center, putting the stadium seating in for the tennis courts. I feel that is more than fair.

And as mentioned before, nobody's going to use the park. And that's really bottom line. I'm in full favor of the development.

CHAIRMAN STRAIN: Thank you.

Next speaker, Ray?

MR. BELLOWS: Gary Lusher.

MR. LUSHER: Good morning. My name's Gary Lusher. I live at 3080 Terramar Drive, in Olde Cypress. That's in the Terramar community.

I'm here today to voice opposition to the release of the commitment of the PUD in part. I totally support the building, the addition of the homes within the Vita Pima/Vita Toscana area of the Olde Cypress or their proposed building. I am opposed to the release of the requirement for nature trails and park.

I've heard several comments as I've listened to the comments of previous speakers. One problem we have in Olde Cypress is speeders. Very close at the heart of many of the folks representing the master association and the community in general.

The roadways, the sidewalks with the challenge of vehicle speed enforcement is going to result in a problem at some future date where children are present and playing. That's inevitable if that is not put under control and there's not other recreational opportunities within the community for potentially something to happen.

The other thing I would like to clarify from my perspective only is that I've heard reference that there was a vote concerning the park. There was a poll. It was a rather short time frame poll. It was not a vote. It was not done in what my interpretation of the bylaws would indicate required, processed for the community in order to be considered a vote. It was not duly noticed. It was information collected by poll by the neighborhood representatives and furnished to the representative of the master association.

The rules -- or the bylaws require that any vote concerning master issues be cast by the neighborhood

representatives themselves, not -- and certainly not through a polling process.

I am not anti-Stock Development. I've lived in the community since 2002. I've owned two homes there. I like our low density community. I do believe that there is room for discussion. And if reasonable discussions occurred and some of the recommendations or the issues or maybe solutions to this particular PUD amendment request were put in place, that this would cease to be an issue for the community. Thank you for your time. And if you have any questions.

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: Yeah, if there was a park, a 3.9-acre park, what kind of amenities would you visualize that it would have?

MR. LUSHER: Well, to give you an example, right now if I get out in my community early, say 7:00 to 9:00 in the morning, I find -- especially during season, I find numerous, numerous people walking the sidewalks as the only option for walking within the community. That's very, very common. A lot of people walk. I'm a walker. I wouldn't want the community to have to have a trail for me, but I see other people taking advantage of that.

There is -- I think it was referenced before about basketball, swimming, so forth. Those opportunities are available at the clubhouse or near the fitness center and the pool.

One of the issues I have with that is that's not a protected area, that's outside the gate. Anyone could walk in off Logan Boulevard right into those areas. However, the fitness center is protected with pass keys.

So that's a little bit of an issue when you're offering that as recreational opportunities where there is not the security of the community gatehouse.

I think that I see a lot of bikers in the community. I think are roadways are safe enough and wide enough to accommodate them. But -- and I certainly wouldn't be a proponent of having to change the community to accommodate bicycles.

I heard also the walk paths through the preserve areas. I can tell you from my discussions with people both within the community and potentially new residents of the community that they would consider opportunities like boardwalks and at least an ability to access the preserve areas as a plus. Whether or not they would use them on a constant basis, I have no idea.

COMMISSIONER MIDNEY: I still am not satisfied about what would you envision in the 3.9-acre park.

MR. LUSHER: I would envision both children and adult recreation activities. And you can go to many communities in Naples, they have everything from horse shoes to bocce ball to basketball to areas specific -- I don't think -- well, maybe a 3.9-acre park you could have some ball fields and so forth.

And personally I'm not even sure we need a 3.9-acre total area park, that it might be possible to reduce the size or reduce -- or increase the number of parks.

We have a large community. It's a significant distance from the gatehouse to the northern boundary of the community. And it kind of disadvantages the people at furthest points away if they want to take advantage of the ancillary available recreational facilities that are now available.

COMMISSIONER MIDNEY: Thank you so much.

CHAIRMAN STRAIN: Thank you, sir.

MR. LUSHER: Thank you very much.

CHAIRMAN STRAIN: Melissa's got a question.

COMMISSIONER AHERN: Just to follow up with that.

Several people have made reference to kids playing in the streets. And it seems like in most of the communities I've dealt with, even when you have facilities or park areas, it doesn't deter the kids from playing in the streets. So my question is, do you think that's going to alleviate that problem?

MR. LUSHER: I have no background that would indicate that a park would improve or have no effect on those activities. Very honestly, I think that's parental control that you're talking about. And I certainly have no expertise in that, or haven't had in many, many years.

COMMISSIONER AHERN: And just one follow-up question on the parks.

Knowing that the PUD doesn't specify any amenities that have to be there, does that change your opinion?

MR. LUSHER: My opinion is this: As I've listened to the questions and Mr. Yovanovich, I think there's middle ground. And my personal opinion is, both from talking with people, that if there was a very candid discussion with the community, that those agreements could be resolved very quickly. I don't think anyone wants a bear park to

look at. And I certainly know that Mr. Stock would not want to dedicate 3.9 acres of very valuable property for that purpose. So I think there is possible some type of middle ground on this particular issue.

Unfortunately what I have been offered is a no-park park situation. And I have doubts about the wisdom of that type of poll best serving the community.

COMMISSIONER AHERN: And you have no issues with other communities having access inside Olde Cypress?

MR. LUSHER: The access issue is another big question mark. The other communities that are being referenced are far west of Olde Cypress. They -- I believe it was Amberton and the Preserve at Olde Cypress that were referenced. I have -- I don't have any basis to think that they would make the park or a park at Olde Cypress a destination, so I'm really not in a position. I think that would only be determined by actually having a park and seeing what happens.

COMMISSIONER AHERN: Thank you.

CHAIRMAN STRAIN: Thank you.

Normally this board takes a break at a quarter to 12:00. It would be nice if we could finish with the public speakers. I think we have four more left.

MR. BELLOWS: Two.

CHAIRMAN STRAIN: Two more left.

And then I will open that up. So there may be a few more added to that. If that's okay with all of you, we'll just finish with public speakers before we take our break.

Okay, Ray, would you call the next speaker.

MR. BELLOWS: Adrienne DeLuca?

MS. DeLUCA: Good morning. Adrienne DeLuca, 2766 Olde Cypress Drive.

Maybe I'm the only person here who is off-base or doesn't understand. Today is the first day I have heard the park described as a children's park, except over gossip throughout the community. During any of the NIM meetings or Town Hall meetings, parks were mentioned.

The developer does have a right to change his original plans. He may change outside structures; there are -- definitely this is his option.

The requirement for the park comes through the DRI, state agency, developed to make sure that there was not an overgrowth of housing, of concrete space and to provide, as I believe the DRI defines park as, green space.

It is also within the PUD. And those are the ones that I'm concerned about. The park space only has to be, from the way I've read the document, the DRI, whatever, is green space. It is not necessarily a kiddie park, a play park.

There is an existing park at the end of Olde Cypress Drive. During talks prior to turnover and in trying to reach a solution, that area wasn't noted, it's already there. That is part -- I would see that as part of the park requirement.

During the discussion today it was mentioned that the clubhouse facilities, the tennis courts, the basketball courts, this pool, would be -- could be considered our park area. Well, we're also talking about leaving our park area open to the residents of Amberton Fairway Preserve. Now, that would then say to me that they are now going to be available to -- if that area is the park area, does that statement of allowing the other people within the large PUD access to that park area? That's a question that I had with them.

As well as -- all right, speaking about some of the items in the letter that came out in early February about items that were given to us and should be considered as -- instead of having a park. Again, maybe off-base, but I don't see how repairing a fence -- I would expect from a developer as good and as honorable as the Stock Development, I would consider repairing fences an ordinary procedure that would be done.

I believe that around 2005 an enlargement of the fitness center had been presented to the community as something that would be done. And this is prior to the Vita Toscana issue.

I'm also questioning on the amendments, the one to remove the park area, which again to me is a contract with the DRI and with the PUD for green space, not active parks.

One of them has an addition of 60 plus acres. Two different because of that A section that was discussed before. In all the time that we're speaking, the only place we're speaking about is the original Olde Cypress area.

We are adding 60 plus acres with the Vita Toscana PUD to our DRI and our PUD, which gives area to

possibly be used as passive green space.

At the Town Hall meeting and at the neighborhood information meeting we were told that Laquoia at Lely is the model community for the homes that will be put into the Vita Toscana name to be changed. If we wanted to see what was going to be happening, we should go down, take a look. We received invitations to an opening.

I would like to read something that was in the Naples Daily News about the Laquoia neighborhood of Lely, which was presented to us as the model community for Vita Toscana. And I apologize for reading at you.

Enhancing Laquoia's natural serenity are several passive parks, featuring paver sidewalks and stone arches, leading residents past lush landscaping and water features.

These, according to the newspaper, and according to blurb, have been put into the Laquoia neighborhood.

All I'm asking the Commission to think about is the requirement is not a developer requirement in as far as the amenity that he gives. The park requirement is green space. One of the things that have been discussed was mitigation by buying green space elsewhere to -- in place of the park, that it couldn't be done.

I think there may be options. I don't think that the options that are listed in the letter to us are necessarily viable options. Thank you.

CHAIRMAN STRAIN: Thank you.

MR. BELLOWS: The last speaker is Rosemary Lewis.

MS. LEWIS: Good morning. Barely. Hello, my name is Rosemary Lewis, and I have a property in Olde Cypress which I've been enjoying with my husband for the past seven years. We are part-time residents. We only come for weekends, vacations and holidays.

And to us, Olde Cypress is an oasis of beauty and peace and quiet. And I agree when the people said it's a garden. It is. We're not golfers, but we enjoy the view of the golf course.

And when we purchased the property, we were enchanted by the combination of wilderness that comes from the protected preserve, untouchable, and the landscaping that the gardeners have created. It has -- it was a factor in deciding for Olde Cypress.

As I said, we are not golfers. It's also true that when we walk, we use the sidewalk. And sometimes the sidewalk is the golf cart path. So we have to be very aware. I have dogs. If they're business (phonetic), anything, it's difficult for me to pull them, because they might not cooperate. When we bike, we stay on the side, because obviously there are cars.

The idea of the park is appealing to us because it seems to me that it adds to the beauty of the place. And also at a time when we are heartbroken by the fact that our property has lost value. Because the market is what it is, probably the presence of a park can be an incredible marketing feature, as somebody said here, a bargain chip for the buyers, and I believe that can be very good for everybody involved.

But from the conversation that I heard this morning, I also have a better understanding of all the details. And nobody told us about amenities, about kids areas. So to me a park was just simply green space. And that's what I was looking for.

CHAIRMAN STRAIN: Thank you very much, ma'am.

Ray, is there any other registered speakers?

MR. BELLOWS: No other speakers.

CHAIRMAN STRAIN: Does anybody who has not spoken wish to address us?

Okay, sir, why don't you come up first and then after he's done, sir, you'd be next.

Were you two gentlemen sworn in by the court reporter earlier in the day?

(Both respond no.)

CHAIRMAN STRAIN: Okay, if you'll both rise and -- well, one of you is already standing, so -- it's all yours.

(Speakers were duly sworn.)

MR. MUIR: My name is Jim Muir. I live at 7480 Treeline. I bought -- my wife bought in Olde Cypress in March of 2005.

We have a letter on file in favor of not allowing the park requirement to be deleted from the requirement. I think, we think, my wife and I think, the nature trail, bicycle trail issue, that pie has already been baked. I don't see how we can go back to that.

We live on a preserve. Between our preserve and our house is a golf cart path. So during good weather and

especially during season every eight minutes people go past our swimming pool. And I can't imagine how a trail would be worse. It would probably encroach into the preserve, but in answer to a frequently asked question, I don't see that it could be worse.

I have a couple of things that haven't been brought up, and that's the reason I didn't register.

Mr. D'Jamoos, who's already spoken to this group, is a builder, interestingly enough. He's a neighbor of mine. And his children play roller hockey in the street. I don't think his children would play in the park. But they terrify me, because we live on a curve, and cars come around that curve at 25 and 30 miles an hour and brake very hard and the hockey game goes off onto the grass.

And like the 14-year-old that would rather be in the mall, those are not people who would be affected by the park. My two-year-old granddaughter, my six-month-old granddaughter, they will play in the park.

I am firmly of the opinion that Mr. Stock in his letter of February 11th will do every one of those improvements in order to sell homes in Vita Toscana.

The fitness center is an embarrassment. It has broken plaster in it and it's been broken for two and a half years. The exercise equipment in there, he's made an effort to put in enough exercise equipment to accommodate the existing residents, and you have to walk sideways between some of the equipment to move around in that exercise center. I can't imagine more residents using that fitness center with its current size.

The existing landscaping off Immokalee Boulevard does not match the Saturnia Falls, does not match many of the subdivisions in North Naples. Ours needs to be upgraded. Those things are all going to happen whether this gets changed or not.

And the people who say this is a trade-off I think have had wool pulled over their eyes.

I have not heard this group address an issue that has been on my mind, and some of my neighbors minds. Why could a park not be carved out of the Vita Toscana space? We have said 3.9 acres would be -- or we have calculated it would be six percent. And I cannot imagine Mr. Stock is working on what he thinks is going to be a six percent margin. And a park along Treeline Drive near the access would be very accessible to many of the residents. And I don't have a vision for it. I would want to see it. I don't see it with monkey bars and swings, and I don't see it with soccer goals and a baseball diamond, I see it as a green space and then let the homeowners decide. I would love to have it decided to us and let us decide what it would be, let us maintain it.

But also, the amenities, if it's outside the gatehouse, everything that's outside the gatehouse is part of the club and it can be sold. Just like the dues can be raised next year. If it's outside the gatehouse it can be sold and we'll lose it all like that anyhow. So if it's inside the gatehouse, I see it as being ours. And it will become part of Olde Cypress.

Do you have any questions?

CHAIRMAN STRAIN: Thank you, sir.

MR. MUIR: Thank you very much.

CHAIRMAN STRAIN: Yes, sir.

MR. OLDMAN: Thank you so much. And I apologize for taking us to the lunch hour. My name is Bob Oldman, O-L-D-M-A-N, and I live on Treeline.

CHAIRMAN STRAIN: That's unique.

MR. OLDMAN: Well, I'm feeling it more these days.

And I really would maybe come up and speak more. It's not so much about the park and walkways. Mr. Strain had lit in my mind a very critical issue that I just want to make a point of and hopefully consider as this goes on.

It's the ingress/egress that this will have on Treeline. And over and over again people have commenting on traffic. And we live with it every day there. Golf carts have rights of access, cars have rights of access. We only have one ingress/egress in and out of there to the gatehouse. And as this traffic comes back through the communities, there's a tremendous amount of traffic. I think it's something in the range of 1,300 cars a day, not including the service cars and others that come in, coming up that road. So I would ask you to focus on with your traffic manager just how much traffic we're talking about in this area.

The entrance here happens to be maybe convenient, but I don't think it's practical to access this. This will be another 200 cars going into that traffic at a very critical point. And it may be in the middle of the -- of this proposed subdivision, but it may be more appropriate to have it further -- closer to the gatehouse and away from this corner.

There's been a number of accidents, all of us know, on that corner where they actually run up into the people's

lawn there. They've installed stones, they've put other retainers to try to stop any further damage. And I would ask you to take that into consideration, I think particularly the comments of Mr. Strain about access, ingress and all the traffic that's going to be affected by this. Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Okay, if there's no one else, I'd like to know if Mr. Paul Schultz is still in the audience, or if he was to begin with. Mr. Schultz, could I -- could you come to the speaker, I'd like to ask you one question.

You're president of the HOA, I believe.

Wherever.

MR. SCHMIDT: Mr. Damian is now.

CHAIRMAN STRAIN: Is now?

Well, Mr. Damian, could you come up then? I just need one of you who are -- I'm sorry to bother you, but if you could --

(Speaker was duly sworn.)

CHAIRMAN STRAIN: Thank you. I'm sorry to have to drag you up here.

I want to know if the Amberton project or any of those other projects outside of Olde Cypress -- I mean, they're within the DRI but they're outside your physical area -- are members of your master homeowners association.

MR. THOMAS: No, they're not currently. They don't exist. So to my knowledge the only members of the master association are the people who live within the confines, current confines of Olde Cypress.

CHAIRMAN STRAIN: That's all I needed to know. Thank you very much.

THE COURT REPORTER: May I have your name, please.

MR. THOMAS: First name Damian, D-A-M-I-A-N. Last name Thomas, T-H-O-M-A-S.

CHAIRMAN STRAIN: Thank you.

Okay, with that, I think we've ended the public speakers. We will go to lunch. When we come back, we're going to go into a debate period over all the issues at hand. We'll be talking more with the applicant. But the public participation has ended at this point, so we'll take a lunch break.

And is it okay with everybody still 1:00? We'll come back at 1:00 and resume.

(Luncheon recess.)

CHAIRMAN STRAIN: Okay, if everybody will please take their seats. We've -- we're five -- we cut five minutes short on our lunch and oh, my goodness am I getting chastised for that. So I'll try not to do that again. So with that, let's resume our meeting.

And we had left off with the public discussion and participation in the last meeting.

Normally after we hear the public we allow some time for the applicant to rebut any comments they wish to.

And Richard, that's where we're at. So --

COMMISSIONER SCHIFFER: Could I ask --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: -- one question that I haven't been able to figure out yet? And I've asked the engineer at lunch and --

CHAIRMAN STRAIN: Go right ahead, Brad.

COMMISSIONER SCHIFFER: Rich, the -- I guess it's DaVinci or whatever it is, the eye of the donut there?

CHAIRMAN STRAIN: Hole in the donut.

COMMISSIONER SCHIFFER: The hole in the donut. Yeah.

Are we changing the access to that? Or where is the -- do you have an aerial that shows? Because I'm confused, because some of these drawings look like there's a change in that.

CHAIRMAN STRAIN: That's part of the issue. The access that you see in the drawings is not the access. That's one of the things that should be corrected on the master plan.

COMMISSIONER SCHIFFER: Okay. Because there is no other access shown but the one that's not.

CHAIRMAN STRAIN: Right.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: There is no other access shown but the one that's not. He's right. It's a convoluted way of saying it, but he's an architect.

COMMISSIONER CARON: That's definitely --



COMMISSIONER SCHIFFER: And that's the world I live in.

COMMISSIONER CARON: Yeah, it is.

CHAIRMAN STRAIN: I'm not sure what we did at lunchtime, but this is --

COMMISSIONER MURRAY: Serendipity there.

COMMISSIONER SCHIFFER: But Rich, do you have any good aerial photos so we could -- because we do show it coming in on the southwest area. I've seen some things where it looks like it's coming in the northeast area. And these are current drawings, so --

So this later set of drawings from the engineer is not representing what that aerial is.

CHAIRMAN STRAIN: That's correct.

COMMISSIONER SCHIFFER: And the intent of this is not to change it. So we should change.

CHAIRMAN STRAIN: This is the right depiction. It's in the northeast corner is the entryway. The only way to access that is through the gatehouse at Olde Cypress. The legal access which took them straight over to Livingston, I think --

COMMISSIONER EBERT: Logan.

CHAIRMAN STRAIN: -- or Logan --

COMMISSIONER CARON: Logan.

CHAIRMAN STRAIN: -- has now got a golf course through it.

COMMISSIONER SCHIFFER: Okay. So this application is not changing that.

MR. YOVANOVICH: No, we're --

COMMISSIONER SCHIFFER: So this drawing has to be revised to not show it.

MR. YOVANOVICH: The DRI master plan will be updated to show the actual as-built access for DaVinci Estates.

CHAIRMAN STRAIN: Well, the PUD has to be updated.

MR. YOVANOVICH: As will both -- I think the PUD showed it as the alternative access, and that's really what was built.

CHAIRMAN STRAIN: Right. But the other access should come out.

MR. YOVANOVICH: Okay. We'll do as-built. We'll revise all exhibits to make them as-built.

CHAIRMAN STRAIN: Okay, is that the only question you had, Brad?

COMMISSIONER SCHIFFER: That's it, thank you.

CHAIRMAN STRAIN: Okay, Richard?

MR. YOVANOVICH: I think if it's the pleasure of the board, we can just kind of go to the discussion. I think we've kind of laid out our position, and you've heard the position of the speakers. We believe that the package, if you will, that we've offered regarding the development of the HD Development project, as well as the improvements to the fitness center and landscaping at the entrance, that we will work with to confirm with the association is sufficient and we believe that the park requirement and the nature trail requirements -- and I guess we need to clean up the bike path and other issues like that -- that they should just be removed from the PUD to reflect where we are within the development. And that's what we're proposing to do. And we hope the Planning Commission can support our request and follow staff's recommendation of approval. And we'll answer any questions you may have regarding the three petitions during the discussion portion.

CHAIRMAN STRAIN: Well, I made a list of 14 issues to discuss with you, but I certainly want to make sure that the other members of the commission have an opportunity to ask any questions or comments they may have at this time.

Does anybody?

COMMISSIONER SCHIFFER: No.

COMMISSIONER EBERT: Yours first.

COMMISSIONER AHERN: I'll start a discussion.

CHAIRMAN STRAIN: Go right ahead.

COMMISSIONER AHERN: Originally I didn't have issue with removing the park. My biggest concern was what the residents were sold. And it seems that the residents have stated that that was not a commitment and that was not something that they were sold on, so I don't have an issue removing the park.

The one item I think we showed that was on collateral material was the trail, but it seems that's not desired

either.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: I mean, I've got -- I can bring up some issues for discussion, if you all want to join in as we get to each one and I'll try to elaborate on them.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: And Richard, some of the things you're asking for need supporting documentation. There are some things that need to be cleaned up.

The PUD itself needs some language changes. And I'm going to walk through all my concerns, because I don't have the data today to answer some of these.

The DRI cleanup is important. And I think that the master plan change that has to coincide with that cleanup and the letter that you would format to write to DCA with whatever, let's say, issues you would address in that letter are important to know. Because you can ask a question different ways and get different answers, but this one needs to be asked, giving all the facts.

And I really don't care what DCA says. Whatever they say is the way we'll go. But it just cleans it up. And I think a staff correspondence from Dan Trescott on the Regional Planning Council side said from his perspective it wasn't required but it would be a good thing to do is clean it up during this NLPC process. So I think that should be done.

You asked for a wall along -- or you suggest you're going to put a wall along 846. The details of that wall need to be locked in. You could put a wall two feet high or six feet high or eight feet high. You could put a wall 100 feet long or you could put 1,000 feet long. I would suggest we need some clarity on that.

The landscape plan for the entry. You acknowledge you're going to improve the landscape plan, assuming this goes through. So we would stipulate then a landscape plan would have to be part of and part and parcel to the process. We don't have a landscape plan for the entry that you're going to show.

MR. YOVANOVICH: But the association does.

CHAIRMAN STRAIN: We don't. We're not the association.

You listed other improvements, half of which were relative to issues that Planning Commission could address. And I brought up the point about Logan Boulevard and how to resolve this fence issue. That's something that transportation is going to be looking towards. And we found out there was a possibility of a golf course path and a right-of-way as well. Those two issues have not been addressed.

The conservation area, some of it has been deeded apparently to agencies, some of it has just been platted, which means it's under different jurisdiction. That jurisdiction will dictate what you could do with that. It'd be nice to know what parts of the project have the more stringent conservation easements to the agencies and which parts fall under the PUD restrictions.

The park site. Park site is critical to some people. I took a tally. We -- I found six people against dropping the park and eight people for keeping the park -- or allowing the park to be dropped.

Well, I think the resolution to that might simply -- and a lot of that though depends on when you drop -- if you were to put the park in and these facilities open up to all the neighbors, that might not be good. If you -- not neighbors, I mean the other developments that are not really part of Olde Cypress. If you want to -- and if you are required to build the park, honestly and as you well know by the Land Development Code, you stick a couple of benches in, there's your park. So I'm not sure the community's gaining a lot by forcing you to develop the park. But I think the HOA could gain a lot if you were to deed the park property on those two R parcels we talked about around the Aqualane (sic) to the HOA. Then it becomes their park. They can let in anybody they want and they can develop it anything they want and that becomes their problem internally. They want to put a couple benches on it and save money, they can do that. If they don't want to or they want to put a tot lot in, they could do that too. But they could make the decision then. And when the decision's made, it retains itself within their properties.

That's an option I certainly think ought to be explored.

The deviation you're asking for, that's a public safety issue from my perspective and I think even that's probably why it was written the way it was originally.

The hydrology of that area, we ought to have some supporting documentation to show that you're not going to put somebody in a position where they could be in more danger than they are now.

The county engineer's map, Jack said he had one, I think we all should have that, it would help us understand the hydrology in the area.

The construction entry. I think that construction entry, if you could find a way to do that, I think that would be very positive for your company to do. And I think the residents -- if I was them, I'd sure appreciate that, because that sure solves a lot of damage issues that could come up in that gatehouse.

The footnote number two on the developments standard table, with the change you want to make for the setback for the 23 feet, I'd like to see a graphic showing what you're trying to do there, because I don't understand it.

The fence on Logan, we talked about that.

The golf cart path and right-of-way.

And then there was a couple of items that you had put on a list in a letter that were for you to work out with the residents. It would certainly be nice if Mr. Schultz were to come back, if this were to come back to us, and he told us how those things got resolved, if they did get resolved to the satisfaction of the HOA. They're basically already in your letter.

Now, I don't know how all those things sit with you, but right now today without those things, it doesn't look real positive for me on this project. And I need to know what your position is.

MR. YOvanovich: Well, let's --

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Side setback was an issue I raised. I'd like that to be part of the question.

CHAIRMAN STRAIN: Okay.

MR. YOvanovich: Let's talk about some of this, because timing is an issue.

CHAIRMAN STRAIN: Why?

MR. YOvanovich: Because we are actually trying to move forward with the project for -- we call it Vita. We want to move forward with that so that we're ready for next season. Or if we need to pull the plug, we want to know whether to pull the plug.

CHAIRMAN STRAIN: Okay, but timing --

MR. YOvanovich: So timing is important to get the plat done so we can do the clearing, hopefully during the summer season, so that all of that is done in one full swoop, if you will, to have the -- we plan on doing all the site work for all of the lots in one phase.

CHAIRMAN STRAIN: You can't do much, though, without your approvals to the public process.

MR. YOvanovich: Well, we need to either know whether we're going to get approved or not, or we'll -- because we can and we have been processing the administrative type approvals, like plats and things like that.

So we need to know whether we have a project or not so we can meet our proposed construction schedule, which would be to be doing the site work this summer.

CHAIRMAN STRAIN: Okay. But when do you need approval by the board in order to get on schedule?

MR. YOvanovich: We had pushed it out to March. Right now we're scheduled to go to the board in March.

CHAIRMAN STRAIN: No, you're not.

MR. YOvanovich: Yes, we are.

CHAIRMAN STRAIN: Jamie, you want to tell him when he might be scheduled?

MR. YOvanovich: Did that change?

CHAIRMAN STRAIN: Yes.

MR. FRENCH: Well, I can tell you that we, staff, had a meeting with the chairman on Wednesday, and I'm sorry to say, Mr. Casalanguida is not here, but we did go -- we did look through the board's schedule. And Nick's direction was that we probably would not be able to get this until probably the first meeting in April, Rich.

MR. YOvanovich: Well, you know, I -- I'm stunned. And I'm not happy about that. I think we should have been told much sooner. Because we have put our signs up based upon dates that we were told, okay. So --

MR. FRENCH: Now that's not the CCPC meeting, that would be the Board of County Commissioners' meeting.

MR. YOvanovich: I understand that, but we were told we had a March CCPC hearing and we had actually gotten pushed, our schedule, but things came up with other projects to where we lost the scheduling of going to the CCPC a couple of months ago. But we are where we are.

You know, if April 1st is when we're going, we still need to get things done in time to meet that schedule. And I don't know necessarily what that means as far as Planning Commission hearings.

Some of what you've raised are issues that we don't believe are PUD related issues. They're issues related to the association and the developer. And I would say those are issues related to the expansion of the fitness facility, the landscaping. Those are all things that I believe are related to our relationship with the Olde Cypress master association community.

And we have already sent to them, Commissioner Strain, just so you know -- and I know you haven't seen those, because we didn't think they were really PUD related issues. We've already sent them landscape plans and we've already sent them proposed plans for the expansion of the fitness facility.

We can very easily reach an agreement with the association to pin down, if you will, the level of the landscaping improvements and the level of the fitness facility improvements, certainly to meet the board's schedule, the BCC schedule. I don't think that's unreasonable. I think that's what you were saying, get those details worked out with the association. We can do all of that.

Addressing the issue relating to side setbacks, that's an easy one. We've looked at the plans. We have product that can go on to five-foot, but we've looked at that and we have planned at our worst case scenario where we were at the six feet and we can live with the six feet, okay.

Now, I don't -- I'm trying to remember in my head all of the issues. And I'm sure you'll catch me for anything I've missed.

CHAIRMAN STRAIN: If your position's going to be you want to get this to a point where it can be voted on today --

MR. YOVANOVICH: No, I'm just wanting to understand schedule.

CHAIRMAN STRAIN: And -- because I -- we can walk through these, but you would need to -- we need to figure out, they're not that easy to -- I don't know where you're going to do some of these things, and that's where my concern is.

MR. YOVANOVICH: Well, for instance, I don't think it would be acceptable to convey the putting green area of the OR to the association. That's the southern piece.

CHAIRMAN STRAIN: Then that brings in a different twist. Then you're saying you don't have property to put the park on.

MR. YOVANOVICH: If we had to do it as a worst case scenario, we would do that. But I don't think the golfers really want that result, and I don't think the community really wants that result.

Okay, so, you know, what we're saying is if we're pushed in a corner we'll have to do it. Again, it's our position that if you look at the legislative history, the park's really not required, shouldn't be required and will really not be used. And I think that that's the predominant feeling of the community, especially if it's got to get opened up to the two multi-family projects that are outside of the gates, if you will.

CHAIRMAN STRAIN: Well, but see, the way I was suggesting it, it wouldn't have to.

MR. YOVANOVICH: I understand that, I understand that. And it's important to the golfers in that community that the -- at least the southern piece on that the lake not become a park.

CHAIRMAN STRAIN: Well, are the golfers members of the HOA?

MR. YOVANOVICH: Yes. But the way you structured it, you said the MPOA can do whatever they want with the property. Now, if we can require that it always stays a putting green, then we can work through some of those issues. But if they have unbridled discretion to do on that R piece whatever they want, we're probably going to have some issues.

CHAIRMAN STRAIN: But see, a putting green is a -- would be considered a park use.

MR. YOVANOVICH: I understand that. But what --

CHAIRMAN STRAIN: But in this case they would actually have ownership of it instead of it being part of the golf course that they don't have ownership of.

MR. YOVANOVICH: Right. And I'm not saying we can't work through some of these issues. But the way they were originally described was it becomes the association's, they can do whatever they want. And I'm telling you, that's the problem on the southern R for sure.

CHAIRMAN STRAIN: Well, Richard, what I'm doing is throwing the mix on the table that is a problem right now in how to overcome.

MR. YOVANOVICH: Right. And that's what I'm trying to work through.

CHAIRMAN STRAIN: We need to get ways to overcome it.

You've got a developer that's got a, from everything I heard, a good reputation. I don't mean from necessarily the people here today but throughout the community. And you don't get that by not working out compromises in working with people the people of the neighborhood you build.

So I'm trying to find a way for you guys to get to a compromise that you can come back to this board and have this thing a little more palatable with the majority of the people involved.

MR. YOVANOVICH: And I'm not discouraging that. But I think that the mistake we may have made is we offered up front the compromise. And the up-front was, you know, these are the improvements. And it seems like we're being asked to do more to -- in the spirit of further compromise for the 3.9-acre parks site to go away. And I'm trying to figure out what we can or we can't do in addition.

CHAIRMAN STRAIN: I don't see it that way. In fact, when I started out discussing the letter from Stock, I was clear to tell you the last three things aren't something this board really has purview over. It was the first couple that do, Logan -- the Logan Boulevard fence, which in this case you called a fence repair, I'm just pointing out you put it -- you repaired it in the wrong location.

MR. YOVANOVICH: Well, that --

CHAIRMAN STRAIN: And the enhanced community landscaping, that is something when you come in and ask for something -- and you are asking for more density and smaller lots in a parcel. And most developers will come in and try to sweeten the pie to get something they want by adding things. Instead you're saying we're going to take away the park, we're going to take away nature trails, we're going to take away bike and jogging trails because the prior developer really didn't do them.

I'm not arguing that point too much. All I'm trying to say is you're not putting that much on the table that you wouldn't have put on anyway to get the HD Development for the increased density you're getting there. All I'm suggesting is that we work a little harder to fix the problems in the existing Olde Cypress development in the meantime.

So that's where I'm coming from. It has nothing to do with issues outside this board nor your qualifications for the fees and dues and fitness. I was reading that in for the record; I made that clear when I read it.

So starting back, back to the park. If those two park properties can't be used for residential but they are R, and one of them needs to be -- is a putting green that the golfers use, and if this was -- if there was a way as a compromise to deed those two properties to the HOA with a restriction that the putting green remain, that might be something that the community would be receptive to.

MR. YOVANOVICH: And what I heard the community say was they wanted open space.

CHAIRMAN STRAIN: It's all --

MR. YOVANOVICH: Can I finish?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: On the northern piece can there also be a restriction that it remain open space?

CHAIRMAN STRAIN: Well, open space in the sense of the park. What difference does it make?

MR. YOVANOVICH: Well, the difference is, is -- there's a difference between putting benches and it being a passive area for the residents to enjoy, which is what I heard most of the people who testified -- who even spoke in favor of keeping the park -- say, they didn't want a children's playground.

So what I'm saying, in the spirit of compromise, if we're going to do the northern piece, let's have that remain green open space without active features like a playground, and then we keep the southern piece as the putting green. The community's concern was keeping green space and open space, which I think we all have to admit that the Olde Cypress project is a very green, open community.

If that's what their concern was is green open space, we could probably work through some conveyances to the association that meets both sides' interest.

CHAIRMAN STRAIN: Ms. Caron. And then Brad after Ms. Caron.

COMMISSIONER CARON: Would it actually even have to be conveyed to the HOA if it were put on the master plans and labeled as such, that those two R tracts now become park tracts, passive park tracts or something, and you put them on the plans as everything else. We certainly have a very clear record here of what the intent is. I don't know.

CHAIRMAN STRAIN: The problem with that is it opens it up to the other communities that are really not part of the main Olde Cypress community. And that is a security issue or a concern that the residents have.

COMMISSIONER CARON: Right, I understand.

CHAIRMAN STRAIN: So by deeding it to the HOA, it retains just the HOA's limitations, which is why I asked the president of the HOA to tell me if those other properties were part of the HOA, and they're not.

MR. YOVANOVICH: And we're trying to balance -- we're trying to balance the golfers' interests in what they thought they were getting as well. So we need to balance that with trying to find a way to address the park related issue through conveyances. So we need to balance that.

So I don't have the solution today, but I just ask that we keep that in mind as we're going forward on that issue, if in fact we have to do a park.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: First thing, we didn't hear anybody from Amberton Lakes today come in and say we want park access, so I'm not sure that's a big issue.

Rich, the northern residential thing, piece, you would never be able to build on it anyway, there's no access, you'd have to put a drive across the golf course and stuff, right? So that's not a potential residential site, right?

MR. YOVANOVICH: Correct. But it looks like and feels like part of the golf course.

COMMISSIONER SCHIFFER: Right. So what if you did this: What if you put a nice little gazebo down there, let the people be able to walk past the putting green, walk around the golf cart, walk down there, all the neighbors have access to it from the golf cart and a place as a destination that they can walk to and pretend it's part of the park, and don't call it anything, just build a destination to walk out to. It would look nice on the peninsula. Keep it under the control of the clubhouse so that it's maintained.

MR. YOVANOVICH: Yeah, I think if we could find a way to keep that under the ownership -- and remember, everybody that lives in there is a social member --

COMMISSIONER SCHIFFER: Right.

MR. YOVANOVICH: -- so they do have access to a lot of the facilities.

If we could keep those two areas as part of the golf course and put some -- we could talk about what you just mentioned by the next meeting, come back with a proposal.

COMMISSIONER SCHIFFER: Just make it an amenity, an amenity that would be walking towards it you would want to walk towards. Don't put vending machines and stuff, just make it a place to walk out to.

And I think if it's owned by -- as the putting green should, by the clubhouse, then it will be maintained and not be an eyesore for the clubhouse ever. And after dinner people can take a walk to the gazebo and come back.

So I think if you did that, that's a parklike activity that doesn't exist today.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Yeah, I just want to qualify something. The golf course is owned by?

MR. YOVANOVICH: Olde Cypress, LTD, the applicant.

COMMISSIONER MURRAY: The applicant.

If the putting green were made the HOA's property, they would be required to maintain it, would they not?

MR. YOVANOVICH: Who?

COMMISSIONER MURRAY: Excuse me?

MR. YOVANOVICH: The HOA?

COMMISSIONER MURRAY: Yeah.

MR. YOVANOVICH: Well, we would make sure that we had control of that.

COMMISSIONER MURRAY: Okay. Good. Because I wouldn't want to see them burdened by having to do that. And that's fine.

MR. YOVANOVICH: I think that --

COMMISSIONER MURRAY: If they'd be open to it.

MR. YOVANOVICH: I think whatever solution we come up with, we need for assure that that putting green stays part of the golf course and could never go away from part of the golf course. Likewise, what's north can never go away from the golf course.

If the concern is making sure we keep green open space and not further build within the community, we can accomplish that through agreements.

But, I mean, again, what I heard people say is green open space in their concern for a park. Those who -- I think most of them said that. There may have been one or two said I really want children's facilities. But I -- maybe one said that.

COMMISSIONER AHERN: Mark?

CHAIRMAN STRAIN: Yes, Melissa?

COMMISSIONER AHERN: What exists there today?

MR. YOVANOVICH: Just beautiful green open space. And a putting green on the south. On the north is green open space. It used to be part of the aqua-range.

COMMISSIONER EBERT: Mr. Yovanovich, I have a question.

I don't golf, but I do know a lot of golfers. In 2008 when they were going to put the other one, it divided the community. I don't have little ones, but I do have little grandchildren.

Would you feel safe letting your -- well, you don't have grandchildren -- letting little ones go on the golf course and go around to get to that park?

MR. YOVANOVICH: What I'm -- okay, I'm going to take a step back. Yeah, I do have -- I have 11 year olds, they were little not too long ago. And walking with me to go to that park, yes would be the answer. Would I let them walk by themselves? No. But I wouldn't expect that any parent would allow little ones, regardless of where the park is located, to go unattended.

So I think -- and again, I don't know where this concept of is that we owe the community a children's park. I mean, I don't know where that came from in any of the documents.

COMMISSIONER EBERT: I don't either.

CHAIRMAN STRAIN: I don't think anybody here said --

MR. YOVANOVICH: But I just -- when you're saying -- so why would the children walk there? Why would they walk there?

COMMISSIONER EBERT: To kick a ball or to throw a football.

MR. YOVANOVICH: Okay, but, you know, if that's what they want to do, then, you know, I'm assuming I'm going to be the one lugging the ball and grabbing my kids to make sure that they're not running all over the place, whether it's adjacent to a golf course or not.

I mean, I take my kids -- I live in a community that doesn't have a community park. I go to the Pelican Bay Park and, you know, we go play on the big field that's there. But I'm with my kids and that's the way it would always be and they could do that there. If that's really what the community wants, we could do that.

COMMISSIONER SCHIFFER: Well, I think building an amenity there. And by the way, in five more years your kids will be driving off and you won't have that --

MR. YOVANOVICH: I don't know if that's better or worse.

COMMISSIONER SCHIFFER: It's worse, trust me.

But anyway, I think that if you did build an amenity, a passive something or other, they could go there.

There is a downside to that. I mean, that could be a place for all the teenagers in the neighborhood to hang out. And going back to my up bringing, that's not a good thing. So maybe it's best left as an open field.

But the point is, I do think it should be part of an amenity. If there's another destination for people to walk to, whether it's just a big rock bench, it's better than it is now.

COMMISSIONER CARON: Your idea of a gazebo sounded good to me.

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: Okay. So let's look at the issues.

And the idea of those properties being somehow worked into open space, whatever, if there's something that locks them in is what we're looking as a compromise.

MR. YOVANOVICH: That's fine.

CHAIRMAN STRAIN: Okay. The wall along 846, which is Immokalee Road, the height and details on that wall, is that something you know here today?

MR. YOVANOVICH: Yeah, it's six feet. And it will be -- we would use the typical PUD language we use. We say solid or -- it can't be -- you know, it won't be wood.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: You know, it would be the typical six -- it would be six foot tall.

CHAIRMAN STRAIN: And you can produce a plan that would show where it would extend to?

MR. YOVANOVICH: Yeah, we'll -- we can produce a plan that shows where it could go and not interfere with the flow way.

CHAIRMAN STRAIN: The DRI language cleanup -- I mean the cleanup of the master plan for the exits and entries to DaVinci Estates --

MR. YOVANOVICH: Yeah, we'll take care of that.

CHAIRMAN STRAIN: You're going to create a letter to go to DCA to clarify the aggregation issue regarding that piece of property.

MR. YOVANOVICH: At the risk of coming off flip like I did earlier, and I don't mean to, I would like for you to work with me on the letter.

CHAIRMAN STRAIN: That's dangerous.

MR. YOVANOVICH: I'm not saying I'm going to agree with everything you put in it. But I -- it's better that we sit down together than I take a shot at it and --

CHAIRMAN STRAIN: Well, I mean, I'll be glad to go over my paperwork.

MR. YOVANOVICH: Yeah, I would appreciate that assistance.

CHAIRMAN STRAIN: The landscape plan for the front entry, you already have that?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: And it's one that the association's has accepted?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: The conservation area, it may not even be an issue now, but I would like to know the breakout of that conservation area. Do you have any problem providing that?

MR. YOVANOVICH: If it's a relatively easy document to do, we will. I think what you were envisioning is kind of showing where the legal description is of the deed of conservation overlaid on the plat where we've dedicated preserve; is that what you're asking for?

CHAIRMAN STRAIN: But I'm -- you have two types of conservation that I so far have seen on this property. You've got one that's dedicated by plat --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- which really its limitations are those in the PUD.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: And you have another that's more intense dedicated on the plat and to South Florida

--

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- and other agencies.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: That's a different animal.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: That takes a whole different level of concern.

So it would be nice to see the two differences so that if there is some potential to do something to those others, at least we've got the opportunity to take a look at it. I mean, you can provide that either way, though, right?

MR. YOVANOVICH: We can provide that, yes.

CHAIRMAN STRAIN: And the consensus from the public in a lot of ways didn't seem to want to go with those walking trails. So that may not even be an issue anymore, but I would like for clarification on the record to know the differences in the conservation areas.

MR. YOVANOVICH: Okay. We can provide you a graphic that shows you that.

CHAIRMAN STRAIN: The hydrology issue, in order to get past this deviation you're asking for, and this is something that is precedent setting in Collier County, do you have any problems in getting that accomplished?

MR. YOVANOVICH: I would prefer is that we be allowed to collect the data and have satisfied the county engineer that we've had that data supports the deviation (sic).

CHAIRMAN STRAIN: Well, you already satisfy the county engineer; he was here today. He doesn't have an issue with it. So that was an easy one for you to agree to.

MR. YOVANOVICH: No, we'll provide data. You know --



CHAIRMAN STRAIN: Okay, I want to see the hydro -- the date -- I'd like to know that it's being done on a basis of science, not one on just rule of thumb. That's what I'm concerned about.

MR. YOVANOVICH: I understand that. I understand that. And we would have to do -- we'd have to provide appropriate data, not rule of thumb Stan walking by the property for the engineer to make a professional judgment that the deviation is justified.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: And Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: I'd like to make sure I understand that. The performance of that slope is for the safety of somebody who fell in the thing? Or what is the actual reason we're discussing this?

CHAIRMAN STRAIN: My understanding of when it was originated is that when people -- if you fall into one of these lakes, at one point the county allowed slopes one-to-one or two-to-one. And when you dig at that kind of a slope and you try to crawl out of a lake and you're grabbing onto sand, you can't grab anything. So this allows you to get into shallower water where you can actually pull yourself up with your legs and get out of the water.

And if you cut it off too short your legs are pushing against nothing but deep water.

COMMISSIONER SCHIFFER: And the way we have now, it's designed such that in the low water season the littoral area there has how much water at the one-to-four slope?

CHAIRMAN STRAIN: Well, this isn't a littoral area, first of all, it's a four-to-one. Littorals are ten-to-one. So what happens is in the four-to-one area -- ten-to-ones are even better, you haven't got to worry about those.

In a four-to-one area what happens is you go from your break point where your medium water is and you go down 10 feet to your next break point, and that 10 feet is enough so that if you've got water fluctuation, say you've got three or four feet of water fluctuation, you still have five or six feet of sand to grab onto to get yourself out of the lake. That was what I understood the principle to be.

COMMISSIONER SCHIFFER: But five to six feet seems a lot. So --

CHAIRMAN STRAIN: Well, and it may be, and that's why I'm telling them to please justify it.

COMMISSIONER SCHIFFER: But it is something they could design it based on the performance of the hydrology in that area. And it's -- it would be precise. Okay.

CHAIRMAN STRAIN: AND if it is, it sets a precedent so the next guy comes in, he better have the same supporting data.

MR. YOVANOVICH: We understand the need for a measurable standard --

COMMISSIONER MURRAY: Good.

MR. YOVANOVICH: -- that an engineer would understand is safe.

COMMISSIONER SCHIFFER: And let me ask you this: For the performance, what would be the depth of water at the point where you break the one-to-two? What is the performance? What's the minimum requirement?

MR. MITCHELL: Well, the standard now is assuming that it's a 10-foot drop in water. So it's at the break point. They're saying it's at the low water point.

COMMISSIONER SCHIFFER: Okay. So the way we have it right now, the water could be right at the break point, the way the county standards are?

MR. MITCHELL: The way the county standards are, that it satisfies the worst case that was experienced at the time, which is about a seven-foot drop in water from control and then an additional three feet.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: That's correct.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: That was how it was originally set up and it wasn't challenged until this issue came up. And if you can do it, fine. If it works, fine. Let's just make sure everybody has the same opportunity.

The construction entrance to this new HD Development, would you be able to explore the possibility of getting a construction entrance squeezed into a minimal temporary entrance through that northern piece of that driving range?

MR. YOVANOVICH: I don't have the answer today. I mean, we're willing to look at that, but we can't let the result be that we lose the driving range.

CHAIRMAN STRAIN: I'm not saying --

MR. YOVANOVICH: I know that. I'm just saying, I don't know how far we can push that to have it be a safe construction -- we're committed to looking at it, but it may end up being we can't do it.

COMMISSIONER SCHIFFER: Mark, I have a question on that.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: And someone testified today that you could come in and go south; in other words, go down at the further southern part of the driving range and come in. Do you think -- will you look for that or

COMMISSIONER CARON: You can't do that.

COMMISSIONER SCHIFFER: You can't do it?

MR. MITCHELL: No, I think you're talking about coming in actually off of Logan at the southern part of the driving range.

That was actually the case in the existing PUD. And Big Cypress Basin, which controls the right-of-way for the canal, has taken that off the board. They will not allow it. No access on the --

COMMISSIONER SCHIFFER: The last person to testify stated that he felt, and I have no idea, that you could -- you have a drive entrance that you could come down and come through the lower part of your driving range and access it, affecting only those people who can hit the ball far.

COMMISSIONER CARON: You need to move this whole thing up.

COMMISSIONER EBERT: Yes.

COMMISSIONER SCHIFFER: Or let's put it this way, giving target to those people who can hit the ball.

CHAIRMAN STRAIN: So if you were to cross the canal, then immediately go to the right with a temporary entrance, is that undoable?

MR. MITCHELL: And I assume that you're talking about right here?

CHAIRMAN STRAIN: No, go across the canal, go over the bridge. And as soon as you cross the bridge, take a right and go through the south part of that parcel.

MR. MITCHELL: No.

CHAIRMAN STRAIN: That would take it out of your first phase of development too.

MR. MITCHELL: No, you cannot. That's the -- Big Cypress Basin won't allow the access there. That's their right-of-way for the canal.

CHAIRMAN STRAIN: Okay. Do you have a blowup of where their right-of-way is? And I think that's where Brad's going. Let's get outside the right-of-way.

MR. MITCHELL: Right there is -- those are the -- I believe those are the greens for the driving range. I mean, you would impact --

MR. YOVANOVICH: That's the entrance.

MR. MITCHELL: -- a huge corridor.

CHAIRMAN STRAIN: That's what we're asking, are they the greens for the driving range?

MR. MITCHELL: I believe they are.

CHAIRMAN STRAIN: So when I pull the plans up on that driving range, it's going to show greens there? You've got greens through the trees? That would be a hard one to hit.

MR. YOVANOVICH: Those are the -- when you drive down Immokalee Road you see the decorative greens. That's what those are --

MR. MITCHELL: That's the monument sign.

MR. YOVANOVICH: -- right there.

CHAIRMAN STRAIN: Gotcha.

MR. YOVANOVICH: Yeah. So you'd have to go beyond that and then you're into the driving range.

MR. MITCHELL: This path is in the right-of-way of the --

CHAIRMAN STRAIN: No, we understand that.

COMMISSIONER CARON: We get that.

CHAIRMAN STRAIN: We're fine.

COMMISSIONER SCHIFFER: Well, what if you come north of that. Go north of the sign, come around, you know, mess up the temporary greens for a little bit, put them back when you're done and come into the property down there. Stay away from the gates, stay away from the public. It's a little bit of a dangerous slowdown as soon as

you're pulling in. But anyway, look at that.

CHAIRMAN STRAIN: The desire is to find a construction entrance; I think you understand the point --

MR. YOVANOVICH: Sure.

CHAIRMAN STRAIN: -- that something needs to be looked at.

The graphic showing the intention of footnote number two, as you've written it versus what we previously had, I certainly think that would be beneficial to have.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: The fence issue along Logan. Somehow that needs to get straightened out.

MR. YOVANOVICH: We will. It was surveyed before it was built, so we'll figure out what's going on.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: And I'll permit it and we'll find out.

CHAIRMAN STRAIN: The golf cart path in the Collier County right-of-way on Logan. That is the same issue --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- that needs to be checked out.

MR. YOVANOVICH: Those are -- we see those as issues, but not necessarily PUD related issues.

CHAIRMAN STRAIN: We went through the documents and we came back with some minor tweaking to some of the language, adding the Tract A reference and the six-foot setbacks, side yard setbacks --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- and things like that.

What I'm going to suggest, Richard, is that we continue this meeting to the next Planning Commission meeting, we wrap up the whole thing, including the consent at that meeting, based on the ability for you to respond to the things we just walked through.

Now, I want to make sure the board members are obviously in agreement and that everybody puts everything on the table they think we need to resolve it so we can have a final vote at that next meeting.

MR. YOVANOVICH: Can somebody remind me what we now have as our BCC date? I just want to look at --

CHAIRMAN STRAIN: Okay, one thing you never did have is a consent time frame factored in anyway. We can't even get to consent till the next Planning Commission meeting, which won't be till the 17th of March.

MR. YOVANOVICH: I get that now. But when this all was set up you were having a meeting on March 3rd.

CHAIRMAN STRAIN: We knew you were counting on that and we changed it.

MR. YOVANOVICH: Yeah, I appreciate that. So now all I'm asking is can you tell me what is now our board date?

CHAIRMAN STRAIN: That's Jamie, or Ray.

MR. BELLOWS: It's April 12th.

MR. YOVANOVICH: April 12th.

MR. BELLOWS: That was the one that was done at the last Wednesday --

MS. DESELEM: For the record, Kay Deselem.

If you will still want a consent hearing after this continuance, assuming you're doing a continuance --

CHAIRMAN STRAIN: No, we will wrap it up at the next one.

MS. DESELEM: So there would be no consent hearing?

CHAIRMAN STRAIN: No, this is a pretty tight meeting, so we'll wrap everything up at the next meeting, both consent and a final either denial or approval.

MS. DESELEM: Yeah, because staff's concern is we have to have our stuff for the board like a month ahead of that board date. So it's getting it really tight for us to try to make the changes.

CHAIRMAN STRAIN: Well, you didn't have a consent until the same date anyway, so you're still --

MS. DESELEM: I know.

CHAIRMAN STRAIN: -- no different than you would have been.

MS. DESELEM: It was tight.

CHAIRMAN STRAIN: Nothing changes.

MS. DESELEM: Okay, good, thank you.

COMMISSIONER EBERT: Mark, I have a question.

CHAIRMAN STRAIN: Go ahead, Ms. Ebert.

COMMISSIONER EBERT: Because I live there, I know there is -- where they're going to put the homes in Vita Toscana, which will be part of Olde Cypress, there is the driving range on the west side. Do you have the other -- Mr. Yovanovich, do you have the other piece where it shows the lots?

CHAIRMAN STRAIN: It would be the HD master plan.

MR. YOVANOVICH: Is it still on the visualizer.

COMMISSIONER EBERT: Thank you. Ray, can you put it just a little more so we know where the driving range is? The driving range is -- well, for me it's on the left.

CHAIRMAN STRAIN: Right.

COMMISSIONER EBERT: What do you plan on putting up there? Because those are the people's back yards. I mean, what -- can you tell us what --

MR. YOVANOVICH: Yeah, we will put up appropriate screening to make sure that anybody who hits a bad hook or if you're left-handed a bad slice, it will catch it.

COMMISSIONER EBERT: So are you saying then if you build a home there, they're going to look out at netting?

MR. YOVANOVICH: I'm sure we're going to have to put appropriate screening to this net screen in order to make those lots marketable.

CHAIRMAN STRAIN: They'll have to do something either with landscaping or -- otherwise the lot's going to be hard to sell.

MR. YOVANOVICH: Right. I mean, we're --

COMMISSIONER EBERT: Absolutely.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah, I'm not sure that we've looked at what the landscaping was for that corridor, but just to let you know, the BCC recently turned down a golf driving range that was going to back up to some homes further away than this. So having a good landscaped screening plan, as well as obviously you're going to need the netting --

MR. YOVANOVICH: The nice thing about this is in the other situation you bought a home and you didn't know a driving range was coming.

COMMISSIONER CARON: Yeah. No, I know --

MR. YOVANOVICH: In this particular case there's no risk that you don't know about that driving range. And, you know, we're going to have to take care of that for sales purposes anyway. I think you can distinguish those two cases.

CHAIRMAN STRAIN: Okay, anything else?

Ms. Ebert?

COMMISSIONER EBERT: Yes, I do have another question.

There are different acreages. Why the different acreages? The PUD does not match the DRI in acreages.

MR. YOVANOVICH: Okay, are you -- and I want to make sure I understand the question. We're doing our DRI amendment, and 1.42 acres of the HD Development PUD will not be going into the DRI, so there's going to be a 1.42-acre discrepancy between the total acreage and the DRI, and then the acreage with the HD Development PUD.

COMMISSIONER EBERT: Why are you leaving it in the HP (sic) Development?

MR. YOVANOVICH: HD?

COMMISSIONER EBERT: Yes.

MR. YOVANOVICH: The HD Development PUD is an already approved zoning document. So that multi-family site has zoning rights on it. So we can't do anything to change it, because we do not own it or control it. So we're keeping what rights they currently have today to develop, and we're adding 18 acres that will become single-family to the HD Development. So we're preserving the rights that exist for that multi-family developer.

COMMISSIONER EBERT: A developer owns that?

MR. YOVANOVICH: I believe it's a developer. But I don't -- it's not us.

CHAIRMAN STRAIN: The person who owns it who can develop it.

MR. YOVANOVICH: Yes, sir.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: Okay.

COMMISSIONER SCHIFFER: I have one little --

CHAIRMAN STRAIN: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: In the ordinance, the first one for the PUD for 9.A, if you look at section two, it's discussing an amendment to Section 3.02.

At the last line after water recreation facilities, the original one says, comma, bicycle paths and jogging trails. I think we should add that in and strike it through, just as a good habit, a healthy habit.

MS. ASHTON-CICKO: Yeah, when this comes back, we'll clean up -- there's another area that we need to underline some other language, so we'll take care of that. But thank you for pointing it out.

COMMISSIONER SCHIFFER: Then the only other thing is I think Mr. Murray's five-foot is still up in the air and I don't want it --

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: No, they --

MR. YOVANOVICH: No, we gave it up. We went to the six feet.

CHAIRMAN STRAIN: Yeah, they went to six feet.

COMMISSIONER SCHIFFER: Oh, wow, okay.

CHAIRMAN STRAIN: Okay. Well, we've had a lot of discussion.

Is there anymore discussion anybody else has?

(No response.)

CHAIRMAN STRAIN: Then the direction that seems to be okay is to have them come back with the responses to all the issues we've raised at the next meeting, our next meeting, which will be March 17th. They'll be first up on the agenda, so it will be done early in the morning. We'll try to focus on the issues relative to what we've asked for supporting documentation for and anything obviously that would generate from the those issues, but then we'd be ready to vote on this and at the same day have our consent hearing at the same time.

Is everybody satisfied with that? Is everybody comfortable with it?

COMMISSIONER MURRAY: I'm just wondering how -- I'm just wondering how if we have additional items how the consent can follow, I guess, because we can't adjust the consent, so I've been informed.

CHAIRMAN STRAIN: We've done it in the past before.

COMMISSIONER MURRAY: I know, but at one time you made the statement we couldn't change anything.

CHAIRMAN STRAIN: No, we can't on consent. But this wouldn't be consent. We wouldn't vote today. We'd continue.

COMMISSIONER MURRAY: No, I fully understood what was stated, but you're not understanding me. What my concern would be was that if it comes back and questions to be answered and they're not answered to our satisfaction, we would have to say no to them then.

COMMISSIONER SCHIFFER: Yeah.

CHAIRMAN STRAIN: Right.

COMMISSIONER MURRAY: Or could we adjust and if we did, would the staff have the right documentation for consent?

CHAIRMAN STRAIN: Yes. Because what's happening --

COMMISSIONER MURRAY: That's my question.

CHAIRMAN STRAIN: -- this is going to be no different than this hearing, except probably significantly shorter, in which we clean up the outstanding issues. And all those issues you may have or anybody may have we get cleaned up right there at the meeting. And then we don't go to consent until we're satisfied with all our questions and answers.

COMMISSIONER MURRAY: It's just an unusual thing. And I'm happy we can do that if we have to do that.

MR. YOVANOVICH: Does that -- without it being any kind of a vote, and I know you don't want to vote on this, but I would hate to go through this exercise and then find out we've made all these changes and they're not

acceptable. Is there a way to kind of poll the Planning Commission to say if you make these changes you're on the right track, or are we going to end up at the end of the day with a recommendation of denial anyway?

CHAIRMAN STRAIN: Well, I mean, I'm the one that brought up -- kept the list of changes. I kept it because there were issues of concern. I think if you clear these issues up satisfactorily, I'm not going to have a problem.

MR. YOVANOVICH: Okay.

COMMISSIONER MURRAY: Neither will I.

MR. YOVANOVICH: Okay. I'm just looking for the nods of the head that we're on the right track.

COMMISSIONER SCHIFFER: And if you want, Mark, I'll make a motion to continue it. Anybody who would have a problem with it would probably vote no to that motion.

CHAIRMAN STRAIN: And Rich, do you want to request a continuance until the March 17th meeting first up?

MR. YOVANOVICH: Does that cost me any money?

CHAIRMAN STRAIN: Well, it will either cost you that or votes. It's up to you.

MR. YOVANOVICH: No, I would request a continuance to the March 17th meeting, with the understanding we'll have the foll -- immediately following that we'll have the consent agenda and a confirmation that we have an April 12th BCC date. And that's not going to further --

CHAIRMAN STRAIN: Well, I can't make the continuation on the confirmation of the BCC date, but --

MR. YOVANOVICH: I understand, I --

CHAIRMAN STRAIN: -- we can tell you we'll hear it the first up on the 17th.

MR. YOVANOVICH: I would just like staff to tell me, hey, Rich, you're not going to come to another Planning Commission day, you've been here for the first time, you've lost your BCC date. That's all I'm asking. I've got a client who's probably a little not happy with me.

CHAIRMAN STRAIN: Well, honestly, your client's coming out further ahead than I thought we'd be today, so I think, you know, that's probably a good thing.

COMMISSIONER MURRAY: I'd second the motion.

CHAIRMAN STRAIN: Okay, motion's been made and seconded to accept the continuance request to March 17th, first up on that date.

All those -- discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Thank you for a long day.

The next item is the same applicant's representative who's got an unclear head right now, so let's take 10 minutes, we'll come back at 2:00 and resume the agenda at that time.

(Recess.)

CHAIRMAN STRAIN: Okay, everybody, welcome back for (sic) the 10-minute break so the land use attorney could gather his wits about him.

\*\*\*The next item up on our agenda is PUDZ-2009-AR-14425. It's the Addie's Corner MPUD located at the northwest quadrant of the intersection of Immokalee Road and Collier Boulevard.

This was an item continued from last meeting to now for some issues that the Planning Commission found in regards to the intensities and how it was advertised.

Now, all those wishing to be participate in this item, please rise to be sworn in by the court reporter.

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Are there disclosures on the part of the Planning Commission?

COMMISSIONER HOMIAK: I just spoke briefly to Mr. Yovanovich.

CHAIRMAN STRAIN: And I spoke to Mr. -- I think we -- yeah, we addressed this the same day that I --

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: -- met with you on Olde Cypress.

Okay, Richard, it's all yours.

MR. YOVANOVICH: Just real briefly, when we were at the last Planning Commission hearing, there was a question of whether or not the hotel units or the continuing care retirement community, the square footages for constructing those buildings was within the 135,000 square feet of the project or not. I said it was in addition to. Staff was concerned that we didn't properly advertise that, so we decided to continue this hearing to go have another advertised neighborhood information meeting.

We did that. The ad was approved by the County Attorney's Office to make it very clear that the CCRC and the hotels were in addition to the 135,000 square feet.

Other than Ray Bellows, Bob Duane and myself, nobody came to the NIM, so it must not have been an issue of concern. The documents have been revised to make it very clear that the hotel and CCRC uses are not part of the 135, but there is in fact and on the visualizer, there is for each acre of development of either a CCRC or a hotel, there is a reduction in the square footage, a little over 10,000 square feet. It's on the visualizer.

There's also been an addition to the document under the hotel/motel section that staff made, I think subsequent to your receiving your packet. And I'd like to point that out. It's at the very bottom, you'll see some parenthetical information.

You could either do a hotel by referencing 26 units or referencing an FAR, but you don't do both. So we're just making it very clear in this document that the intensity of the hotel will be measured by units and not be measured by the FAR. And that's an addition that staff made subsequent to your receiving your packet. And they asked me to read that into the record.

MS. ASHTON-CICKO: Yeah, that arose by a comment that I raised because the tract is essentially a commercial tract, and there's an FAR under C-4 and C-5 of .60.

And the 26 units an acre under a chart that we had for residential, it does allow 26 units an acre. So I wanted it to be clear that that other FAR did or didn't apply, and so that's why they put the FAR not applicable.

CHAIRMAN STRAIN: Okay, thank you.

Is that the end of your --

MR. YOVANOVICH: Yes. I think everything else the Planning Commission was comfortable with, we just needed to go back out and hold the NIM again, and we've done that. And I'll answer any questions you might have.

CHAIRMAN STRAIN: Any questions of the applicant?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: And Rich, it's actually on Exhibit C. I just want to make sure we're defining. Tract B is just the preserve area, correct, it does not go to the perimeter boundary line?

MR. YOVANOVICH: Correct.

COMMISSIONER SCHIFFER: And Tract A, how do we really know what that is? It mean, you have exact acreage for it, but -- but is there -- do the boundaries of that go to the property line?

MR. YOVANOVICH: Yes, Mrs. Schiffer, I believe they do.

COMMISSIONER SCHIFFER: Okay. So -- and then the right-of-way easement is -- in other words, the problem is I'm not sure these drawings really outline the tracts. I don't see how that could be the big problem, but --

MR. YOVANOVICH: Yeah, I mean, they're --

COMMISSIONER SCHIFFER: They're defined in acreage.

MR. DUANE: We define the acreage in the commitments for transportation. And it's everything that falls outside Tract A.

COMMISSIONER SCHIFFER: But, for example, the area between the lake and the preserve, Tract B, is that Tract A?

MR. YOVANOVICH: Bob?

MR. DUANE: The lake is part of Tract A.

MR. YOVANOVICH: The lake is part of Tract A?

COMMISSIONER SCHIFFER: So the answer to that is yes, that's Tract A.

MR. YOVANOVICH: Yes.

COMMISSIONER SCHIFFER: And that the lake area would be deducted from Tract A.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHIFFER: This lake subset of Tract A.

MR. YOVANOVICH: Correct.

COMMISSIONER SCHIFFER: Is -- okay. Is the right-of-way easement a subset of Tract A?

MR. YOVANOVICH: Yes, sir.

COMMISSIONER SCHIFFER: So then the preserve is essentially a subset of Tract A.

The area between the preserve and the northern property line, who does that belong to?

MR. YOVANOVICH: What do you mean who does -- it belongs to us.

COMMISSIONER SCHIFFER: No, but I mean, is it Tract A? I mean, the game we're playing here, is it --

MR. YOVANOVICH: I guess it would technically be within the acreage calculation of Tract A.

COMMISSIONER SCHIFFER: Okay. All right. Which some of these things which are based on acreage, that just concerns me that some of this acreage isn't as clear as it could be.

MR. YOVANOVICH: Right. And again, you know, it's conceptual as far as the exact acreage numbers go. But you've got the master plan that shows you where development will be and how much preserve there is.

COMMISSIONER SCHIFFER: Okay. And then on Page 6 of 12 in our supplemental report, in the triple asterisk, I think just to avoid somebody having too much fun, could you put a period after the word development? Otherwise you could read on. I know there's a capital F for four, so the intent is that it's a new sentence, but --

MR. YOVANOVICH: Mine has a period.

MR. DUANE: Mine has a period.

MR. YOVANOVICH: We'll -- mine has a period, but if yours doesn't, we'll make sure it does.

COMMISSIONER SCHIFFER: Yeah. We don't. Ours up here don't have periods. And you could, if you ran into that sentence, you could turn it into something else.

MR. YOVANOVICH: No, we'll fix that.

MR. BELLOWS: Mr. Schiffer, could you tell me on the bottom what the last date revised is so we make sure you got the latest and greatest?

COMMISSIONER SCHIFFER: Mine is 1/26/11.

MR. YOVANOVICH: Yeah, we have 1/27. So they must have -- when they fixed the FAR they must have caught the period as well.

COMMISSIONER SCHIFFER: Okay, good.

All right, thank you.

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

Okay, Ms. Caron?

COMMISSIONER CARON: I just wanted to on Page 4 of 12 it lists the Tract A permitted group housing, and it lists what's available. Shouldn't you then follow that with the requirements which are over on the next page?

COMMISSIONER MURRAY: You mean the commitments?

CHAIRMAN STRAIN: Yes.

MR. YOVANOVICH: Right. I mean, format-wise, the way they're working now is to list all the uses on the different tracts and then follow later with commitments. To me it's format -- it's six on one-half, dozen on the other. If you prefer that we move that under that, we can do that, but --

COMMISSIONER CARON: Well, I was just trying to make it clearer. If it's clear to everybody, then I don't have an issue.

So if it's clear to all of you, then fine.

COMMISSIONER MURRAY: Your point's well taken. It would make it nicer.



COMMISSIONER CARON: I was just trying to make it flow.

CHAIRMAN STRAIN: Well, we need to find out --

COMMISSIONER CARON: Because those seven items don't reflect on Tract B, the preserve areas.

MR. YOVANOVICH: Right, but it does say that those commitments in paragraph Roman numeral V only apply to group housing/retirement. So it's a -- again, I'll do whatever. If we want to move it, we can move it. It's not a --

COMMISSIONER CARON: I just want it to be clear, that's all.

CHAIRMAN STRAIN: Well, what's the consensus? Does everybody want it moved? It doesn't matter to me.

COMMISSIONER MURRAY: It doesn't matter. It makes it nicer if it's in line that way, I completely understand that. But it doesn't much matter at this point.

CHAIRMAN STRAIN: Does anybody care? We'll let it go.

COMMISSIONER CARON: I mean, I don't think anybody really has a big issue one way or the other, so --

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

(No response.)

CHAIRMAN STRAIN: If not, we'll hear from staff, for what little staff may have to say, if anything.

MR. YOVANOVICH: Don't feel obligated.

MS. DESELEM: For the record, Kay Deselem.

I really hadn't planned on saying anything, but I'll respond to any questions you have. You do have the supplemental staff report.

CHAIRMAN STRAIN: Any questions of staff?

COMMISSIONER SCHIFFER: I have one.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER SCHIFFER: Kay, FAR calculations are taken against the gross area of the site, correct?

MS. DESELEM: Gross area of the tract, not the whole site. It's whatever tract it might be on.

COMMISSIONER SCHIFFER: So therefore that little bit of A running around behind everybody, we're calculating the hotels and stuff based on that area around the preserve?

MS. DESELEM: Not necessarily. Not if it's on a separate tract from that. Because they might pull out different uses on that thing. And you might have -- you know, when they plat it they could plat it and then have a separate platted tract be the ALF and have other uses on the rest of the parcel.

COMMISSIONER SCHIFFER: Okay. So what you're saying is that there'll be a legally defined site within Tract A, because B's all preserve, and the FAR will be calculated upon that.

MS. DESELEM: That's my understanding. Now, I mean, they could potentially develop the whole site with that use, in which case it would -- I was just talking to Bob on the break, because if you look at the breakdown at the bottom of the master plan, they've actually broken out Tract B and Tract A and the right-of-way and the lake are not included in either one of those.

So I'm not sure that the lake is actually part of the Tract A.

MR. DUANE: The preserve area has specific acreage.

MS. DESELEM: Yes, the preserve area has a specific acreage. And they all seem to have -- but it's -- I agree, it's kind of ambiguous. You can't really tell whether Tract A and the lake are -- I'm sorry, whether the lake is part of Tract A or whether the right-of-way is part of Tract A.

COMMISSIONER SCHIFFER: And where -- like in other words, if -- normally if somebody bought a whole site and they set aside some preserve, they would get the benefit of the whole site.

So where does it say what you're saying, that it has to be broken down in tract?

MS. DESELEM: The FAR is deter -- if you use FAR, it's determined by the lot or tract or parcel where they're building it. So if they come in for an SDP for some segment of this project, that would be where the FAR would rule.

But like I said, they potentially could bring in the entire Tract A for development of that use.

COMMISSIONER SCHIFFER: Well, why wouldn't they get the benefit of -- what in this tells that you that the acreage that you take the FAR from is based upon tracts, not based upon lot area?

MS. DESELEM: That's my understand -- well, the lot -- it is based on lot area, but it's not the project lot, it's

the lot within which that use is going to be done.

MR. BELLOWS: If I may, Kay.

For the record, Ray Bellows.

The floor area ratio is calculated either on -- if the lot is platted, you have a platted specific lot or tract size. If it comes in under an SDP for the entire parcel of A, or Tract A, it would be calculated for that entire Tract A.

MR. YOVANOVICH: And we would subtract each acre that is the actual CCRC, we would subtract roughly 10,000 square feet from our 135. So the FAR is calculated based on we do an SDP for all of Tract A. We take that area, multiply it by whatever, 430 -- whatever, come up with our FAR square footage. And then if the footprint of the CCRC is two acres, we take out 20,000 square feet. So we'd have 115,000 square feet left of retail, plus our CCRC. Same thing with the hotel.

COMMISSIONER SCHIFFER: But if you did a group care for the whole site, somebody come in and said I just want to do group care, what would be his gross -- what would be the acreage that you would be taking --

MR. YOVANOVICH: It would be Tract A.

COMMISSIONER SCHIFFER: Only Tract A?

MR. YOVANOVICH: Tract A.

COMMISSIONER SCHIFFER: Why?

MR. DUANE: Everything outside the preserves.

MR. YOVANOVICH: Because my planning consultant tells me the intent was that we took out the preserve from the calculation of FAR for the senior group housing.

MS. ASHTON-CICKO: If you want to make that clear, I think we should do that at this point in time. If you're suggesting that the preserve area should not be included in the calculation --

COMMISSIONER SCHIFFER: Well, I'm not sure it should or shouldn't be. One of the things Collier's done is they've allowed people to take density and stuff off of the preserve, and I think that's a good thing. It causes you to tend the preserve.

CHAIRMAN STRAIN: Whoa, whoa, wait a minute.

COMMISSIONER SCHIFFER: No? You don't like that?

CHAIRMAN STRAIN: It's going to get a no vote real quick.

Brad, if you used all of the acreage on the site for a calculation of let's say the hotel/motel because that doesn't have an FAR, you're 606 units.

Now, was anybody expecting 606 units of hotels to be built on the site? Is that what you're intending this site to be used? That's using 23.33 acres times 26 units per acre. That is one huge hotel.

MR. YOVANOVICH: No, that was --

COMMISSIONER SCHIFFER: Well, hopefully it has a casino and everything.

No, but the point I'm making, what is -- but you're taking the acreage around the preserve and stuff, because the preserve is a subset of Tract A.

MR. YOVANOVICH: No, the preserve is Tract B. Everything else that's not preserve is Tract A. Everything else that's not in the preserve is Tract A. So whatever that acreage is, we could theoretically multiply that by 26 units and come up with a hotel density. I don't think we'll even go that high, but I understand Mr. Strain's concern, if you throw the preserve in there as well, you end up with a huge hotel. I get that.

COMMISSIONER SCHIFFER: But floor area by definition is not going to tell you based upon tract, it's going to be based upon the site, the area of the site. So if somebody bought this whole site, it comes with the preserve. But the area of the site -- in other words, I don't think it's clear that, you know, you're taking preserves out.

And what you said, the rest of the site is Tract A, is true. But then subset of Tract A has a lake and a right-of-way.

MR. YOVANOVICH: Why don't we say that the floor area ratio for the CCRC and also the density for the hotel will be calculated on the entirety of the property minus the preserve area, which is 8. -- whatever the acreage is. And then we can put that in there so there's no ambiguity on how we calculate that.

Does that address --

CHAIRMAN STRAIN: Yeah, that could.

MR. YOVANOVICH: -- the concern you had about what are we're using for the basis. Whether you agree with having to take it out or not is a different issue. But I believe at least others on the hotel definitely don't want the

preserve to count against towards the hotel intensity.

COMMISSIONER SCHIFFER: Right. But the reason I bring it up is that I use floor area in other communities. We don't use it much here.

MR. YOVANOVICH: Right.

COMMISSIONER SCHIFFER: It's a tool that's used throughout the state. And it would mean the gross site; it would include the preserve.

MR. YOVANOVICH: Right.

And we have done that in others. Sonoma Oaks most recently, we included the preserve in the calculation of the FAR.

CHAIRMAN STRAIN: Oh, yeah, you did.

COMMISSIONER EBERT: Mark was absent that day.

COMMISSIONER CARON: We try not to bring it up.

CHAIRMAN STRAIN: Yeah, I was absent that day.

MR. YOVANOVICH: I know, I thought I'd get a smile out of it. I did.

CHAIRMAN STRAIN: You did.

Same issue we're dealing with here but there it got through, so -- are you satisfied with that explanation that they're going to provide --

MR. YOVANOVICH: Don't forget you have development standards for how -- for the building. And you also traffic. You have all those things that protect the community from senior citizens running amuck.

CHAIRMAN STRAIN: Okay, so you're going to add a clarification sentence concerning how the FAR and hotel density is calculated, correct?

MR. YOVANOVICH: The way I described it, does that work?

CHAIRMAN STRAIN: Yeah, it's -- I mean, you just fine tune it, but it will work. You're going to come back on consent anyway.

Kay?

MR. YOVANOVICH: Are we?

CHAIRMAN STRAIN: You don't have any -- no, this isn't consent.

MS. DESELEM: I'm sorry. Yes?

CHAIRMAN STRAIN: Kay, when I'm finished with you I don't think -- anybody else have any questions of Kay?

(No response.)

CHAIRMAN STRAIN: Kay, I've got one. Is a lake considered a use?

MS. DESELEM: It's not a structure. I guess it's a use, per se.

COMMISSIONER SCHIFFER: Yeah, if you're a fish.

CHAIRMAN STRAIN: Because in Tract A they don't have any lake that I can see or water management listed as a use. Maybe I missed it.

MR. YOVANOVICH: Isn't it an essential service?

CHAIRMAN STRAIN: Well, in other PUD's we see them listed as accessory uses, and I'm just trying to make sure that we don't have a -- make sure you throw that in if you want to or need to.

MS. DESELEM: Yeah, that can be taking care of so it's very clear that that is an accessory use, it's a --

CHAIRMAN STRAIN: Okay, water management facilities to service the project.

Anybody else have anything else?

COMMISSIONER EBERT: Yes, I have a question for --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: -- Mr. Yovanovich.

Did you ever listen to that 19 minutes of that original NIM meeting?

MR. YOVANOVICH: No, because I figured I was doing another one, I didn't need to figure out what was originally committed to because that's why we did another one.

COMMISSIONER EBERT: It was also a very short meeting. But in that, when I listened to it, I asked you why only 139,000 square feet, because with this I thought you would have put much more into it. And you said that's all we're asking for. So it was -- when I went back and listened to it, I went, oh, he could have really had a lot more in

there.

MR. YOVANOVICH: Well, in the retail. And I probably heard it with regard to the retail and wasn't focusing on the CCRC hotel use.

COMMISSIONER EBERT: Okay.

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

(No response.)

CHAIRMAN STRAIN: Ray, how many public speakers do we have?

MR. BELLOWS: No one has registered.

CHAIRMAN STRAIN: You want a rebuttal, Richard?

MR. YOVANOVICH: Not at the risk of making this go longer in the wrong way.

Are we having a consent hearing on this? When's the BCC date? I thought we were --

CHAIRMAN STRAIN: There's been no arrangement otherwise. You didn't ask for any, so --

MR. YOVANOVICH: I couldn't remember if we were trying to keep the original schedule or not on this one.

CHAIRMAN STRAIN: When's it going to the BCC, Ray; do we know?

MS. DESELEM: I believe the current scheduled date is April 12th.

CHAIRMAN STRAIN: You've got time for consent; we'll leave it like it is.

MR. YOVANOVICH: That's right. I remember, it's coming back to me now.

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

Mr. Murray?

COMMISSIONER MURRAY: Yes, I would move that PUDZ-2009-AR-14425, known as Addie's Corner mixed use planning unit development, MPUD, be recommended for approval.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Motion made by Mr. Murray, seconded by Mr. Klein.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

We'll see you back on consent.

MR. YOVANOVICH: 17th, right?

CHAIRMAN STRAIN: 17th of March, yes.

You can come the 3rd if you want to learn something, but --

MR. YOVANOVICH: I'll just walk away.

CHAIRMAN STRAIN: Okay, the next item up -- do you need some time?

MR. MULHERE: Well, he's just -- he's going to put in the data in case we need to pull up the map or anything. We can start.

CHAIRMAN STRAIN: \*\*\*Okay. The next item up was continued from the February 3rd meeting. It's the CP-2008-5, the amendments to the Immokalee Area Master Plan and the Immokalee Area Master Plan Future Land Use Map.

This is the adoption hearing that -- and we heard the transmittal quite a few months ago.

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

(Speakers were duly sworn.)

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

(No response.)

CHAIRMAN STRAIN: Okay, and I think Mr. Mulhere and I got back and forth a couple of times and ended up not touching base, so we're here today. I think I said something to him before the meeting and it's kind of narrowed down right now, so --

MR. MULHERE: Yes. And I'll try to be very brief.

For the record, Bob Mulhere here on behalf of the Immokalee CRA and the Immokalee community.

Coming down the home stretch now for the Immokalee Area Master Plan and the Planning Commission's adoption hearing. This has been something like about a seven-year process, though. I want to put on the record that we haven't been involved in it that long, just a couple of years.

Just by way of refreshing everybody's memory, we had the transmittal hearings before the EAC, the CCPC and the BCC, and we transmitted the document to DCA. And then we received the Objections, Recommendations and Comments Report from DCA, the ORC Report.

And actually, I was actually quite pleased, there were only really two major objections; really only two objections in the report, it was a pretty brief report.

After we received that report, we spent the next several months working with staff and with the Immokalee CRA board and the community to resolve those work issues, which I'll go over in just a moment. And we also spent a lot of time talking back and forth to the DCA and DCA staff. We wanted to be sure that whatever resolution we offered was one that would be acceptable.

They don't commit 100 percent, but I think in the end they were very comfortable that we had addressed their issues. And of course when we get through the board's -- your hearing and then the board's hearing, we'll send up the final document to them.

There was one issue that wasn't part of the ORC, and it's in your staff report on Page 7 under the Evaluation and Appraisal Report, CCPC comments. And you'll probably recall that that dealt with the fact that although the Lake Trafford/Camp Keais Strand system overlay boundaries system were adopted in 2007, I think, into the Conservation and Coastal Management Element, it was unclear what preservation requirement would apply to those properties.

And so staff evaluated that and made a recommendation that based on the fact that those properties, which you can see on the visualizer are outlined in green -- let's see if I can point it out to you. It's this large slough area here, the Lake Trafford/Camp Keais Strand overlay.

That's an urban area. And as an urban area, it allows for the base density in the urban area, although it's designated low residential. And the staff's position was that that's quite a bit different than the preservation standards that were subsequently supplied to rural areas during the Rural Fringe Mixed Use District process.

As a result, their recommendation was to go with a preservation standard that was applied to neutral lands, which would be a 60 percent preservation requirement with a maximum of 45 percent of the site or not to exceed 45 percent of the site.

There was some public testimony at the EAC, I think from The Conservancy, that a 90 percent preservation rate was preferable, which is the preservation rate that was applied to sending lands. But staff didn't support that, nor did the EAC.

So where we are today is that you have a recommendation from the EAC and from staff for a 60 percent not to exceed 45 percent of the site preservation requirement for this urban overlay. And certainly I would defer to staff on any further questions you might have on that.

Now, moving into the objection/recommendation comments. Just very briefly, that the two major issues dealt with providing -- the DCA commented that we hadn't adequately provided a cap, which is statutorily required, or a maximum level of intensity for nonresidential uses.

And as Mr. Schiffer indicated, floor area ratio is the tool that's most often used to provide a cap that's applied on a parcel-by-parcel basis in other communities.

Collier County has rarely used that, only used it in a couple of circumstances. We had a discussion about it, we had a discussion with the County Attorney's Office as well, they were involved. And there was a reluctance to apply a floor area ratio because it wasn't being used throughout Collier County and it might be precedential.

The other alternative is just as acceptable, meets the statute, and that's a maximum limitation on the overall square footage, and we applied it to the entire Immokalee urban area.

So that's how we addressed it. I think DCA's comfortable with that.

The other issue they raised was inadequate data and analysis as it related to water and sewer. We've responded to that. We believe that they're okay with the additional data and analysis that we did.

So really, there's only a couple of issues on the table. One is the preservation applying to the Camp Keais Strand/Lake Trafford mixed use -- excuse me, overlay. And the other one deals with density blending as it applies to properties within that area.

And you'll recall that the major landowner in there represented by Wilson-Miller had requested that the density blending provisions that apply to other properties in the Immokalee urban area, which straddle the RLSA in the Immokalee urban area, that that same provision be applicable to these lands. And the EAC supported that at transmittal. The CCPC did not support that, based on -- I think and I'll be paraphrasing, and you can correct me if I'm wrong, but I think based on the fact that there was insufficient data and analysis related to the potential impacts to the RLSA from increasing the density blending provisions to include this area.

And the board placed that language back in the document that was transmitted, but with the caveat that the additional data and analysis be brought back and submitted for consideration.

And I believe that you have that data and analysis that was prepared by Tim Durham of Wilson-Miller. And he's here and he can certainly speak to the issue; I don't think it's my place to speak to that issue.

Generally we support the idea of density blending; I know staff does as well. But whether or not the data and analysis is sufficient that's I think up for discussion, part of what I think you would be considering today.

So I'm trying to, you know, just focus on the issues that I think are outstanding. Those are the two. If you have any other questions, I'm happy to answer them. But in the interest of trying to keep this as brief as possible, that concludes my presentation.

CHAIRMAN STRAIN: Okay, does anybody have any questions of Mr. Mulhere?

COMMISSIONER MIDNEY: I'd like to hear from Mr. Durham, hear that presentation.

CHAIRMAN STRAIN: Okay. Tim, could you -- I guess your report is what we're wanting to hear about.

MR. DURHAM: For the record, Tim Durham with Wilson Miller Stantec, representing Williams Farms.

Yeah, one probably clarification to what Bob said, the density blending language actually came out of the committee that was overseeing everything. It wasn't the landowner coming forward at the last minute and requested this language. It was what the committee came up with and thought was a good idea. It only came out last year in the planning counsel meeting which I was not able to be at, unfortunately. So I think we've come full circle on this issue now.

The primary question, as I understood it from reading the minutes of that particular Planning Commission meeting, was where is the data and analysis, what is the ramification of this, how many other properties could avail themselves of the density blending provision if it's allowed to go through the way it is.

We went back subsequent to that and did a GIS analysis and tried to identify all the parcels that would qualify for the density blending, and the only property that would qualify under it was Williams Farms.

We then went about looking at, based on the language as proposed by the committee, what would that impact be. Turns out there were roughly 732 acres of flow way high-quality wetlands as part of Williams Farm. That land, the density from that land would be eligible to be transferred into other property that Williams Farms owns. That's just outside but adjacent to the urban boundary.

We submitted that to the county quite a while back. And the follow-up question was kind of like, well, so what? You know, here's the raw number, what does that mean.

So we did go back and kind of arbitrarily picked a credit number that had some basis in discussion from the past. There had been discussion at various points about potentially having a cap on the RLSA program, 45,000 acres of development.

While that's still just a discussion item, there's nothing formal about that, I went ahead and used that as kind of a base line to kind of compare what would be the impact if Williams Farms availed themselves of this density blending provision and if that full density was transferred into that adjacent land, what would it be.

And it worked out to be about 1.6 percent of the total RLSA area. So, you know, does it warp the RLSA program? No, not at all. It's a very small percentage of the overall RLSA that this property represents.

So our position at that point was that the trade-off of saving 732 acres of this great flow way within the urban area in exchange for being able to use some -- entitle some RLSA land was a reasonable position.

CHAIRMAN STRAIN: Does that get your --

COMMISSIONER MIDNEY: I support that the point of view. I mean, you can't just take something away from landowners, there has to be some way that they can compensate for the value. And I think this is an excellent alternative that can benefit a substantial portion of this flow way, which is very important. So I would support us putting it back in.

I know that you had had some objections, Mark, to it before --

CHAIRMAN STRAIN: I have stronger ones now, but I'll explain those to you in a minute.

COMMISSIONER MIDNEY: Okay.

CHAIRMAN STRAIN: The RLSA area, how lucrative has that been in this current economy? Or let's say for the past five years. Has anybody hit their absorption rates that you know of in that area? Has the place caught on fire with the monetary value of the stewardship credits? Or has (sic) Immokalee have the better potential of growth?

And I know you can't answer those, Tim. But where I'm going is you'd be better off providing incentives within the urban area of Immokalee to use and preserve that flow way, because it has a potential of being used quicker and sooner and more adaptable than you do in a RLSA program where the major landowners already have plenty of credits available to them in their preserve areas. And the fact that anybody would want to buy those credits from the Town of Immokalee may not be as great as if we incentivized properties within the urban area of Immokalee to do it all right there, including the potential of the airport's growth and their master plan and all the new stuff I'm hearing that may happen out there.

So I think by moving it to the RLSA, you're actually damaging it, not helping it. Because you're going to delay its ability to be used. Where in the urban area you would increase its ability to be used. That's why originally I argued that the TDR's ought to be used within the urban area of Immokalee, and I still believe that.

I think contaminating the RLSA with this kind of a program isn't going to help the program. It could potentially set a precedent that the RLSA through the Governor's order was never intended for. And I will strongly vote against that particular issue. I still don't believe it's the right thing to do.

MR. DURHAM: May I respond?

CHAIRMAN STRAIN: Sure.

MR. DURHAM: Having sat through many hours of the committee's meetings laboring over these points, various issues were discussed. And I think nobody came up with the brilliant solution that would address all of that. So I would suggest to you this was offered as some way to give the landowners something back in exchange for the protection overlay going on some of those wetland systems.

I don't disagree with what you're saying, but then again 10, 15 years ago, I wouldn't have thought anything out in that area was going to happen. So, you know, the landowner has no plans for that property right now, Mr. Strain, they're just looking for options and flexibility in the future.

CHAIRMAN STRAIN: Well, my problem, Tim, is the performance standards of the RLSA is terrible. And the performance standards of the urban area of Immokalee is probably better. And if you think that we're going to encourage preservation by creating stewardship credits that have no value and no use, because even the performance standards of the one existing SRA are 90 percent off. I'm not sure there's an advantage of seeing this preserved in any close proximity in the future.

MR. DURHAM: And I would argue that time will tell on that. I'm not sure we've had enough time to -- especially in this economic climate to decide some of those things.

COMMISSIONER MIDNEY: Right. This economic climate is not a good time to look at it.

But Mark, we're granting so much density in this master plan and we haven't set up a TDR program. Where are you going to get the density -- there's so much already out there, it's been so generous, where are you going to get the density to create a TDR program at this point in time?

CHAIRMAN STRAIN: When we write the language for the Land Development Code that implements this plan, we incentivize it through that language. Through bonuses, through additional whatever we want to put in that plan.

So the use of the airport, the way things are done there, we could look at -- I mean, I'm not -- I haven't spent the time studying that issue, but I can tell you that would be a better way to look than something that isn't probably

going to happen in any our lifetimes. So, I mean, that's just -- we're going to have a difference of opinion on this one, so --

COMMISSIONER MIDNEY: Right. Well, I think that, you know, this -- right now there's very little that you can offer the landowners to compensate, and this at least is something. They may not use it, they might not use it for 20 or 30, 40 years, but at least it will be out there; it will be something that can be usable.

And I just don't see with the amount of density and intensity we've given away in Immokalee there's going to be anything else that we can trade for this.

I wish that we had set up a little bit more stringent density so that there would be something like a bargaining chip that we could use in exchange for the environmentally sensitive lands. But I don't think we can do that now.

CHAIRMAN STRAIN: Nothing's approved.

Ms. Caron?

COMMISSIONER CARON: How does -- how would those units that could be created, how would it affect all of the lake area that's outside the Immokalee area in the RLSA? I mean, could it all -- could all of that be used around the lake? Could you suddenly dump another 3,000 units?

COMMISSIONER MIDNEY: No, none of it could be around the lake. It would all have to be in the part that's cleared now. Right now it's being used for farming.

MR. DURHAM: It would have to be land already owned by the --

COMMISSIONER CARON: So it has to be the same owner.

MR. DURHAM: Yes.

COMMISSIONER CARON: Okay. So they can't sell those credits to Barron Collier, who owns all the --

MR. DURHAM: Those credits would have to ride with their land, correct.

COMMISSIONER CARON: All right.

COMMISSIONER MIDNEY: That's the other point I wanted to make, that you'd be -- all you'd be doing is shifting density out of the flow way and you'd be putting it on an area that's already cleared and being used for farming. Now, it wouldn't have a broad impact on anywhere outside of Immokalee in the immediate area. You wouldn't be impacting other areas of the RLSA, you'd just make a very, very small geographic shift. But it would be of a huge benefit to the flow way.

COMMISSIONER CARON: And how does that help us protect ag. in the RLSA?

COMMISSIONER MIDNEY: Well, this would be way off in the future when the landowner decides that they don't want to farm anymore and that they want to develop residential.

CHAIRMAN STRAIN: Does anybody have any questions of Tim?

(No response.)

MR. DURHAM: Let me off easy, thank you.

CHAIRMAN STRAIN: Thank you, sir.

Bob, are you done with your presentation?

MR. MULHERE: You know, I was, except there's one additional change that staff brought to my attention just a few minutes ago, if I can find it.

Carolina, do you have that language?

MS. VALERA: Yes.

MR. MULHERE: Okay. Just wanted to read this into the record. I don't think it will be a problem.

Steve Lenberger indicated that if the density blending provision is approved, rather than -- or recommended for approval, rather than using the language -- this is the phrase that exists today: Shall be placed in a conservation easement in perpetuity. So that's the language where you take off the rights.

What's being recommended for greater flexibility is the following: Shall be protected by a permanent conservation mechanism to prohibit further development, consistent with the requirements of this policy. It may or may not be an easement.

CHAIRMAN STRAIN: Mr. Murray, did you have a question?

COMMISSIONER MURRAY: No, I just -- yeah, I did have a question. Mechanism.

MR. MULHERE: It could be just a deed restriction. There's lots of ways to prohibit future development and protect conservation besides just an easement.

COMMISSIONER MURRAY: Yeah, we learned that perpetuity sometimes is construed as 30 years.



MR. MULHERE: I don't know about that. For me it's forever, but, you know.

COMMISSIONER MURRAY: No, we learned it here. Our County Attorney helped us with that one. And so I would agree that it would be useful to try to find a better language.

Mechanism conveys to me -- but I've gotten to be a lot more careful about my choice of words --

MR. MULHERE: Anyway, I just wanted to get that --

COMMISSIONER MURRAY: -- in an effort to make sure we do the right thing. So I don't know, mechanism seemed to me a little bit -- still a little bit loose.

MR. MULHERE: Yeah, it's intended to provide greater flexibility for how to do it.

CHAIRMAN STRAIN: Okay, staff report.

Carolina? You're moving that direction, so we might as well catch you.

MS. VALERA: Carolina Valera, Principal Planner with Comprehensive Planning Section.

As noted on the staff report, we are recommending approval. We have two recommendations: One that you do approve the 60 percent vegetation retention; as well as the language that Bob just mentioned about the mechanism. We have it in the CCME, and I have Steve Lenberger here, he can provide more clarification on why mechanism is a better word than what we have right now.

COMMISSIONER MURRAY: I'm not going to argue with it.

CHAIRMAN STRAIN: Yeah, let's not waste time with things that aren't going to be argued with, so let's just go on.

MS. VALERA: Okay. As you saw in the staff report, the EAC made some changes to the data and analysis language, and that has been done in the document.

That's about it. Do you have any questions for me?

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Yeah. You know, the one thing that the ORC Report brought out rather strongly, it's their first item, is the fact that we're really not controlling the intensity, the mix of the nonresidential uses.

The conclusion we came up with is we'll essentially establish a checkbook. And we put I think it was 8.45 million square feet into that checkbook.

MS. VALERA: Correct.

COMMISSIONER SCHIFFER: How does that give any vision or anything as to what's happening in that town? I mean, we -- you know, we've seen some development standards and presentations that are rather intensive. Immokalee is kind of like a one-story cowboy town look to me, which looks good. But that's not what's described in the standards. And that's --

MR. MULHERE: And I don't think that's what the community envisions for Immokalee in the future either. Maybe what you think is nice, but it's certainly not what the community supported moving forward.

COMMISSIONER SCHIFFER: Okay. So they want downtown --

MR. MULHERE: Correct, they want an urbanized mixed use intensive downtown.

COMMISSIONER SCHIFFER: Okay. So just giving, you know, essentially a balance in the checkbook, how does that give us a vision of what the downtown --

MR. MULHERE: Well, it doesn't.

COMMISSIONER SCHIFFER: And we could argue what's in the GMP and what's in the LDC and stuff like that.

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

It doesn't. Just that number by and of itself does not give you a vision for what Immokalee's intension for the future is. What gives you that vision is the entire master plan looked at as a whole, and all of the land use patterns that are described and all the uses that are allowed and all of the protections that are in place. What you have there is a statutory requirement for a cap that we've provided to meet the test to get adopted.

COMMISSIONER SCHIFFER: Okay, but --

MS. VALERA: That is basically it. DCA was just looking for a way so they can make sure that the intensity that is being requested will be supported by all the services, period.

COMMISSIONER SCHIFFER: And how did you come up with that number?

MS. VALERA: It was a rather lengthy process. We have some gurus at our GIS department, Beth Yawn. I mean, she took every single parcel of land in Immokalee, looked up the use for each parcel and came up with the

difference, you know, commercial, industrial, all the uses. And we were able to come up with an Immokalee area FAR.

And with that, we gave that existing FAR to the consultant and they were able then to --

MR. MULHERE: What Carolina -- just for the record, what Carolina said is right. We looked at the existing commercial, which I think totaled about five million. So the Delta is what could be added. And then we used population projections and other standardized, you know, commercial -- drivers for commercial need to predict the growth in five-year increments over -- through the year 2025.

MS. VALERA: Correct.

MR. MULHERE: So it's basically a 15-year commercial needs analysis that established that eight plus million square feet.

I don't think that's going to happen in 15 years, if you ask me professionally. But there was a need to provide a cap and we used the standardized methodology to develop that cap.

MS. VALERA: Based on actual existing data, yes.

COMMISSIONER SCHIFFER: And then I guess I go back to the question of a vision of what this is. This is supposed to be the master plan that causes something to happen.

What were -- when did the options of that -- where was that reviewed? I know we had a meeting out there. I don't think I missed any meetings, but I never really saw anything other than essentially development standards similar to Ave Maria or downtown Naples.

But when you said that they don't want that to be a one-story, but was there ever studies where maybe the main block is one story and the block behind it's four stories, stuff like that?

MR. MULHERE: Yeah, there was a substantial amount of work done. There were numerous public meetings, there was an actual design plan prepared and referenced, and there will be further work done through the LDR's as it relates to that design plan. And that was done by a sub-consultant for us, L.D.I.

And that was reviewed by the committee, revised by the committee, and then ultimately adopted.

And what you see in the master plan incorporates or includes that design for the downtown core.

COMMISSIONER SCHIFFER: When we had the meeting out there we were given -- there were some design elements, little pocket miniparks were shown --

MR. MULHERE: Yeah.

COMMISSIONER SCHIFFER: And some elevations of single-story borderline suburban houses with arches and stuff like that.

Is that the report you're referring to?

MR. MULHERE: I guess in part that's it, yeah.

COMMISSIONER SCHIFFER: Okay. Because the reason I'm bringing it up --

MR. MULHERE: It's entitled the Public Realm Plan.

COMMISSIONER SCHIFFER: Okay. Is that the plan we were looking at that night?

MR. MULHERE: Those were portions of it, yeah, portions of that plan.

You know, and if you're going to ask me if I watched that movie, no, I never did.

COMMISSIONER SCHIFFER: No. Which is sad. But the --

MR. MULHERE: I know.

COMMISSIONER SCHIFFER: The thing that I still am missing sitting here is we never really saw the vision. I mean, like if Walt Disney took over the town, I'm sure it would come out different than just the regulations of Fifth Avenue in Naples. And enough said, you don't have to answer that.

MR. MULHERE: Yeah. I mean, I guess I'd only respond to you that I think there is a vision. Is it the do all and end all? No, I suspect that Disneyland or Disney World have evolved over the last 25, 30, 40, 50 years that they've been opened and they've revised their plans over that period of time too. We can only look so far into the future and have any validity. And I think we've done that here. And if we accomplish, you know -- a large portion of what we propose here, which is primarily focusing on economic development and diversification, then we will have succeeded in moving the community to the next level. Then somebody else is going to come in and take a look at it again and sort of revamp that one more time and that might be 10 or 15 years from now.

COMMISSIONER SCHIFFER: All right, thank you.

MS. VALERA: I will also add that remember this is our GMP. The specificity and the details of how high

those buildings -- you know, what setbacks they should have should be as far as the land development relations that I believe you are bringing back, Bob, to this commission.

So as far as the GMP, I think we have -- I believe we have a plan that is cleaner. You have -- you know, more density/intensity along the major thoroughfares of Immokalee have been more defined than it was before. So in that sense I think it helps for the next step for the details, for the specificity that I believe they're going to bring back to you.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Anybody else have any questions of staff?

Carolina, I've got one, but it really is more of a David question than you. When I talked to David the other day, you were present and we brought up the percentage of preservation; the difference between the 90 and the 60. And David said something that I wanted him to say on record, if he's so willing -- and he's not moving -- because I want to understand it better.

He said that by keeping it high at 90 percent, we would in effect could also be -- might also be considered a taking because the uses to the density that would be allowed would almost not be able to fit on those properties. And that has a big factor in how we weigh the percentages of preservation.

So I'd certainly like a clarification on that statement or an elaboration on it.

MR. WEEKS: Okay. David Weeks, Growth Management Plan Manager, Comprehensive Planning Section for the county.

I believe you're referring, Commissioner, to the preservation requirements that are proposed for the --

CHAIRMAN STRAIN: Lake Trafford.

MR. WEEKS: -- Lake Trafford Strand development. Okay.

CHAIRMAN STRAIN: Yes.

MR. WEEKS: An important distinction between the preservation requirements and the Rural Fringe Mixed Use District versus what is proposed here are the differences in land uses. In the Rural Fringe Mixed Use district sending lands where there's an 80 percent preservation requirement and some sending lands that also are within a NRPA overlay, natural resource protection area, they have a 90 percent preservation requirement. But the land uses there are very restrictive. You can only have one dwelling unit per 40 acres, and very few other land uses are allowed. And of course those lands are broadly under the designation of agricultural rural.

Here in Immokalee the lands are designated urban, and the densities and intensities of land use are far greater than what you have in the rural fringe. So to have a 90 percent preservation standard and yet still have a relatively high, by comparison to the sending lands, high level of density and intensity that is allowed on that small amount of acreage, relatively small amount of acreage that you can actually develop, my conclusion is it would be very difficult to be able to get the eligible development on that small amount of the property that you could actually develop.

So while I understand -- you know, staff understands the habitat value of the flow way area. If we're going to allow urban intensity of land uses, it is not congruent with a high level of habitat preservation.

CHAIRMAN STRAIN: In the density that would be allowed because it's in the urban area, in the area we're talking about, would be how many units per acre?

MR. WEEKS: I think it's four. Yes, four units per acre.

CHAIRMAN STRAIN: So because of that, the 90 percent would be so restrictive you're in essence telling the guy you can't get what you've always been entitled to get and that we're restricting you in another way, and I understand that.

Now, so we jump from 90 percent down to 60. And the reason I believe we chose 60 was because that's what we're using in the neutral areas already, or one of the other areas, whatever area you're using, and 60 is already in use somewhere else.

So is there another percentage in between that still gives the landowner the right and the ability to develop at the units per acre that he's provided but not dropping all the way down to 60?

MR. WEEKS: We don't have anything presently established. This would be new grounds. Because in the Rural Fringe Mixed Use District now it runs from receiving lands with a 40 percent vegetation retention requirement, neutral has a 60 percent, sending 80 percent, sending NRPA 90 percent.

And then if you go to the urban area, I think it's something like maybe 25 percent; it's far, far lower.

So if we were to come up with a new figure, it would be just that, new, and we would need some type of data

and analysis to support that.

CHAIRMAN STRAIN: Okay. Well, this isn't a new figure, because it's applying to something that hasn't been applied to before. This isn't considered neutral, you're just saying it's like neutral. So since it hasn't been applied here before, why wouldn't we look at a figure that meets the criteria to keep us out of a Burt Harris claim for not allowing the proper amount of development versus the minimal -- the maximum amount of preservation we could get, based on the development that could go there.

Have we approached it that way or we've just picked numbers because they exist today? What we're discussing is that the existing language in the Immokalee Master Plan for preservation requirements in that flow way area refers us to the Conservation and Coastal Management Element Policy 6.1.2, which is where the preservation standards are located for the Rural Fringe Mixed Use District.

So the plan is already directing us to a policy that has 40, 60, 80 and 90 percent requirements. So from the staff perspective it was okay, which one of these was it intended to apply? It wasn't let's go look at something new, it's we're already directed to use one of these, but it was vague, it never said which one of those percentages. So that's why staff looked at what we think is the most appropriate.

COMMISSIONER MIDNEY: Mark?

MR. WEEKS: Sixty percent was the one that staff chose.

CHAIRMAN STRAIN: Before I forget my thought, let me ask.

COMMISSIONER MIDNEY: Go ahead.

CHAIRMAN STRAIN: You said that the plan directed us to use Policy 6.1.2. Is that direction from a historic perspective or from the new perspective?

MR. WEEKS: It's what's in existence now. It was adopted in 2007 as part of the EAR-based GMP amendments.

CHAIRMAN STRAIN: So the plan said to use that area, but it didn't tell you -- it allowed us to pick and choose which part of that 6.1.2. we use?

MR. WEEKS: It was silent. It was -- it is a shortcoming of the plan referring us to an area that doesn't have a single standard to use.

CHAIRMAN STRAIN: But since we are changing the language in the plan, couldn't we simply put a percentage in there without having to refer to Policy 6.1.2?

MR. WEEKS: We could. Again, we're back to do we want to create something new, a standard that doesn't presently exist, or do we want to clarify by making one of those in a policy that's already directed to.

CHAIRMAN STRAIN: The problem I have is the density that's applicable in the Immokalee urban area is not the density that was used to establish the percentages in 6.1.2. As you testified, it could be different. So why are we arbitrarily picking something that was never meant for the purpose to begin with? Just because that's all we have to pick from when we're writing new language. Why don't we write the language correctly for the area in question? That's what I'm getting at. I know the study hasn't been done, and so now we're back to a no position.

But go ahead, Mr. Midney.

COMMISSIONER MIDNEY: Yeah, I want to put this up on the visualizer.

Okay, this is 6.2.5. And it says within the rural -- 6.2.5., within the Rural Fringe Mixed Use District and that portion of the Lake Trafford/Camp Keais Strand system, which is contained within the Immokalee urban designated area, the county shall direct land uses away from higher functioning wetlands.

If you look at the sentence, it clearly puts both areas on an equal footing. If there was a distinction that was intended, 6.2.5. could have read Lake Trafford/Camp Keais Strand system wetlands outside the Immokalee urban area. But they didn't write that. They could have said wetlands within the rural fringe and to a lesser degree those in the Immokalee urban area, but it didn't say that either.

If you read the sentence, it just says that portion of the Lake Trafford/Camp Keais Strand system contained in the Immokalee urban area, and it's in the same sentence as the RFMUD. So to me it's clear that the wetlands in the overlay are meant to be treated like those in the Rural Fringe Mixed Use District.

CHAIRMAN STRAIN: Okay. We're not debating that point. But the problem is in the Rural Fringe Mixed Use District we have four levels of treatment. Which one do you think is the right level of treatment? And why do you think that, when none of them are based on the density or intensity that's allowed in the Immokalee urban area?

COMMISSIONER MIDNEY: Well, to me that sentence -- how would you say it -- reraises that, because it

says they're to be treated the same. In other words, what you're depending on is how high quality are those wetlands, not in which system are they located. So in other words, if you have wetlands that are within the Immokalee area -- urban area that are equivalent to those in the rural fringe, they should be treated the same, because that's the way the sentence reads.

CHAIRMAN STRAIN: But that's not the proposal in front of us today. The proposal in front of us today is to treat them all at 60 percent.

COMMISSIONER MIDNEY: Right. I disagree with that, obviously.

CHAIRMAN STRAIN: Okay, well, so do I, so I think we're partially on the same page.

But now how do we get there is where we both haven't -- you got one direction, I'm not disagreeing with yours, I didn't look at your direction, I looked at the direction that I was -- had a discussion with staff on that kind of threw me. Because if we don't have a preservation standard based on that density because it's the first time, maybe instead of just arbitrarily accepting one from another density that we don't know how it was created, why don't we create one for this?

COMMISSIONER MIDNEY: Well, let me make my argument then for the 90 percent.

CHAIRMAN STRAIN: Go right ahead.

COMMISSIONER MURRAY: By the way, I agree with you in that regard. We need to, because he's making the case -- excuse me. He's making the case for -- or you made the case for Burt Harris as a possibility. And unless you really know what you can get it down to, you're really just arbitrarily picking them. We'll be in trouble later on, so --

MR. MULHERE: This issue obviously came up at the tail end of the whole process.

The EAC recommendation was to support the 60 percent, but that it could be further evaluated. David and I were just talking, perhaps -- what I would like to avoid is any holding up of the Immokalee Area Master Plan for this issue.

COMMISSIONER MIDNEY: Yeah, I agree.

MR. MULHERE: Perhaps what we could do is adopt the 60 percent with some additional language that would require that this issue be analyzed and that it may be more restrictive based on that analysis as part of the LDR's, which are forthcoming --

COMMISSIONER MURRAY: You mean as a target --

MR. MULHERE: -- because the Land Development Code can be more restrictive than the comp. plan.

COMMISSIONER MIDNEY: Can I develop my argument?

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER MIDNEY: All right. So again, 6.2.5. says wetlands within both areas are to be treated the -- the county shall direct land uses away from the higher functioning wetlands in these two named areas.

So the next step is to look at the map of the overlay. Are there any lands in the overlay which are not wetlands? No. The overlay consists exclusively of wetlands.

MR. MULHERE: No, I'm sorry, but I don't think that's true.

COMMISSIONER MIDNEY: Well, look at the map.

MR. MULHERE: I don't have to look at the map, I know there are some scattered uplands in that overlay. I know that --

COMMISSIONER MIDNEY: Well, that's not what the map says. The map is a wetlands map and over it is drawn the map of the overlay. They're identical.

MR. MULHERE: Mr. Midney, it's a broad overlay. No one has -- I might be wrong. Is Bill Lorenz in? Okay, Steve.

I don't think anyone has field tested any of those down to the acre specific. No one has done an analysis other than probably some fairly high level analysis that based on vegetation and based on soils, most of those are high quality wetlands. And they map that. But that doesn't mean it's 100 percent accurate. I know --

MR. LENBERGER: They haven't been ground truthed.

MR. MULHERE: They have not been ground truthed. That's what I thought.

So there probably are some --

COMMISSIONER MIDNEY: Well, it looks like they're pretty close.

MR. MULHERE: Up -- yeah, it's close, it's close.

COMMISSIONER MIDNEY: Okay. Well, let's just say that they're almost identical. Because it's very -- they weren't trying to say that they were identical. It is a map, the title says Lake Trafford Urban Wetlands. And the green line, the solid green line around the edge is the map of the overlay. I think if it's not identical, it's very, very close.

MR. MULHERE: Yeah. No, I don't disagree with that. I think the issue on --

COMMISSIONER MIDNEY: No, no, wait a minute, let me finish, please.

So all the lands in this overlay are wetlands. Now we have to decide what kind of wetlands these are. Are they higher functioning wetlands? And how do you determine what is high functioning? Not all NRPA's or national resource protection areas are wetland, but the highest quality wetlands are called NRPA sending lands. And our Watershed Management Plan which we looked at a few months ago, there was a section outlining county policies which define what kind of a wetland a NRPA wetland is. And there were two things that were written down that make them special. The first is that they're a major flow way. And the second is a high quality functioning wetland system.

A flow way means that there's sheet flow. Usually it's a depression where the water tends to pass through during times of heavy rain. And you can easily see this in the Immokalee overlay during the rainy season because you'll see a heavy flow of water passing through the culverts under any kind of road or farm road that bisects it. The Immokalee Road, the road leading to the Immokalee water/sewer sprayfield are examples.

Next, what are the functions of a high functioning wetland system? First they can't be small or isolated. It has to have a larger function. And one big function that this system does is to filter and purify surface water. This overlay drains about three-quarters of Immokalee, the whole western part and the southern part of Immokalee and the whole western and southern parts of town.

And this is very important because of our recent history with Lake Trafford where we've recently spent \$20 million trying to clean it up. Lake Trafford is a jewel, and the people of Immokalee want it protected.

The value of the lake far exceeds the value of any development that might take place in the wetlands of this overlay. We don't want Lake Trafford to end up like Lake Okeechobee.

The second function of this overlay is to prevent flooding by accepting large volumes of stormwater and slowly releasing it. By storing flash floods and releasing them slowly, this overlay keeps Lake Trafford and the Corkscrew system healthy.

Then the third function is aesthetic. People in Immokalee enjoy being close to such a large natural area. It makes our town special and it makes it a better place to live.

And then finally, this is the value that I think the county seems to rate above all the others, is the habitat for wildlife and especially listed habitat species. We know that there's panthers in the overlay because we see them sometimes or we see their tracks. But to the people of Immokalee, the number of collared panther telemetry points is not that big of a deal. Even though the county has not done a formal scoring of the overlay, I think that everybody can admit it's probably not as pristine as the center of Big Cypress of the Everglades. But I'm pretty sure most people in Immokalee will agree that it comes out about the same as NRPA lands in the urban fringe. Because most of it is inaccessible. Most of it hasn't been disturbed very much. It's big, and it's connected to Lake Trafford and the large wetland systems in the RLSA which have been found to be NRPA sending areas.

And that's why I think 90 percent -- this hearing is not a hearing where we can determine if something is a NRPA sending area, but we can determine what level of vegetation protection is appropriate for the area. And I think these are the reasons that -- this is obviously not neutral land, which is suitable for some types of development.

The fact that it's 100 percent wetland really limits the landowner's options, even before you get started. And if you take the 60 percent native vegetation and you only require that on 45 -- 45 percent of the site, you multiply .60 times .45, you get to .27, which is only two percent more than the 25 percent that's already mandated. So that's obviously, you know, way out of line.

I'll stop there, and we can discuss that much. I have some other points, but that's what I want to leave about, why I think that the wetlands are NRPA quality wetlands.

MR. MULHERE: May I just briefly?

CHAIRMAN STRAIN: Sure.

MR. MULHERE: I mean, I don't know that anybody would disagree with what you just said. There's no question but these are high valued wetlands, that's why they're proposed to be protected. The question is from a

public policy perspective, how do you balance private property rights, which we're required to do because of the U.S. Constitution and Burt J. Harris at the state level with these protection strategies? And I'm not suggesting that we have answer to those. We don't. Because anybody can allege anything and, you know, we go from there as to whether that's a, you know, true taking or a partial taking. There would need to be more data and analysis conducted to determine some number that may be between 60 percent and 90 percent.

I would have less concern if the density blending provisions remained in the plan, because then I know the landowner has an option to --

COMMISSIONER MIDNEY: I agree with that.

MR. MULHERE: -- to -- and they're not losing their development rights because they have an option.

I just want to remind you all that there's another policy in this plan, as Mr. Strain referred to it, that requires the consideration of mitigation in urban parcels by allowing acquisition of high value natural resources in other areas, i.e., in this flow way, put into conservation, and you don't have to, you know, put your .15 acres of preservation on your urban half acre of development, you can mitigate. That's proposed in the plan.

Also proposed is to look at a TDR program that might allow transfer of development rights from here through some incentive based TDR program. But the densities are pretty high in the Immokalee urban area and the question's going to be whether or not there's a market for that.

So those are things that will be looked at in the future that don't exist today. You know, my recommendation would be that you adopt the staff recommendation and the EAC recommendation and that you allow for a process to analyze this and come back to you. I mean, it could be just through the LDR's, because they can be more restrictive. If you make this a minimum preservation standard and subject it to further ground proofing (sic), we could come back to you as part of the LDR's with something that's more realistic based on the quality of those wetlands. But we're going to have to figure out how to balance those private property rights, too.

COMMISSIONER MIDNEY: The thing about the property rights is that Immokalee is not a flat area like a lot of areas in the county. There's a pretty steep gradient. And almost anybody who owns land that's in this wetland also owns dry land that's adjacent to it. And I think that if the landowner were able to cluster his things on the dry part, he would still be able to leave the wet part as a preserve. And if it's 100 percent wetland, he's not going to be able to do anything with it really anyway.

MR. MULHERE: Well, that's something that is going to be allowed, the clustering and promoted. But we haven't done that analysis. I mean, no.

COMMISSIONER MIDNEY: You know, the landowners have the option of clustering their development onto the dry part of their property. Density blending, if we approve that, mitigation banking, which is also in this master plan, and possibly down the road transfer of development rights or sale to some Conservation Collier or other preservation entity. But the system has to be protected.

MR. MULHERE: I mean, if you really want to protect it, you buy it. If you don't want to buy it, you provide a balance between the protection and the private property rights, and that's what we've tried to do.

COMMISSIONER MIDNEY: But I think, you know, we have to protect this, because this area is not appropriate for development. It's not something that Immokalee will be the better for in 30 years if we do allow development to take place within this area. So that's why I'm hoping that the CCPC will go along with my suggestion that it be 90 percent. And if it can't be 90 percent, I would say the minimum 80 percent. Thank you.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah, I think I would just go about it in the opposite way from Mr. Mulhere. I think it would be easier for us to state right now that it's 90 percent and that we will analyze that --

MR. MULHERE: That would work.

COMMISSIONER CARON: -- as opposed to trying to get it down to 60 and then try to build it back up. That never happens, and Bob, you know that. So better that we start out protecting it to the most max we can --

MR. MULHERE: That works.

COMMISSIONER CARON: -- and then if we get data and analysis to support that it has to come down for whatever those reasons might be, then I think that's an easier process.

MR. MULHERE: No, I don't disagree. I mean --

CHAIRMAN STRAIN: Can we, though, have a greater protection in the GMP and then come up with a lesser protection if warranted in the LDC?

MS. VALERA: I don't believe so. I mean, the GMP will dictate the minimum. And you can have greater protections through the Land Development Code. But you're not allowed to go any, you know, number below what the GMP will dictate.

I would like to also have some -- maybe some opinion from the County Attorney. Our concern as staff is liability to the county, including that amount of preservation requirement that seems to -- will be infringing into property, you know, rights.

COMMISSIONER MIDNEY: I have a question for Brad. You remember, Mark, that --

CHAIRMAN STRAIN: Brad over there?

COMMISSIONER MIDNEY: No, this Brad.

CHAIRMAN STRAIN: What Brad? Who Brad?

MS. VALERA: Bradley Muckel with the CRA.

CHAIRMAN STRAIN: Oh, I'm sorry, I didn't know his name. I thought you were talking about our architect.

MR. MUCKEL: Brad Muckel, Immokalee CRA.

COMMISSIONER MIDNEY: You remember, Mark, that you had asked what do the stakeholders think about this 90 percent? That was at the meeting that I wasn't able to be at.

And Brad, you talked about it with CRA members. What was their reaction?

MR. MUCKEL: I can only say that one of the members, Mr. Floyd Cruse's, reaction was that the 60 percent level was unacceptable to him and he'd like to see it more in the line of 90 percent.

COMMISSIONER MIDNEY: But was there anybody who strongly objected to 90 percent?

MR. MUCKEL: No.

CHAIRMAN STRAIN: Okay. But you used the word stakeholders. Stakeholders involve the property owners. How many of the property owners voted for the 90 percent?

MR. MUCKEL: Yeah, none. I mean, this plan was vetted in public forum a number of times, so --

CHAIRMAN STRAIN: And I'm in favor of where Mr. Midney's trying to go. I think we both have different ways of getting there. And all I want to do is make sure that if we put something in the GMP and the Immokalee Master Plan, and I've used this term before, that it's bulletproof, we don't come back and subject Immokalee to a Burt Harris claim that the county's got to pay because we've done something we don't have the data and analysis for. And it seems to be in this particular case by arbitrarily picking a preservation standard that we don't have data and analysis for, we're running the risk of hurting someone's property rights.

COMMISSIONER MIDNEY: Mark, what do you mean by data and analysis? What kind of data are you looking for?

CHAIRMAN STRAIN: What I asked David about earlier, where is the analysis that shows how much percentage you need to have in order to protect the four units per acre that they have a right to today.

MR. MULHERE: Well, we know if you cluster development, if you had 100 acres and it's 100 percent native and you're required to preserve 60, you can fit that development that's allowed, that 400 units, on the 40 acres. We know that.

CHAIRMAN STRAIN: Right.

MR. MULHERE: We know that. And we can do the data and analysis. We know the answer to that. What we don't know is does the environmental quality -- we presume we know and we probably are correct intuitively, but does the environmental quality of this land equate to a NRPA sending at 90 percent, does it equate to just regular sending at 80 percent, or does it equate more to neutral at 60 percent?

COMMISSIONER MIDNEY: How would you evaluate that?

MR. MULHERE: You'd have to go out and do some ground proofing. You'd have to actually go out and do some ground proofing (sic).

COMMISSIONER MIDNEY: What would you look at?

MR. MULHERE: Vegetation, soils.

COMMISSIONER MIDNEY: Well, I think that you pretty much can do that. I mean, it's not that -- usually by aerials and soil maps --

MR. MULHERE: But just so you understand, even if you do that and you conclude that it's at 90 percent, somebody needs to still measure the public -- the risk; and I'm sure that's what Jeff wants to talk about -- to the county



of a claim. Because you are taking away -- you may be taking away some rights. And like Mr. Strain said, I don't know, if 10 percent is what's left, I don't think they can fit all the intensity on 10 percent of the land.

COMMISSIONER MIDNEY: But nobody owns a piece of the land that's just only entirely in this overlay.

CHAIRMAN STRAIN: Jeff --

MR. MULHERE: Well, that's addressed by density blending. They own upland, but the upland is adjacent to it in the rural land stewardship area.

COMMISSIONER MIDNEY: No, it's on -- if they own it, it's also going to be in the Immokalee area that's not inundated. It's going to be dry Immokalee land.

CHAIRMAN STRAIN: Brad, did you have something you wanted to --

COMMISSIONER SCHIFFER: Just a question on the development. If you do put it at 90, would you allow the development to be higher structures? I mean, if you want highrises sitting on 10 percent of it, then maybe it balances out. Maybe it's a good idea.

CHAIRMAN STRAIN: Well, but those options haven't been determined. And that's the concern that we're running into today.

The side bar going on over there, gentlemen, do any of you want to address this panel on anything, please do so now.

MR. KLATZKOW: You need to bring this back. I mean, if you want 90 percent, okay, you need to bring this back. Because I'm not saying this is a good idea or bad idea, I'm just saying that you don't have the facts --

CHAIRMAN STRAIN: Well, we're there --

MR. KLATZKOW: -- to be flushed out.

CHAIRMAN STRAIN: I think that's what we're arguing about, Jeff. I agree with you. And of course we're hearing from Mr. Mulhere it's going to cause a problem to delay the Immokalee master plan until that issue is resolved.

MR. MULHERE: Hey, it's been seven years so far, why not another whatever?

It just wasn't part of -- it just came up at the last minute. It wasn't part of what we analyzed. It wasn't even something that we prepared. We didn't even put the language in the plan.

CHAIRMAN STRAIN: I don't disagree --

MR. MULHERE: The plan's already -- the language is already in the plan.

CHAIRMAN STRAIN: I don't disagree with you. I think you're right.

Now, are we going to go to see if we have any public speakers, is that -- or do you want other questions of staff?

COMMISSIONER MIDNEY: I just want another comment to make. I know we have some public speakers. But I think part of the analysis would be land ownership and see if there's anybody who would really be put in a really bad way if this 90 percent went through. In other words, is there anybody who owns a substantial piece of land that's entirely in this overlay and they'd be stuck? I'm maintaining that there isn't anybody like that. And that's I think what should be part of the analysis.

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

MR. BELLOWS: Yes, we have one speaker. Caitlin Weber.

CHAIRMAN STRAIN: Okay. And then -- that's okay, Tim, I was going to call you eventually. I just want to get the registered people first.

MS. WEBER: Caitlin Weber here on behalf of The Conservancy of Southwest Florida.

I would just like to share some of our concerns on the staff proposed amendment to Policy 6.2.5 in the CCME. The intent of this policy is to direct land uses away from higher functioning wetlands and limit impacts to wetland systems within the rural fringe --

CHAIRMAN STRAIN: You've got to slow down just a little bit.

MS. WEBER: Sorry.

-- within the rural fringe and the Lake Trafford/Camp Keais Strand in the Immokalee designated area.

The issue we are faced with today is that Policy 6.2.5 directs both rural fringe and the Lake Trafford/Camp Keais wetlands to follow preservation standards within Policy 6.1.2. However, this policy is only really designed to address the rural fringe, with the preservation standards established for receiving, neutral, sending and NRPA sending. Classification of rural fringe lands into one of these categories is based upon a thorough review of

environmental data. The policy does not establish a comparable standard for the Lake Trafford/Camp Keais wetlands.

The change proposed for Policy 6.2.5 attempts to clarify this oversight by specifying which of the rural fringe land use standards will apply to the Lake Trafford/Camp Keais wetlands.

It is the Conservancy's opinion that any such clarification must be based upon the same level of data and analysis that was used to classify the rural fringe. Such an assessment would involve mapping the Lake Trafford/Camp Keais wetlands to determine their quality and functionality.

Based on this assessment, the county could then compare the Lake Trafford/Camp Keais wetlands to the quality and functionality of rural fringe wetlands as classified within the Policy 6.1.2 to determine Lake Trafford/Camp Keais categorization. This should be the basis for clarifying Policy 6.2.5.

Unfortunately this was not the process used by staff to propose the amendment to Policy 6.2.5. Staff has taken the position that the rural fringe neutral vegetation preservation standards should be applied to the Lake Trafford/Camp Keais Strand wetlands, meaning that 60 percent of the native vegetation on-site, not to exceed 45 percent of the total site area, would be protected. Such a determination is arbitrary, was not based upon --

COMMISSIONER MURRAY: Slow down.

MS. WEBER: Sorry.

Such a determination was arbitrary, not based upon scientific data and analysis and should not be adopted.

The Conservancy encourages the county to do the level of research necessary to correct Policy 6.2.5 and base the Lake Trafford/Camp Keais Strand wetlands vegetation preservation standards on appropriate data and analysis. And we offer our assistance in this process. Thank you.

CHAIRMAN STRAIN: Don't go away. I have a question for you.

In your consideration of trying to fit this into the rural fringe, did you take into consideration what staff has not or Bob Mulhere and his team have not to date, and that is the density impacts -- the density allowed in Immokalee area? That's where the problem occurs. The density allowed there is greater. And if you take that into consideration, what percentage would you come up with?

I'm suggesting we don't want to limit it to just those percentages in the rural fringe. We may find that it's better than neutral but not as good as sending and that somewhere in between is where a four-unit density count will fall.

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: I mean, we may find it could be above or more or less too. But I think that's an analysis we need to have. So I don't know if you all took that into consideration. But I think the options are greater than just picking one of the four that's in the rural fringe. So that's my comment to your position.

MS. WEBER: Okay. And I would need to check to get more information with someone at The Conservancy on that.

CHAIRMAN STRAIN: Okay.

Anybody else have any comments for The Conservancy? If not, we have another public speaker. Thank you.

MR. MULHERE: I would just add one item, if I could then. If that's the case, it's going to take a little time to do the analysis and come back. Maybe we could do it as part of a subsequent amendment cycle or the EAR-based amendment cycle.

But I would implore you then to leave the plan as it is, no preservation standard which exists today -- up until three weeks ago this wasn't an issue -- and then require that that analysis be done. But don't hold the entire plan up for this issue.

CHAIRMAN STRAIN: I don't -- as long as we can have some assurance it's going to come back. I mean, I can see it now, there's no preservation there now, so okay, let's just forget about bringing it back.

MR. MULHERE: No, no, we would make it a policy that we do come back.

CHAIRMAN STRAIN: Okay. Well --

COMMISSIONER MIDNEY: When?

CHAIRMAN STRAIN: Well, I mean, we'd have to -- I don't know when. How much time do you need?

Steve?

MR. LENBERGER: For the record, Steven Lenberger, Land Development Services Department.

Perhaps adding a policy in 5.1.1. we need to talk about. The county's going to explore the feasibility of doing a TDR program in Immokalee in two years, maybe tying it to that analysis, doing it together.

As far as in the interim, though, I mean, it is beneficial for staff to have some guidance on what to apply. And whatever you decide, it's certainly up to you to recommend. But, we'll do -- maybe add some language for a further evaluation at the time we evaluate the TDR's, maybe in two years. And of course when we do the TDR program, the evaluation.

CHAIRMAN STRAIN: Well, I'm not sure this needs to be tied to the TDR program. We're looking at percent of preservation. And that's really a sticks and bricks analysis based on how much density there's going to be allowed in that area.

MR. MULHERE: I just talked to David, and we could agree that it needs to come back and be decided as part of the next comprehensive plan amendment cycle, which is the 2011 cycle.

COMMISSIONER MURRAY: What a shame.

CHAIRMAN STRAIN: I'd rather see --

MR. MULHERE: Not sooner.

CHAIRMAN STRAIN: No, but I'd rather see it done right. And if it takes that to do it right, I think the community's going to be better served because of that.

MR. MULHERE: Well, we'll work with The Conservancy and other stakeholder groups, the landowners, to set an analysis that's similar to the one that was done in the rural fringe on -- in terms of the natural resource value, but also considering the urban intensity that's allowed.

COMMISSIONER MIDNEY: I think you can't just look at the natural resource value, because something that's out in the middle of nowhere doesn't serve the important functions that this system serves, which is storm control and purification of the water going into Lake Trafford.

MR. MULHERE: Yeah, that's --

COMMISSIONER MIDNEY: If you strictly look at, you know, how many panther telemetry points are there and, you know, what's the level of exotics, it might be a little bit higher. But you have to balance that with the increased value that it has by being next to Immokalee, and also the aesthetic value for the people of Immokalee of having a natural area so close by.

So I'm just afraid that they're going to do this environmental analysis and say that well, this isn't pristine enough, you know, let's knock it down a few notches.

CHAIRMAN STRAIN: But Paul, if we push this to be now and they hook this to the overall approval of the master plan, and it's obvious the master plan, there's a desire to move that forward quickly, they rush it, you're going to get more of what you just said versus if we now segment it out from the master plan, put a time table on it as being done by the next GMP cycle this year and then that allows time for The Conservancy, David Weeks, Carolina, yourself and other people to be involved in it more to make sure it's accurate than trying to tag it to this master plan and push it through quicker because they're in a rush. Which, I mean, after seven years I'd be in a rush too.

MR. MULHERE: It's not so much in a rush, but I feel bad, you know, for the community. This kind of came up at the last minute. There's no question it needs to be addressed and resolved in the appropriate way.

And Mr. Midney, I would encourage you to be involved and make sure we do look at all the issues. You're going to see the data and analysis, so you'll be able to judge that on its face.

COMMISSIONER MIDNEY: And also, I think the land ownership is important, because I still maintain that there's nobody who owns land exclusively in that NRPA. Most of the land is owned by two entities. And then there's a few smaller ones. But everybody who owns land in it also owns land outside of it adjoining.

MR. MULHERE: As long as we allow for increased intensity on that other land they own, we might be able to address it that way.

CHAIRMAN STRAIN: Okay. So I think we've kind of beat this one up pretty good.

We have three issues on the Immokalee Master Plan. We need to consider an approval of the master plan itself as a whole. But before we do that, we ought to decide how to handle the two items that seem to be still somewhat contentious. One is the preservation standards. I would suggest that this board vote to recommend that those standards be pulled out of the Immokalee Master Plan for reconsideration within the next GMP cycle in 2011.

COMMISSIONER MURRAY: I would move.

CHAIRMAN STRAIN: If that works for everybody, I think that gets us where we're trying to go.

Before we vote, Mr. Murray, could we hold off for just a minute while --

COMMISSIONER MURRAY: Absolutely.

CHAIRMAN STRAIN: -- Ms. Caron has a question?

COMMISSIONER MURRAY: But I'm just expressing --

COMMISSIONER CARON: So we will not have any percentage in there now?

CHAIRMAN STRAIN: It is what it is today. It just doesn't change.

COMMISSIONER CARON: Yeah, I know what it is today.

All right, so you're not going to put anything in even on a temporary basis.

CHAIRMAN STRAIN: It's on hold until they analyze it. I don't think there's a rush to develop that area right now anyway.

COMMISSIONER MIDNEY: The land isn't very developable anyway. It's all wetland.

CHAIRMAN STRAIN: No one could get through the Corps of Engineers in time to come back to us, so --

MS. VALERA: Mr. Chair?

CHAIRMAN STRAIN: Yes. You're going to screw it all up, right?

MS. VALERA: No.

CHAIRMAN STRAIN: Okay, good.

MS. VALERA: But I would like clarification, because staff needs to go by something today. I mean, if we get an applicant tomorrow and ask us, you know, what is the preservation requirement that you're intended for Lake Trafford/Camp Keais, we might need to say that it was 25 percent, because it is in the urban area.

CHAIRMAN STRAIN: Well, I mean, you're asking us to make a choice on a data and analysis that we don't have.

MS. VALERA: Understood, understood.

CHAIRMAN STRAIN: So now you're saying that you don't like leaving it like it is because you want us to make a decision, but we can't make a decision because we don't have the information we need.

You know, I mean, today is no different than it was six months ago and six months is no difference than it was five years ago, so I don't think you're under any different gun than you were then. So whatever the standards are is what they are today. I don't know how we can change it. I mean, right now I'd be very cautious moving ahead with anything else.

COMMISSIONER MURRAY: I'd like to understand the down side you see if we don't do something like you're asking.

MS. VALERA: Well, in conversations with, you know, other more knowledgeable environmental staff, that's what their concern is, that right now as it is, it is 25 percent, the requirement for that area. And that was the intent.

CHAIRMAN STRAIN: Tim, can you offer any --

COMMISSIONER MURRAY: No, I'm not finished.

But couldn't we offer in our motions or in some form a stipulation that we are requiring a study so that the number is not to be deemed the permanent determination?

CHAIRMAN STRAIN: It might be somewhat like a moratorium on it? I don't know if we've got the --

COMMISSIONER MIDNEY: It would have to come before us anyway.

CHAIRMAN STRAIN: Tim, did you --

MR. DURHAM: Listening to this discussion, I just wanted to throw in a couple landowners perspectives I've heard on this.

Mr. Midney, your point about nobody owning only land within this, that's true. However, I know of one landowner who has some land that is active agriculture today that shows up with a green blob on it. When these maps are typically created, I think there's a rebuttable presumption that they're accurate. But when you come in with a piece of property, I think you have an opportunity to say this map isn't quite right, here's where the wetland is.

I think the idea of doing a study out here really defining those areas more accurately and then putting the restriction, clearing restriction, would be much better received by the landowners. When we sit in a room like this and say oh, that map's off by just a couple of acres, it doesn't sound like much. But when you're talking to the landowner -- you know, imagine if someone came to you and said I'm taking two acres you have and doing something else with it. I mean, it's a much bigger difference to the landowner.

I think right now the landowner's looking at a map like that saying that's not totally right, we're not sure we want standards based purely on that map. I think if we did go back, define those areas a little bit better, have some

quantifiable criteria, then put the restrictions on, I think it would be much better received by the landowners.

That's just my personal opinion. We haven't had a meeting and discussed that, but that's my perception on it.

Again, there aren't any development pressures out there right now. I don't think you would find any of those landowners who live out there and who have high quality flow way wetlands on their property have any idea that they want to go out and clear those or do something with them. I mean, that's just not the mindset out there right now.

So if we held off, define the area more accurately, had some criteria, I think you'd find almost 100 percent buy-in from the landowners and say yes, we do need to protect the high quality wetlands out here.

Where you lose them is when you start saying hey, we've already got a map, let's just put restrictions on it, off we go. So I think you're on the right trail.

But you all had mentioned a couple of times, what's the landowner perspective, and I spend way too much time with them some weeks, so I get to hear that.

CHAIRMAN STRAIN: Okay, thank you, Tim, appreciate it.

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes, ma'am?

COMMISSIONER EBERT: I do have -- I am not real familiar with this because I am new on the Planning Commission, but I did hear you say the word silent, and that scared me.

CHAIRMAN STRAIN: What do you mean silent?

COMMISSIONER EBERT: When we are silent on an issue.

CHAIRMAN STRAIN: Well, nothing's silent. The code that is there already today would fall in place, that's what we mean. Silent means if we don't bring it up, whatever is in place holds, it remains.

COMMISSIONER EBERT: Okay. But there was a case recently where the word silent meant a very big difference to this county and that's why I was asking.

CHAIRMAN STRAIN: Oh, yeah, I know the case.

MR. MULHERE: Notwithstanding the staff's concern that something might come in, I think the risk is pretty low if we come back, you know, within that time frame. Nothing has come in to speak of that I'm aware of in the previous 100 years or so. And it would take somebody some substantial time, other than a very small project, you know, putting a garage on a single-family home or something, because there is a little bit of development out there.

But anything substantial, any kind of new development would have to go through that jurisdictional permitting process, and that would take longer than a year.

CHAIRMAN STRAIN: Okay, is there a consensus on this board that we can move this out of the approval for the Immokalee Master Plan at this time, subject to further studying and coming back in 2011 with the next GMP round?

Looks good. Is there a motion?

COMMISSIONER MURRAY: I have a motion on it, yes.

CHAIRMAN STRAIN: Mr. Murray made such a motion?

COMMISSIONER MURRAY: Yes.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: Mr. Klein.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Now, we need to give a little break to Cherie'. We'll come back at 3:45 and try to finish up the Immokalee Master Plan quickly and then get into the last issue for today, so --

(Recess.)

CHAIRMAN STRAIN: Thank you, Ray.

If everybody will please take their seats, we'll try to finish up. And we have basic -- well, basically three items to vote on from my notes on the Immokalee Area Master Plan. The first one was the percentage of preservation that's already been handled; that was voted to be delayed till further study.

The second one is the TDR issue that came up involving the transfer development rights to the -- as it sits now, the RLSA.

COMMISSIONER MIDNEY: Density blending.

CHAIRMAN STRAIN: Density blending. Okay, I'm sorry. Similar thing, density blending with the RLSA. And I guess any discussion on that?

COMMISSIONER MIDNEY: Yeah, I would just like to say --

CHAIRMAN STRAIN: Mr. Midney?

COMMISSIONER MIDNEY: -- that you're not really doing any harm by shifting the intensity out of this wetland onto the dry land. You're not impacting other parts of the county. The impact is going to be very limited and it's going to be exclusively positive. You're not going to hurt anything by taking the density out of this slough and just moving it onto dry land, and that way you're compensating the landowner so the landowner is getting something for their return. So to me it's a win/win situation. I don't see what harm you can get from doing that.

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Is there a motion?

Mr. Midney, would you like to make it?

COMMISSIONER MIDNEY: Yes, I would like to say that we approve the density blending provision that was also approved by the Collier County Commission and go along with that.

CHAIRMAN STRAIN: Okay, is there a second?

COMMISSIONER SCHIFFER: I'll second it.

CHAIRMAN STRAIN: Okay, Mr. Schiffer seconded.

Discussion?

(No response.)

CHAIRMAN STRAIN: I'll be voting no on the motion because I think realistically looking at the economic motivation, I do not see the benefit to contaminate the RLSA program by setting a precedent that encourages preservation outside the area of the Governor's order in comparison incentivizing the uses within the Immokalee urban area.

Mr. Murray?

COMMISSIONER MURRAY: Well, and I happen to agree with you. I agree with you that it belongs I think to the benefit to the community out there afraid of density blending and going into the TDR's through the RLSA. That creates a number of other problems besides, so I'm going to say no.

CHAIRMAN STRAIN: Anybody else have any comments?

(No response.)

CHAIRMAN STRAIN: Okay, we'll call for the vote. All those in favor of the motion to approve the density blending as provided for in the documents, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER HOMIAK: Aye.

All those opposed?

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Four opposed and five in favor.

Let's do that again. All those in favor of the motion, we'll have to do it by hand call. Raise your hand.

COMMISSIONER MIDNEY: (Indicating.)

COMMISSIONER SCHIFFER: (Indicating.)

COMMISSIONER AHERN: (Indicating.)

COMMISSIONER HOMIAK: (Indicating.)

CHAIRMAN STRAIN: One, two, three, four in favor.

All those against, same sign.

COMMISSIONER CARON: (Indicating.)

CHAIRMAN STRAIN: (Indicating.)

COMMISSIONER MURRAY: (Indicating.)

COMMISSIONER EBERT: (Indicating.)

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: Okay, motion fails 5-4.

Now, for the -- just so we don't have any mixup, does the County Attorney's Office suggest we do another recommendation with an affirmative form of vote for the opposite position, or how -- does anything need to be done at all or just goes forward like this?

MS. ASHTON-CICKO: I think you can go forward with the motion failed. Therefore, there's a recommendation of not going forward with that provision. I don't think you need to take another vote.

CHAIRMAN STRAIN: \*\*\*Fine, then we'll move on to the Immokalee Area Master Plan.

The Immokalee -- any discussion on the overall aspects of the balance of the master plan, other than the two issues we already voted on?

(No response.)

CHAIRMAN STRAIN: Okay, is there a motion?

Mr. Midney, it's your area, you want to try?

COMMISSIONER MIDNEY: I move that we forward this with a motion to approve to the County Commission.

COMMISSIONER MURRAY: Second.

COMMISSIONER SCHIFFER: I'll second.

CHAIRMAN STRAIN: Seconded by Mr. Murray.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

So we are done today so far with the Immokalee Area Master Plan?

Mr. Mulhere looks like he's confused and has got a question.

MR. MULHERE: Oh, I'm not confused at all.

CHAIRMAN STRAIN: I don't want to --

MR. MULHERE: Other than normal.

My client has asked me to ask this question. I don't know if you have an answer. That is: Do you have any insights on funding for the additional analysis, where that funding might come from?

CHAIRMAN STRAIN: I think you can do some pro bono work, Mr. Mulhere.

MR. MULHERE: I'm not qualified to do environmental analysis.

CHAIRMAN STRAIN: No, I don't have any information.

MR. MULHERE: I told him that would be the responsibility --

CHAIRMAN STRAIN: I can't tell you how that funding should occur. I don't even know what sources you have out there at this point.

MS. VALERA: Just as an information matter, there's a sign-up sheet outside, if anybody from the public wants to receive a notice of intent from the Department of Community Affairs. There's a sign-up sheet outside. Thank you.

CHAIRMAN STRAIN: Thank you.

\*\*\*Okay, let's move on to the last item on today's agenda. It's Item CPSP-2010-5, the Davis Boulevard/County Barn Road mixed use subdistrict.

This one's come back to us so many times, I don't even know what to think about it.

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

(Speakers were duly sworn.)

CHAIRMAN STRAIN: Okay, disclosures on the part of Planning Commission. Does anybody have any disclosures?

(No response.)

CHAIRMAN STRAIN: Okay, Corby, it's yours.

MR. SCHMIDT: Good afternoon. For the record, Corby Schmidt with the Comprehensive Planning Section.

December 14th, while considering the Davis Reserve planned unit development that I know you've seen once or twice yourselves, the county board made an agreement with -- a verbal agreement with the applicant of that PUD, and based on this subdistrict to do a number of things. Part of that agreement was that that planned unit development proposal was withdrawn from further consideration. The Board of County Commissioners agreed to have a board initiated comprehensive plan amendment, and that's what you have in front of you now, that would in some manner remove the affordable housing requirement from that subdistrict, and the commercial component.

Also, as a commitment in return for the county following through with the subdistrict or the comp. plan change, the applicants themselves would follow through with the planned unit development to go on the property next. So that's what brings me here now is that change to the subdistrict. Today it's a mixed use subdistrict. And knowing what we know from previous board discussions and previous activities, staff came up with two ways to do this. And you have both alternatives as part of your packet.

One of them -- or one of the alternatives is to rewrite the subdistrict provisions, to change it from a mixed use subdistrict to a residential use only subdistrict. And the other alternative is to simply delete or remove the subdistrict language in its entirety, along with the mapping and listings that go along with it.

To this point, although you have both alternatives in front of you, staff has recommendation for one over the other. And that is for the alternative number two in your packet, which is the deletion or the repeal of the subdistrict in its entirety. For a number of reasons, including that it's a little bit cleaner than leaving subdistrict language in the document for a residential subdistrict only. It would be the first time or it would be the only subdistrict that has residential uses only with a cap, perhaps, on the density allowed in that subdistrict.

The applicants themselves have already made a commitment to, as part of their PUD, limit their density to five units per acre so it's unnecessary to rewrite the subdistrict to do so. And staff is comfortable with the deletion of those subdistricts in their entirety.

That's it for presentation, really. I'll answer questions, if you have any.

CHAIRMAN STRAIN: Any questions of staff?

Mr. Murray?



COMMISSIONER MURRAY: Just for clarity. If we remove the subdistrict in its entirety, it reverts to the district that it was formerly. And are the units in that district appropriate, five units or four units per acre or whatever it is?

MR. SCHMIDT: Well, in the planning designation it falls back into the urban residential subdistrict.

COMMISSIONER MURRAY: Yes.

MR. SCHMIDT: If there were no rezoning taking place, you'd have whatever the zoning district allows today, and that's about 10 units.

COMMISSIONER MURRAY: So he's below that.

MR. SCHMIDT: Certainly.

COMMISSIONER MURRAY: Thank you. That's what I wanted to confirm.

CHAIRMAN STRAIN: Any other questions of Corby?

(No response.)

CHAIRMAN STRAIN: This is basically a good housekeeping cleanup issue that has been around too long. Anybody have -- Ms. Caron?

COMMISSIONER CARON: So the commitment to five units per acre is one that he made to the BCC. So we don't have to worry that a project would come back at 10 units; is that what you're saying to us?

MR. SCHMIDT: I would agree with that. There's enough history behind this where all of the parties involved have made those statements, made commitments that it's unnecessary to rewrite comp. plan amendment -- or language to do so.

CHAIRMAN STRAIN: Okay. Corby, thank you.

Ray, are there any public speakers?

MR. BELLOWS: There are no registered speakers.

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

(No response.)

CHAIRMAN STRAIN: Okay, with that we'll entertain a motion.

COMMISSIONER MURRAY: I'll make that motion.

CHAIRMAN STRAIN: Go ahead, Mr. Murray.

COMMISSIONER MURRAY: Petition No. CPSP-2010-5 be forwarded with a recommendation of approval, based on the February 17th hearing date, and all of the criteria cited, with the second recommendation as the appropriate recommendation.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Seconded by Ms. Homiak.

Is there discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

That will be absolutely the shortest one that you've had on record for a while, Corby.

COMMISSIONER MURRAY: Mike just told him he couldn't do it.

CHAIRMAN STRAIN: Oh, please.

Okay, I think that's the last item on -- well I think, I know it's the last item on today's agenda. I don't believe there's any old business other than the announcement that starting next month our meetings are at 9:00.

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: \*\*\*Okay, any new business? None that I know of.  
\*\*\*Public comment?

Corby, you're still standing there. You want to say more?

MR. SCHMIDT: Well, let me say this: No thank you.

CHAIRMAN STRAIN: Okay, is there a motion to adjourn?

COMMISSIONER EBERT: I make a motion to adjourn.

CHAIRMAN STRAIN: Ms. Ebert.

Seconded by?

COMMISSIONER KLEIN: (Indicating.)

CHAIRMAN STRAIN: Barry.

All in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER CARON: Aye.


CHAIRMAN STRAIN: Aye.

We are adjourned. Thank you all.

\*\*\*\*\*

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 4:16 p.m.

COLLIER COUNTY PLANNING COMMISSION

  
MARK STRAIN, Chairman

These minutes approved by the board on 3-17-11 as presented  or as corrected .