

January 20, 2011

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, January, 20, 2011

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

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

ALSO PRESENT:

Jamie French, Growth Management Division
Raymond V. Bellows, Planning Manager, Zoning
Heidi Ashton, Assistant County Attorney
Tom Eastman, School Board Member

CHAIRMAN STRAIN: Good morning, everyone. Will you all please be seated for a moment. Welcome to the January 20th meeting of the Collier County Planning Commission. And now that you've been seated, please rise for Pledge of Allegiance. (The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: And this is the first time, I think, that -- Ms. Homiak is usually 30 seconds early, and now you made it 30 seconds late.

COMMISSIONER HOMIAK: My load was a little heavy.

CHAIRMAN STRAIN: Yeah. It's going to be a long meeting. I think you're up next, young lady. You ready?

COMMISSIONER CARON: She's catching her breath.

COMMISSIONER HOMIAK: Okay. Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Is it on?

CHAIRMAN STRAIN: Yeah, it's on. You're on.

COMMISSIONER HOMIAK: Mr. Midney?

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Caron?

COMMISSIONER CARON: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Mr. Murray?

COMMISSIONER MURRAY: Here.

COMMISSIONER HOMIAK: Ms. Ebert?

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: And Mr. Klein?

COMMISSIONER KLEIN: Here.

CHAIRMAN STRAIN: Thank you. Addenda to today's agenda.

We have one continuance requ- -- well, actually it's been submitted to staff. It's continue Item 9B. It's the 40-foot boat-dock extension for Little Hickory Shores subdivision. I'm not going to try to pronounce the gentleman's last name. I would only screw it up.

So it's BD-PL2010-1313. Also --

MR. BELLOWS: Mr. Chairman?

CHAIRMAN STRAIN: Yes.

MR. BELLOWS: I believe that item is being continued to the next meeting in February, the February 3rd meeting.

CHAIRMAN STRAIN: Thank you.

Also, today we're going to be hearing first the Hacienda Lakes Growth Management Plan amendment language that was proposed last meeting. We continued it to today because of more information we were able to receive involving other submittals, and the discussion for the continuance was that we would hear this early, first on, and then at the end of the day review any issues relative to what we would normally do for a consent, and get that accomplished in one meeting, since this is a transmittal hearing only.

And we do have an adoption hearing that has to come forward, a PUD rezone request that's coming forward, and a DRI rezone request coming forward, all for the same project, so we'll have multiple bites at the apple in case the transmittal doesn't come through as it needs to be.

So with that in mind, let's move on. Are there any other changes or addendums to the agenda?

Planning Commission absences. Our next meeting is the one in February that -- February 3rd. Ray, are there

any -- that's the only thing I know coming up. There's nothing else in between that you know of, is there?

MR. BELLOWS: I don't see anything on the agenda.

CHAIRMAN STRAIN: Thank you.

Does anybody at this panel know if they're not going to make it to that meeting?

(No response.)

CHAIRMAN STRAIN: Okay. We'll have a quorum. Great.

Approval for the minutes, set of December 16, 2010, minutes were distributed electronically.

Is there any discussion?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to -- for approval?

COMMISSIONER HOMIAK: Motion for approval.

CHAIRMAN STRAIN: Made by Ms. Homiak.

Seconded by?

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Melissa.

All those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries. Thank you.

BCC report recaps, Ray?

MR. BELLOWS: Yes. On the January 11th Board of County Commissioners' meeting, there were two items, the SRA amendment and the development order amendment for Ave Maria. Those petitions were continued to the February 22nd Board of County Commissioners' meeting.

There were no other land-use items on that agenda.

CHAIRMAN STRAIN: Okay. Thank you.

Chairman's report. There's really nothing new other than we're still -- we've got a long agenda today. So we'll try to wade through it.

Consent agenda items. This one I -- the flood damage prevention ordinance review, that was moved to the February meeting, if I'm not mistaken. I have the old agenda. So I think that's been taken off the latest version. Yes. Then we'll go right into advertised public hearings.

***The first item up is CP2006-11. This has been continued from the January 6, 2011, meeting. It's an amendment to the CCME and the Future Land Use Map for the Activity Center No. 7, which is generally in the vicinity of Rattlesnake Hammock and 951.

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

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

CHAIRMAN STRAIN: Are there disclosures on the part of the Planning Commission?

Ms. Caron?

COMMISSIONER CARON: Yes. I had a meeting with petitioner and petitioner's agent.

CHAIRMAN STRAIN: Ms. Homiak?

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

CHAIRMAN STRAIN: Diane, did you -- oh, it was Barry?

COMMISSIONER KLEIN: Yes. On January 3rd, I briefly had a brief meeting with Mr. Mulhere and about

an hour meeting with Mr. Yovanovich.

CHAIRMAN STRAIN: Okay. And, Melissa?

COMMISSIONER AHERN: I also met with the petitioner.

CHAIRMAN STRAIN: Okay. And I met with the petitioner. I'm not sure how many petitioners. Two of them. David Torres and George Bauer, and then Richard Yovanovich, and we went over items that we're going to go over today.

And, Bob, I want to compliment you. I've been on this board nearly ten years, and this is the most complicated, hard-to-follow submittal I've ever seen. So I ask that you take that into consideration in the way you approach it, because I'm not usually too confused by these. This one did a good job.

MR. MULHERE: Well, thank you, Mark, for that compliment.

For the record, Bob Mulhere, complicator of issues. With me this morning is George Bauer, who is the owner of the majority of the property in the subject project, and David Torres, who's the applicant and project manager for Hacienda Lakes of Naples.

We have Rich Yovanovich, whom you all know as the land-use attorney; Dwight Nadeau with RWA; Amelio Robau, who is the civil also with RWA -- civil engineer on the project; Cheryl Rolph and Ken Passarella, both with Passarella & Associates, the ecologists. Owen Beitsch is the -- he's with RERC Strategic Advisors. He's an economist. And Fabricio Ponce with Tindale-Oliver & Associates. Did I forget anybody?

Okay. Start out with just a little bit of background, because I know that many of you are familiar with this process. There's a couple of newer members. I just want to start out with a little bit of background.

As Mr. Strain indicated, this is the first of multiple bites at the apple, because this is a DRI, a development of regional impact. It's also a PUD -- a development of regional impact. The statutes allow you to ask for Comprehensive Plan amendments outside of the typical cycle of twice a year that each county is allowed, but a Comprehensive Plan amendment is a two-step process.

And the first step is the transmittal process. So the local government reviews the Comprehensive Plan and makes a -- determines whether they want to transmit the amendment to DCA, and then transmits it to DCA, and then DCA will review it and provide an Objection, Recommendation, and Comment Report.

When we come back with the PUD zoning, the DRI development order, and also for adoption of this, you will -- you will have, you know, as part of your consideration, any comments that DCA would make, so that's the process.

Of the four -- I think the staff report breaks it into six amendments. We consider it four, because a couple of the amendments require a change to multiple sections of the Comprehensive Plan, but basically they deal with the same issue.

Of the four, three of them have staff recommendation for approval. So I'm going to try to go briefly over those three after I do a little bit of project -- initial project identification. And then I'll -- the last one is the one that we do not have staff support on, and I'll spend a little more time on that one.

The -- as was indicated, the subject property, north being this way, this is Collier Boulevard, this is Rattlesnake Hammock extension, and the property is outlined in yellow on that aerial.

The project contains a total of 220,062 -- slightly above that -- acres. One thousand, six hundred and thirty-seven of those acres are in the rural fringe sending lands subdistrict. Six hundred and twenty-five are in the urban residential fringe mixed-use district, including the activity center acreage.

At -- as we're still working through the PUD zoning review with staff, some of these numbers may change, but at this point we have proposed to preserve 1,543 acres. The majority of that preserve acreage is within the NRPA sending lands designation.

The adjacent properties to this property include the Willow Run Quarry to the north. There are vacant and -- as I said, habitat -- important habitat lands to the east. There's the Hammock Park Commerce Center and the Collier Regional Medical Center, and First Assembly's education and rehab adjacent to the property, and also the Rockedge PUD to the west, and Winding Cypress and some other vacant lands are to the south.

The subject property is currently zoned ANPUD, and it includes the existing Swamp Buggy Days PUD and also the Junior Deputies property.

So what we're asking for in the zoning, not related to this, but just by way of background -- not related to the comprehensive plans, but by way of background, is 170,060 residential dwelling units, a maximum of 375,000 square

feet of convenience, general and specialty retail, 70,000 square feet of office space, we would include a 135-room hotel, a maximum 40,000 square feet of business park use, and the project also includes a public elementary school site, and as I said, the Swamp Buggy Days and the Junior Deputies property.

So let me just move into the whole -- the first proposed amendment, which deals with amending the Comprehensive Plan to allow us to be able to utilize all of our eligible TDRs. And I want to talk about what I mean by eligible.

CHAIRMAN STRAIN: Bob?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: One thing that might help the board as a whole, we used to -- we see many Growth Management Plan amendments that are site specific. When a project comes in and wants to have a specific GMP that's for their area along a certain roadway, they'll come and it will be -- we can tailor then the language within that site-specific application to that project, and it becomes somewhat of a small overlay.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: This one's not being done like that. Can you explain the differences?

MR. MULHERE: Well, actually, when I first wrote the amendment and submitted it, I had used some language that would have narrowed it down, I thought, to really, effectively, this property, but there were some concerns expressed by -- initially, I think, by members of the -- by the Conservancy, and also I think staff expressed some concerns. And then we went to the EAC. The EAC, a certain member also expressed some concerns.

But anyway, we had changed -- based on staff recommendation, we had changed it to specifically reference the project, but the reference that we used was problematic, because we referenced the PUD and DRI directly, which would have caused -- potentially caused problems if we had to change anything in the PUD requiring us to go back and change the Comprehensive Plan and -- potentially, and that was raised at the EAC meeting.

So since then we have prepared the legal description that will describe the property that we will insert, as we have done on other similar Comprehensive Plan amendments, so that legal description, which will be referenced in the Comprehensive Plan, will now effectively limit all of these amendments to the subject property.

CHAIRMAN STRAIN: Okay. I'll wait till you finish your presentation. That didn't answer my question, but I'll --

MR. MULHERE: Oh, I'm sorry then. I misunderstood then. I apologize.

CHAIRMAN STRAIN: No, that's okay. I think I'll wait -- I'll wait till we get further into it.

MR. MULHERE: Okay. I apologize.

CHAIRMAN STRAIN: It just would -- still, like I said, this was confusing to review, and I think part of the reason was what I'm trying to get at, but I'll let you finish with your presentation. Maybe it will clear itself up.

MR. MULHERE: Okay. I'm sorry if I misunderstood.

The rural fringe mixed-use district -- and I was with staff as the planning director when we began that process, and then after I left the county in 2001, I was hired as the -- to continue in the consulting position as the lead planner for that process.

During the committee meetings, a representative of some landowners came in and suggested that there should be a variable TDR rate, that lands closer to the urban boundary on the exhibit you see -- this is Collier Boulevard and this is the urban boundary.

The argument was made that the lands closer to the urban boundary in the sending lands were of -- should be of higher value. They were more likely, in this argument, to be under development pressure. They should have higher value and, therefore, they should have a higher TDR ratio. That argument was never supported by the committee and never was supported by the Planning Commission or the board as the program was adopted.

But what was supported was a delineation of a one-mile area from the urban boundary moving east where, if you wanted to use TDRs in the urban residential fringe, you would have to use TDRs from the sending lands within one mile of the urban boundary.

And it was thought that because there would be demand to develop within the urban area and the urban residential fringe, that would allow those TDRs to be consumed quicker, and that would be reflected in the market in terms of their value. So that -- that was the basis for that one-mile TDR boundary.

As we all know, for whatever myriad of reasons, including a significant economic downturn, the demand for the TDRs never really surfaced. There was some initial flurry of activity in the purchase, but it never really surfaced.

This project contains 187 -- approximately 187 TDRs that fall within the one-mile area, one mile, you know, east of the urban line, so there are 187 TDRs that are qualified that can't be used because the Comprehensive Plan limits the density in the urban residential fringe to a maximum of 2.5 dwelling units per acres; 1.5 base, and an additional 1 for easement TDR from those qualifying lands that you send in.

Because this is a master plan development, a DRI, and a PUD, it presents an appropriate opportunity to use those TDRs. It's all under one ownership. And so what we proposed was to increase that cap to allow us to use part or all of those 187 and change additional TDRs, and to do that we asked to increase that transfer amount from 1 unit per acre to 1.3, rising the total amount that's allowed from 2.5 to 2.8. So that's the first of the amendments.

The second proposed GMP amendment seeks to amend the density blending and the conservation coastal management element with respect to the native preserve requirement in the urban area.

We had multiple meetings with the Conservancy, the Florida Wildlife Federation, and Collier County Audubon Society as we developed this project. And just so you understand, this project goes back quite a number of years, not in its present form, but in previous iterations.

So those folks have been familiar with this project and were very much desirous of being involved in it. And the applicant, you know, embraced that involvement. And, in fact, we even had some -- they even actually developed a few plans and shared their ideas with us, and we incorporated many of their ideas into this plan.

But primarily their concern was to minimize any impacts, as much as possible, to the east where those lands are close to the Picayune Forest and Florida panther reserve, and we did that. We changed the plans several times based on their input.

And one of the things that we asked of them was, if we were to minimize the development east of the urban boundary that we were entitled to do, in our opinion, through the density-blending provisions, but if we, nevertheless, minimized that development and took out a lot of the development that we had in there, we needed to have some flexibility in the amount of preservation in the urban area, which was of lower quality, significantly lower quality anyway.

It was patchwork, and it was of lower quality. And the higher-quality NRPA sending lands were paramount.

And in our discussions with those organizations, they supported that idea. We then prepared some language that would allow us to reduce the native preservation in the urban area, which the requirement is 25 percent in the urban area -- and to be able to reduce that down to whatever amount we could preserve.

And in mitigation for that, the language would require us to reserve an additional two acres. For each acre we didn't preserve of the required 25 percent of the urban area, an additional 2 acres would be preserved in the NRPA sending area above and beyond what the code requires, and the code requires 60 percent of the native vegetation in the NRPA -- in the sending lands to be protected.

So above and beyond that 60 percent, to be able to reduce our urban requirement, we would preserve on a two-to-one ratio. Again, staff did support that.

The required native vegetation in the urban area would be 72.44 acres. At the present time our site plan preserve 47.25 acres, which I think translates to 65 percent of the requirement.

Staff supported that, EAC supported it, and that, I think, is a summary of that amendment.

The next amendment -- I'm trying to see here -- deals with connection to the business park. And the code language is very similar to the language that exists in the RV section dealing with RVs. It says that you have to have a direct connection to an arterial roadway.

And I'm looking for the exact language here. Right here. It says, when located in a district other than the urban industrial district, the business park must have direct access to a road classified as an arterial in the transportation element.

And that came up with respect to, as I said, a different project, but an RV project, and it was determined that that access could be through a connecting road, as long as that connecting road didn't provide primary access -- access to a primarily residential area.

And our proposal was to use The Lords Way, which does not provide access to a primarily residential area to access Collier Boulevard. Staff supported that. The debate then became what exact language did we use. Did we use the general language that was already in the code as it related to the same issue with the RV park, or did we do something more specific? And staff supported and wanted something more specific, so the language that we proposed is as follows: "That when located in a district other than the urban industrial district, the business park must

have direct access to a road classified as an arterial in the transportation element, except that a business park in Section 14, Township 50, Range 26 East may have access to an arterial road via The Lords Way."

Now, our proposal was that there was a period after The Lords Way, and that was the end of it. The staff recommendation added some language, and it reads as follows: "If the design and construction of new roadways and improvements or extensions to existing roadways providing said access are commensurate with the standards for accommodating industrial and nonindustrial traffic and consistent with other applicable policies of the transportation element."

That last phrase, we don't disagree with it, but we don't think it belongs in the Comprehensive Plan as something we will deal with through the zoning process. And of course we'll have to meet whatever the standards are. We always do have to meet whatever the standards are for such design and construction. So we don't understand where all that additional language is necessary. Something for you to consider.

MS. ASHTON: Mr. Chair, I believe staff has agreed to the removal of that language after the word "Lords Way," but that can be discussed later.

MR. MULHERE: Okay. Well, I was surprised. I'm sorry.

CHAIRMAN STRAIN: Okay. That's a problem easily resolved, isn't it?

MR. MULHERE: That -- that brings us to the last amendment, and that's the one that, at this point, we don't have recommendation of support, or support from staff.

And this -- this is a recommendation -- that's a little bit hard to see, but I'll just walk through it -- to reconfigure the quadrant of the activity center here within our property to recapture 9.16 acres that was sold to the Physician's Regional medical center for development of the hospital.

There are a couple of reasons that we think support that, and I'm going to go over a couple of them, and then I'm going to ask Mr. George Bauer to come up and discuss his historical perspective on this issue.

Activity centers were generally, historically configured around major intersections of arterial roadways with 40 acres in each quadrant. Over the years -- and they were intended at the time they were adopted to be mixed use, but there was no requirement for mixed-use development. There is now, in mixed-use commercial activity centers, a requirement for some residential component, and we have that within our plan, but at the time they weren't -- that wasn't required. But nevertheless, some of the activity centers did develop with residential uses.

And in this particular exhibit, the hatched blue area, which is a little bit hard for you to see the color, but here and here are residential.

The other areas that are shown in a red hatched area are commercial undeveloped, approved, or potential commercial.

The green area -- what's unique about this activity center, at least from one perspective, from my perspective, one of the unique aspects is, you have a substantial easement that runs -- power line easement that runs through the property.

And, for example, in this quadrant alone, that equals almost -- very close to five acres of land that is unusable for development purposes.

You also have substantial right-of-way and an additional 1.64 acres that we will give up for the extension of Rattlesnake Hammock. The point that I'm trying to make is that the actual developable area of this activity center, and particularly of this quadrant, is significantly less than the 40 acres. There's 22.25 acres in this area right here.

What we're proposing to do is take the 9.1 acres and reconfigure it such that it becomes part of this activity center, the 9.16 acres that the hospital sits on, and reconfigure it such that it becomes part of this activity center. We would not be increasing the intensity or size of the activity center, from one perspective, that being that the hospital did not need the activity center acreage for that use. I mean, it was sold to them and they used it, but they did not need it. You can locate a hospital in Collier County. It doesn't have to be within an activity.

And moreover, you can have the ancillary medical uses within a quarter-mile boundary of that hospital without being located within an activity center.

So we think it makes a lot of sense. And I'd like to ask Mr. George Bauer to come up and explain the historical perspective, because I think that's very important.

CHAIRMAN STRAIN: Bob, just out of curiosity, what would be the total acreage in quadrant of that activity center if this was approved?

MR. MULHERE: I have that -- I have that. I'll get it for you -- 49 acres. Yeah. Not all usable though, like I

said, because of the FP&L power line in the right-of-way. But total acreage under the boundaries, about 49 acres. Significant amount, probably 9 acres, unusable.

CHAIRMAN STRAIN: Mr. Murray?

MR. BAUER: Thank you, Bob.

MS. ASHTON: Let me just make --

CHAIRMAN STRAIN: Just a second.

COMMISSIONER MURRAY: Mr. Bauer, could you just hold a second, please.

Robert?

MR. MULHERE: Yes.

COMMISSIONER MURRAY: I just need to understand something. That area that is the power line there.

MR. MULHERE: Yeah.

COMMISSIONER MURRAY: Where was the Benfield -- proposed Benfield Road? Was that part of that area?

MR. YOVANOVICH: Further east.

MR. MULHERE: Further --

COMMISSIONER MURRAY: Further east?

MR. MULHERE: Further to the east, yes.

COMMISSIONER MURRAY: Okay. So that property -- I remember that being pertinent in some fashion. Okay. Thank you.

CHAIRMAN STRAIN: Okay. Heidi?

MS. ASHTON: I just wanted to clarify what Bob said regarding the area not being usable. I think he's referring to it not being usable for buildings, because it is usable for water management, parking, and a few other purposes.

CHAIRMAN STRAIN: Thank you.

MR. MULHERE: Well, actually it may be usable for water management, if they gave you the approval to do that, and they might. For parking, it's only allowed for excess parking, not for required parking, because they're not -- they're not willing to allow you to put your required parking there if they demand to have it removed.

CHAIRMAN STRAIN: Yeah, but it's usable to the hospital, correct?

MR. MULHERE: For access, and so on and so forth, yeah. Not for parking. Their parking -- they don't have their required parking within that easement.

We're going to make it a little smaller so you can see it. I know that this is going to be a little bit hard --

CHAIRMAN STRAIN: You've got to use the mike, Bob.

MR. MULHERE: I know that this exhibit will be a little bit harder for you to see because typically it would be landscaped and turned the other way -- but to get it all on the screen. So it's a little bit oriented, you know, sideways, but I think if you look at the bottom, you can see where -- George, why don't you show them.

MR. BAUER: Yes, indeed. Let me put you -- thank you for your attention. Let me put you in perspective here. This is the extension of Rattlesnake Hammock, and this is Collier Boulevard.

Some time ago I bought 122 acres from Craig Eagle. You may recall they called it the "Great Eagle Property" back then.

And in 2003 the hospital was looking for a site to build a 100-bed-expandable-to-300-bed hospital in Collier County. And they had several sites that they were considering, one of which was mine, and it would go here in this area. And I was going to sell them 53 acres, and it would have been right next to the activity center.

When they designed the hospital, they discovered that they wanted to put a very large driveway in front of it here, and they actually wanted to put their emergency room north of the hospital itself. And they asked me if I would allow them to use the 10 acres of the activity zone so that they could accomplish what they wanted to. By the way, they also put a medical office building back here, you may recall. And it's presently constructed, as a matter of fact. It's a very lovely building.

I sold them the land for two reasons. One, I thought it would be a good amenity for the ultimate development and, two, I have a place on Marco Island, and I thought it'd be nice to have an emergency room 10 minutes from me as I grew older, which I have, indeed. And I'm delighted that this facility is there, as a matter of fact.

For reasons that I will explain in a moment, I gave them this 10 acres under the assumption that I would be

able to put 10 acres here beyond -- and I will discuss that in detail in a moment -- and, indeed, that's what happened. They got a PUD for this property. They built the hospital. They built the emergency room. This is a bridge across the canal and into 951 and, indeed, they have a driveway, and the 10 acres are being very well used.

The question is, why do I think -- at the time why did I think and why, by the way, I still think that this is a legitimate 10 acres? At the time, a fellow named Mike Taylor was working with me, and he went to the county and got the regulations for me to read, and the county gave him the regulation.

And as I recall, he -- the county said, after reading the regulations, they didn't think there was a problem. I read the regulations in detail, and I don't think there is a problem, which I will now try to explain.

First of all, there's a section in the activity-zone regulation that calls out a master plan activity center. There are spelled out five of them and, sure enough, Rattlesnake Hammock and Collier Boulevard is one of them.

It says, in recognition of the benefit resulting from the coordination of plan and uses and coordinated access points to the public road network, master-planned activities are encouraged through mixed-use activity centers. The boundaries of master-planned activity centers depicted on the Future Land Use Map are understood to be flexible and subject to modification as provided for below.

There are four criteria. The first is, The application shall have unified control. Unified control, indeed, is defined as over 51 percent of that quadrant and, since I own the whole thing, I seem to qualify.

Secondly, the allowable land use for a master plan activity center will be the same as for the other designated activity centers. And I propose to use this activity center as the other activity centers are used.

The third criteria is, the location and configuration of all land uses within the master-planned activity centers shall be compatible with and related to the existing site features surrounding the developed entity they are. We have access both to Rattlesnake Hammock extension as well as 951.

And the last criteria was, The adjacent properties within the activity center that are not under the unified control of the adjacent -- of the applicant shall be considered and appropriately incorporated. And as a matter of fact, when I did the deal with the hospital, we have in the covenants specific ingress/egress to the activity center from their property.

As a matter of fact, I negotiated in that contract the fact that they can only have a pharmacy in-house in the hospital, which will allow me to put a Walgreens on the corner of this activity center so that people can get their prescriptions serviced if they're outpatient at the hospital.

So I would suggest that if any of you were me in 2003 when you were deciding whether to let the hospital have the ten acres and complete their building appropriately, I would suggest you would have come to the same conclusion I did, and that is that boundaries were flexible and that, indeed, I could use the ten acres as I've suggested.

Thank you.

COMMISSIONER MURRAY: I have a question of Mr. Bauer.

CHAIRMAN STRAIN: Mr. Murray?

MR. BAUER: Yes.

COMMISSIONER MURRAY: Sir, would you go back to your exhibit.

MR. BAUER: The map?

COMMISSIONER MURRAY: Your exhibit, the handwritten --

MR. BAUER: Yes. I did not go to architectural school.

COMMISSIONER MURRAY: Oh, that's fine.

MR. BAUER: It's not bad.

COMMISSIONER MURRAY: I note that you have the ER separated from the physical plant of the entire hospital, but that's not, in fact, the case, is it?

MR. BAUER: No. It's a separate building. It sits in the middle of the 10 acres.

COMMISSIONER MURRAY: The emergency room to the hospital?

MR. BAUER: Uh-huh.

COMMISSIONER MURRAY: That's interesting. I'm not going to do battle with you on that. Thank you.

CHAIRMAN STRAIN: Mr. Bauer, I have one question.

MR. BAUER: Yes.

CHAIRMAN STRAIN: On this page here, how much of that 40-acre tract left do you own? I mean, it's not 40 acres now. It's 40 minus 10. So how much of the remaining tract after the ten was sold to --

MR. BAUER: All of it, all of it. Just to review, this is now 40 minus 10 within this boundary. This is the 10 that I'm suggesting I thought I could use. And when I gave them the 10, I -- originally the contract was 53. I moved it to 63. So that's what those numbers are.

CHAIRMAN STRAIN: Okay. I just wanted to make sure that you still own greater than 51 percent of that quadrant.

MR. BAUER: I do indeed, and, therefore, I do match the criteria.

CHAIRMAN STRAIN: Thank you. Brad?

MR. MULHERE: Just -- we're using round numbers, but the actual number is 9.16.

CHAIRMAN STRAIN: Yeah, I understand.

Brad?

COMMISSIONER SCHIFFER: Question. Just understand, then we will take the hospital's 10 acres out of the activity center?

MR. BAUER: That's what I'm -- that's what I thought was going to happen.

MR. MULHERE: Yes.

MR. BAUER: They got a PUD with that as a hospital piece of property.

MR. MULHERE: I apologize. No, we would leave that in. We would leave that in the activity center. We're not going to change the designation on their property. We would just -- it's not being used for activity-center use. It's being used for the hospital use. It's got limitations on its ability to use -- for other retail uses, so we would then just add the 9.16 acres to the north of the existing activity-center boundary.

CHAIRMAN STRAIN: That does bring up an interesting question though. You just said for other retail uses. What uses can go on that 10 acres beyond the hospital use? Because I don't remember that -- I mean, we did the PUD.

MR. MULHERE: The PUD?

CHAIRMAN STRAIN: I just don't remember the language of that old PUD.

MR. MULHERE: My -- I'd only be speaking from recollection, because I don't have the PUD. Perhaps we can get a copy of it and let you know.

CHAIRMAN STRAIN: But I think -- and, Brad, you were probably heading in this direction. But if you move this 10 acres to the activity center and increase it, yet that other 10 acres could be modified at sometime in the future by the hospital using activity center uses on it, you've actually expanded the activity center by another 10 acres instead of maintaining the original approximate 40-acre configuration.

MR. MULHERE: That's true. But, again -- and we don't expect that the hospital's going to go away. It's going to be there. And --

CHAIRMAN STRAIN: No.

MR. BAUER: With respect, the regulations specifically say that the boundaries can be changed. We've essentially changed the boundaries and made 40 acres now without the hospital, if you read the language.

CHAIRMAN STRAIN: Okay. But don't you have -- you said you have covenants with the hospital.

MR. BAUER: I do have covenants in terms of access to the activity center, which is required in the regulation, yes.

CHAIRMAN STRAIN: Okay. As the selling property owner and as a property owner who has significant investments adjoining the property you sold, did you -- do you have any other restrictions or covenants with the hospital and to where or how they locate uses and what uses they use on that property?

MR. BAUER: Did not, simply because I was reading the regulations, and it said I literally take the boundary of the 40 acres and shift them. I never even thought I was selling 10 acres of activity center to the hospital.

CHAIRMAN STRAIN: But what you're doing is you're not taking the boundaries and shifting them. You're increasing the boundary. So you're still leaving the 10 acres in the south side part of the activity center, and you're adding another 10 acres to the east; is that a fair assessment?

MR. MULHERE: Yes, it is. And then --

CHAIRMAN STRAIN: That's a little different than I think we were trying -- we were understanding it to begin with, so --

MR. MULHERE: Well, I -- I mean, I just want to -- I don't -- this was discussed with the hospital going back, but the hospital -- the hospital staff has changed, the folks that George talked to originally aren't there anymore,

so -- there was one -- by the way, I want to say there was one covenant, and that covenant was -- or restriction was related to the drugstore use, which would be the most obvious use that the hospital would put on their property, external, you know, retail drugstore, and that's not permitted. It has to be within the hospital.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Yeah. Could you put up a current aerial photograph?

MR. MULHERE: Yeah. I'm just trying to see one that will be easy -- I don't know what you're looking for, so --

COMMISSIONER SCHIFFER: And then zoom in on the hospital a second.

MR. MULHERE: Getting there?

COMMISSIONER MURRAY: No. We've got to go further south.

COMMISSIONER SCHIFFER: I think the -- what I was looking for is the emergency -- that site. Can you show us that site blown up?

MR. YOVANOVICH: That's as close as we can get it, but you can see the emergency room on our southern boundary and their northern boundary.

COMMISSIONER SCHIFFER: I do see it. What would be the problem of taking that 10 acres out, you know, since Bob's initial answer was "yes"? I mean, he's confused.

MR. MULHERE: No, I'm not confused. I just misunderstood the question. We never proposed to take their property out of the activity center.

COMMISSIONER SCHIFFER: Well, what would be the problem in doing that?

MS. ASHTON: We need the owner's participation in that.

COMMISSIONER MURRAY: You bet you.

MR. YOVANOVICH: Yeah. We -- if I may? We -- there has been a change in leadership at the hospital. And I can assure you that I've known George for a lot of years, and he's a very bright man. Had he thought that that language was an issue where he would have to have permission to move that 10 acres, he would have kept that -- he would have put that in the contract with the hospital, like he did put the restriction that you can't have a drugstore on the hospital property. He kept that right.

He thought this language was clear that he had the right to move that 10 acres. We have been told that we don't have the unilateral right, even though we meet that criteria, to move that 10 acres.

The hospital has consented to our application to add this additional acreage to the activity center, so they're -- obviously they're -- they don't have any concerns about the competition for this extra 9 or 10 acres for retail uses, yet the current administration is not ready to say, "Take away the 10 acres from us."

So we've gone the amendment route of adding the 10 acres to the activity center. But from a practical standpoint, we're really not adding 10 acres. Even though the mathematical number increases, the actual utilization doesn't, because I can't imagine the hospital's going to remove the emergency room from that property.

So the request is to add the 9.16 acres, rounded up, to a total of 49.2, I believe it is, for that quadrant. But that's how we historically got there and are adding nine acres and not subtracting and moving it unilaterally, because we do not have a document from the hospital allowing that to occur.

COMMISSIONER SCHIFFER: And did you discuss this with the hospital and they weren't --

MR. YOVANOVICH: They -- they're doing like I would do in an after-the-fact situation. I would say, let's keep it just in case, but we don't have any objections to your going and getting an additional 9.2 acres in the activity center. Because they're different people, they're different people than we dealt with originally.

MR. MULHERE: And that was why I put this exhibit up here, partly, because if you -- if you look at the easement which restricts the usable acres and you include adding the additional 9.16 acres, it's actually 7 point -- 7.9 -- I can't read that -- 7.55 acres of actual usable area added to the 22.26 acres of existing usable area within the activity center.

So you really are not significantly increasing the size -- usable size of that activity center beyond the 40 acres that each quadrant was intended.

CHAIRMAN STRAIN: The point though is, Bob -- and I've reviewed this with you on a one-to-one; so I -- and I was under -- I did not understand it the way Brad asked the question. And when that answer came, it now is a different scenario.

And, Richard, you're not moving 9.45 acres, or whatever the number is. You're adding it. You're still -- the

hospital still retains that acreage within the activity center to whatever uses are allowed within their PUD.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. So it's not being moved. It's just -- we're increasing the activity center, period. We're not moving and deleting the uses that are in that 10 acres.

MR. YOVANOVICH: We have -- correct. The activity-center acreage in that quadrant is going from 40 to 49.2 acres.

CHAIRMAN STRAIN: Fifty, approximately, yeah.

MR. YOVANOVICH: But, you know, fifty -- whatever the -- yes. We are increasing the mathematical size of that activity center. But as we explained, the hospital did not need to be an activity center, and their current PUD uses, I understand, are not typical activity center PUD uses. And their actual physical use of the property is not for -- it's not going to be activity-center uses.

So from a practical standpoint, we believe we're not increasing the size, although, mathematically, we are.

CHAIRMAN STRAIN: Okay. And I understand that, but I think what would help clear it up is, while we're discussing this -- and it's probably going to go on for quite some time -- Ray, if you could go to the ordinance section of Laserfiche and pull up the hospital PUD. And just the permitted uses they have -- it's probably all on one page, and then put it under the overhead when you get a chance, or whoever has a computer in staff could do that for us, that would be -- I tried it here, and these things are running like mud this morning. I can't get anything to pop up, so no sense even trying with these computers. So maybe staff can do it for me.

MR. YOVANOVICH: We'll get that, then we can --

CHAIRMAN STRAIN: Then at least we can see if there's any --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- theoretical threat. And if the hospital has nonessential uses in regards to the activity center, that means they'd have to come back for a rezone, and we could deal with it at that time.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: So that would kind of help get that issue moving forward.

MR. YOVANOVICH: Great. That's a great idea.

MR. BAUER: Could I just -- I don't need a microphone. Could I just close with one --

CHAIRMAN STRAIN: Yeah, you do need a microphone, sorry. It's for those listening outside the room.

MR. BAUER: I'm sorry. Is it on?

CHAIRMAN STRAIN: That's the other trick.

MR. BAUER: With respect to my dear colleagues, let me, once again, say that if you read the regulation, it encourages the movement of lines of the 40 acres of activity center encourages to accommodate surrounding other parts of the master development.

And when I read that, I do believe if you read it, you would suggest that you can move those lines as you choose as long as you meet the criteria, which I did.

And I know my other friends have some other views, and I'm not even supposed to make this last comment.

CHAIRMAN STRAIN: And I don't think the question was on any of that issue, more or less on what we're actually doing. I never saw it as an expansion without a deletion. I saw it as -- and the move is what I didn't see in the way that that's now being described. You're not moving it. You're just expanding it, and both areas have the potential to still be part of the activity center and, therefore, the uses become important on what's remaining in the hospital piece. And that could be solved simply when the PUD gets to us.

Okay. If there's no questions, we've still got more presentation, I would assume.

MR. YOVANOVICH: No. I think we've -- unless you've got specific questions on the first --

CHAIRMAN STRAIN: Before we go to specific questions, I'd like to ask you one more favor in trying to understand this simple application. You have six parts to your request.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: During your discussion, I tried to make notes to boil it down to what it is you're asking for in each part.

MR. YOVANOVICH: Sure.

CHAIRMAN STRAIN: I come down to four issues, but I know there are six parts. So the first issue, you're asking for a density increase.

MR. YOVANOVICH: From 2- -- yes, from 2.5 to 2.8.

CHAIRMAN STRAIN: And you're looking for an approval for a change in the way you do preservation.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: And you're looking for an approval for Lords Way as an access right to a business park.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: And you want to add -- want to add acreage to the activity center that was previously utilized by the hospital PUD.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Are there any other things in those six items that you're asking for that aren't included in those four?

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Okay. That brings it down to a much simpler task to understand and ask questions from.

So with that in mind -- and I hope that helps the Planning Commission -- are there any questions at this time of the applicant? We could always certainly hear staff, and then after we get totally confused between all of them, ask questions of anybody we want.

But, Paul, go right ahead.

Oh, Heidi.

MS. ASHTON: There was -- there was an additional component in the application and in the language. I'm not sure what draft of the language you-all have. So we probably need to make sure we're all on the same page.

But with respect to the native vegetation change, the proposal was also -- there's a project-area limitation of how much sending area can be used. So the maximum is 60 percent. And they were proposing to increase that number.

I don't know if that's still on the table.

MR. YOVANOVICH: What -- no. The native vegetation amendment basically says, for each acre in the urban area that we impact above -- to reduce where we don't meet the 25 percent, for each acre that we impact, we retain two additional acres of NRPA. And we had sent some language to make it clear that it was NRPA sending lands that we would retain in exchange for impacting urban area native vegetation, and that would be above the maximum 60 percent that code requires.

So there would be 2 acres of NRPA land above the 60 percent that's already required in the rural fringe sending land designation under the density-blending provisions.

CHAIRMAN STRAIN: And I kind of lumped that into the preservation-quantity issue.

MR. YOVANOVICH: Right, yes.

CHAIRMAN STRAIN: Yes.

MS. ASHTON: Right. It's in that same component, but it wasn't discussed that it was exceeding the maximum, so I just wanted to make sure everyone understood.

MR. YOVANOVICH: Yep.

CHAIRMAN STRAIN: Paul?

COMMISSIONER MIDNEY: Yeah. This change in the way you want to do preservation, is this in our regulations now, or are we kind of modifying things or making things up for this development?

MR. YOVANOVICH: We are modifying it for this particular development. And as Bob explained, we had several master plan iterations under the PUD, which one included relocating the Swamp Buggy out into the rural fringe mixed-use area, and we had some residential development areas in the rural fringe mixed-use sending areas, which we can do under the density-blending provisions in the comprehensive plan.

We had meetings with the Conservancy, Florida Wildlife Federation, and Collier Audubon, they said, if you -- We would like you to pull as much of the development out of the rural area and into the urban area.

And we said, in order to do that, we're not going to be able to meet the required 25 percent. Our collective group said, okay. Let's propose a Comprehensive Plan amendment to reduce the native vegetation requirement for this project in the urban area so we can pull development out of sending lands and back into the urban area.

And as Bob had explained in response to Commissioner Strain's question, staff's language to you basically

would allow it to apply -- these provisions to apply to lands within the urban residential fringe.

Our language originally said it will be limited to the Hacienda DRI PUD. We propose that we add to both of those sections, the native preservation and the -- and the increased density sections, the legal description of our urban property. So it says that you can only do this reduction in native preservation for our legally described property, and you can only bring the density in to our legally described property, similarly to the language you did for the affordable-housing density bonus for property in the area. You said, you can have in the urban residential fringe an affordable-housing density bonus but only on this legally described property.

So we would do the same consent here to make it very specific that these amendments are for this -- this piece of property only and not globally applicable. That's -- we proposed that kind of language.

COMMISSIONER MIDNEY: And it's legal to do that through a Comp. Plan amendment?

MR. YOVANOVICH: Yes. You've done it in the past. And it's similar to a subdistrict, as Mr. Strain explained, but not a subdistrict.

COMMISSIONER MIDNEY: And another question I have, I was a little bit confused, Bob, when you were talking about, which are the lands that are more valuable to preserve, the ones in the NRPA or the lands that are closer in?

You talked about the lands within a one mile -- one mile of 951 being granted a higher TDR ratio to discourage development of sending lands closer in because they were under greater development pressure. So what is our priority, the NRPA land or the lands that are closer in?

MR. MULHERE: And if I could, what I said was that someone wanted a higher TDR ratio. What I also said was, that was never approved or accepted or adopted. What was adopted was this one-mile band east of -- excuse me -- east of the urban boundary, and that's the area where you have to get your TDRs. That's the qualifying area, if you're going to use them, within the urban residential fringe.

If you look at this map, to answer your question, the orange reflects sending lands. And the vast majority -- not all, but the vast majority of the project sending lands are NRPA. And let me -- we use that term, but let me -- natural resource protection area. They are deemed to be the highest value natural lands in Collier County. There are several natural resource protection areas.

By virtue of that, they have a very high native-preservation ratio. So it made sense to us and it made sense to the nongovernmental en- -- and to staff as well, that we do everything that we could to maximize the preservation of those NRPA sending lands and all sending lands, and that in order to do that, since we could develop in that area using density blending -- but in order to do that, we be given some flexibility as it relates to preservation in our urban portion.

COMMISSIONER MIDNEY: And the crosshatched areas, are those NRPA lands?

MR. MULHERE: No. This yellow crosshatched is the urban residential fringe.

COMMISSIONER MIDNEY: Oh. I'm sorry. The ones on the right.

MR. MULHERE: Oh. These are showing lands that aren't within the one mile that -- we can't use those TDRs. So we also have lands that we can't even utilize the TDRs from, and we're not asking to be able to utilize those.

COMMISSIONER MIDNEY: And why can't you utilize those TDRs?

MR. MULHERE: Because they're not within one mile of the urban boundary. They're not qualified.

COMMISSIONER MIDNEY: Oh, I see. Thank you.

CHAIRMAN STRAIN: Okay. Melissa, then Brad.

COMMISSIONER AHERN: Of the 49 acres -- I understood that you were adding it. Of the 49 acres, how much of that is actually usable? Because I was considering the amount that you're losing on the FP&L easement side. So what -- what does that bring it to?

MR. MULHERE: Including the hospital acreage or excluding the hospital acreage?

COMMISSIONER AHERN: The 49 acres is including it, correct?

MR. MULHERE: Okay.

MR. YOVANOVICH: If you include -- if you include the hospital acreage, we have approximately 330 net usable acres today. If you add the 9.2 acres, you're at 39.2 net usable acres with our amendment.

COMMISSIONER AHERN: Okay. Still within the 40.

MR. YOVANOVICH: So we're still within the 40 usable acres that I think was always contemplated when

these activity centers were set up. They were supposed to be 40-acre quadrants. So we're still within that number, even with adding the 9.2 acres.

COMMISSIONER AHERN: Okay.

CHAIRMAN STRAIN: Okay. Brad?

COMMISSIONER SCHIFFER: Yeah.

Bob, on this drawing you have in front here --

MR. MULHERE: Yeah.

COMMISSIONER SCHIFFER: -- is that all the units eligible, or -- in other words, I'm a little confused.

You have arrows coming out of two parts of that boundary, and then --

MR. MULHERE: The exhibit just shows two arrows to show that the -- all of the lands that are not hatched that are within the orange that are within our project are within one mile of the urban boundary and can generate eligible TDRs.

COMMISSIONER SCHIFFER: Okay. So would you add those two arrows together to get the maximum you're allowed or --

MR. MULHERE: Yeah. The max- -- we have that number, but for all --

MR. YOVANOVICH: Yes.

MR. MULHERE: To answer your -- yes, the answer is yes. And there's 187 TDRs that, without this Comprehensive -- that are eligible that, without this Comprehensive Plan increasing to 2.8, we wouldn't be able to use.

COMMISSIONER SCHIFFER: And then on the 2.1 swap, would that remove that acreage from TDRS or what?

MR. YOVANOVICH: They would become TDRs. We would be required to immediately take the first two levels of TDRs off, which would be the early entry and the regular-based density in order to be able to use those eligible units within our project.

COMMISSIONER SCHIFFER: But you would maybe want to do that anyway, right? I mean, are you -- are you double dipping on that?

MR. YOVANOVICH: That's the point. The bottom line is this: When the sending land was approved, we lost development rights, and the currency we were given was TDRs. And we're saying, please let us use our currency within our own project. And that -- and those are the TDRs. Not all of it. We're not asking for every TDR that we were given as compensation for now having sending lands on our property. Just those that are eligible to come into the urban residential fringe anyway.

So the urban residential fringe density, if you will, is not increasing. It's just putting those 187 on this particular piece of property instead of it going somewhere else in the urban residential fringe.

COMMISSIONER SCHIFFER: But my point is, those two acres -- in other words, you want to essentially remove preservation in the urban area of one acre.

MR. YOVANOVICH: Right.

COMMISSIONER SCHIFFER: Shave one acre.

MR. YOVANOVICH: Yes.

COMMISSIONER SCHIFFER: And you're going to let the other two -- you're going to put two acres in there. But are those other two acres also being -- are they in this calculation also? In other words --

MR. YOVANOVICH: They would -- those two acres would generate TDRs, and they are part of the 187 extra units.

COMMISSIONER SCHIFFER: Okay. Yeah, but it just seems like you're going to preserve them anyway, so where's the --

MR. MULHERE: I guess the --

MR. YOVANOVICH: Because our previous plan -- our previous plan had development out there. We would have -- we would have had fewer usable TDRs, but we would have had development pods that we would have built on.

MR. MULHERE: And preservation.

COMMISSIONER SCHIFFER: Right.

MR. MULHERE: And by changing our plan -- generally there was agreement that we would get some

flexibility. And the way we wrote it, we didn't think it was appropriate to have it on a one-to-one basis. We went to a two-to-one basis so we preserve more.

COMMISSIONER SCHIFFER: But am I wrong to think that if you did take an acre and you set aside two acres out there, you also got the TDRs from those two acres? So if you just took the TDRs from two acres, it would be the same place. Only this is also allowing you to remove an acre in the -- in the urban area.

MR. YOVANOVICH: Right, in exchange for giving up developable land. That's the thing that we've given up is, we've given up developable land that we could have put units on and had a -- we might have had a fewer -- fewer units within our project, but we would have had a bigger project footprint and different product types, because we're now compacting the development in exchange for impacting.

MR. MULHERE: And just -- you know, again, you know, we're not asking for all this 395 TDRs that we can't use that don't fall within the one-mile boundary.

It makes a lot of sense to me to allow a large master plan mixed-use community to use those TDRs when there is no other market and it's under one ownership. And you get to see, you know, when we come back with the final PUD, the design.

COMMISSIONER SCHIFFER: Okay. All right.

CHAIRMAN STRAIN: What are you going to do with the TDRs that are beyond the ones you're using on this project?

MR. YOVANOVICH: We're going to hope that some day this program works and someone's going to come buy those TDRs.

CHAIRMAN STRAIN: Okay. So we're not restricting you from utilizing your TDRs?

MR. YOVANOVICH: No, not those 3- -- I can't read the number -- 395 that we can't bring into this project. We'll have to hope that some day a receiving land comes to us and says they want to buy those units.

CHAIRMAN STRAIN: If we only allowed you to bring into this project the current density, without using -- without using the additional TDRs, what would you be able to do with those remaining TDRs?

MR. YOVANOVICH: The remaining -- the remaining 187?

CHAIRMAN STRAIN: Right.

MR. YOVANOVICH: We would, again, be at the hope that somebody who's going to develop a project will come to us and buy those TDRs.

CHAIRMAN STRAIN: But they have a potential to be used?

MR. YOVANOVICH: Yeah. But I think if you were to put a market dollar on that potential, I think it would be very minimal right now.

CHAIRMAN STRAIN: The addition -- if you had bought additional land in that one-mile urban area, or urban fringe area, that would have given you the potential to use more TDRs.

MR. YOVANOVICH: If we -- yes. If we bought more -- well, yes and no, because the density-blending provisions said that you had to own all of the land or have it under contract at the time this program was set up.

So yes, we could buy additional land and bring in the TDRs, but it would get a little confusing on the density-blending issue. But you're right, we could go out and buy whatever -- however you divide 2.5 into 187. That would be how many more additional acres we would have to buy, and that would be an additional cost to this property owner to get reimbursed for losing the development rights.

And I think we did that calculation, and it was, you know, somewhere between, you know, 1.8 and \$3 million under today's land-value cost for buying more urban residential fringe land.

CHAIRMAN STRAIN: And you said losing development rights. You didn't really lose them. You just couldn't use them on this property.

MR. YOVANOVICH: We couldn't -- no. I mean, if -- remember, when we owned all this -- or George did. George owned all this property at the time the rural fringe program was going through. At that time all this land was ag., and he could have done development in this land at one unit per five acres. He could have built golf courses out in all that land. He could have developed a residential project out in this area, in the pink area.

He lost the ability to do that when this program was set up, and in exchange he was given TDRs. So he was given a TDR hoping that somebody who was a receiving land would come to him and say, I'd like to buy those TDRs.

He's just simply trying to use, not all, but those that qualify within his project and say, let me -- let me use the compensations you gave me in exchange for being a participant in this program.

You know, if he really wanted to go to the extreme and say, Let me use everything you gave me, he would have come in and said, Let me also get those 395 units and bump my density to whatever -- instead of 2.8 -- that number would be.

But we were trying to be reasonable in using the compensation where it's supposed to be, which is in the urban residential fringe.

CHAIRMAN STRAIN: Okay. And in my prior question to Bob about the over- -- how you were handling this GMP amendment, in the past, we have had GMP amendments site specific.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: You know, the shopping centers in Golden Gate, the Buckley -- I think Buckley was one. There was one on Orange Blossom. And in those GMP amendments, we tailored them to the site, and we actually got, in some cases, more detail than you normally would with the GMP --

MR. YOVANOVICH: Sure.

CHAIRMAN STRAIN: -- to assure protection of whatever areas these things were going in. This one isn't done like that.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: That's the difference I was trying to make clear in my first question.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: I'd like to know why you chose to go this more generalized route than you would have done under a GMPA where we could have focused more on your site-specific issues and not broadened the horizon by a more general language change.

MR. MULHERE: Well, I mean, I think the answer to that question is that there already was the appropriate designations over the property. There was the activity-center designation. We didn't need to create a new subdistrict.

The amendments deal really with several policies. And when you're just dealing with policy changes, you change the policies. You can make it specific to a particular piece of property as we discussed, but I didn't see any need, and I don't think staff would have saw any need for the creation of a new subdistrict as you were referring to in the case of the Buckley and several of the others.

CHAIRMAN STRAIN: By separately defining this as a case-only issue within the general language, you've just, in essence, created your own subdistrict; just done it a different way. But I'm just wondering why you chose that way. Was it a timing issue? I mean --

MR. MULHERE: No, no. I just -- honestly, I don't think we felt that we needed to create a new subdistrict. The activity-center language already existed. It promotes a mixed-use activity center here. The only issue from the activity-center perspective was that we couldn't use all of the eligible TDRs. That was the only issue.

The other issues kind of surfaced as a result of our meetings with these other groups. When we had to end up moving some of our development out of the eastern part, more higher-value habitat lands that we were entitled to develop, but we moved them in to accommodate the concerns expressed by both staff and the -- and the environmental groups.

At that point we came -- we said, well, look, you know, in order to develop this thing appropriately, we need -- we need to be able to use a little bit more of the urban land if we're going to take our development out of the -- so that was really just -- you know, that's how it evolved.

MR. YOVANOVICH: And, Mr. Strain, it originally started out as the density and the -- it started out with the density and the adding the acres to the activity center. As the process evolved, we ended up with the native-vegetation amendment in response to comments we were getting from private groups as well as county staff and all that. So that added that one.

And then -- and then at the very end came up The Lords Way. Was that, in fact -- let's address -- because we've always been going through the process with the business park. They all seem to be fairly simple amendments to do through the process we've picked, instead of going back and starting over and creating a whole new subdistrict and losing the many years we had in the process going through with what started out as essentially two -- two policy amendments versus a whole -- which didn't seem to warrant a whole subdistrict for just those two amendments.

CHAIRMAN STRAIN: Well, you're doing another process that's a little unique, too, at the same -- you're using the process of doing a PUD/DRI simultaneously with the ability to do a GMP out of cycle.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: If you were to do a separate subdistrict, could you have utilized that process?

MR. YOVANOVICH: Probably. Probably as part of the DRI process, we could have.

CHAIRMAN STRAIN: Okay. The reason I'm asking this is, Bob rattled off some statistics about this project in the very beginning. I tried to write them as fast as he talked, but only Terri can do that.

Seventeen hundred and sixty units.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Three hundred seventy-five thousand square feet of retail, or commercial?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Seventy thousand square feet of office, 135 hotel rooms, 40,000 --

MR. MULHERE: Hundred and forty. I misspoke, 140.

COMMISSIONER MURRAY: Oh, okay.

CHAIRMAN STRAIN: Well, yeah. That's a critical component now.

MR. YOVANOVICH: Yeah, it's --

MR. MULHERE: It's in the application. I just neglected to --

MR. YOVANOVICH: He didn't have his glasses on.

CHAIRMAN STRAIN: Business park, 40,000 square feet. Is that in addition to the commercial and office?

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: So you're really -- okay. So -- and you're looking at a school? How many acres is the school site? I can't remember without looking.

MR. YOVANOVICH: The school site was actually an exaction that's coming from Collier County public schools for an elementary school.

MR. MULHERE: About 19 acres.

CHAIRMAN STRAIN: Tom would never do such a thing.

Are those the only uses -- only -- are those the only quantities associated with this project?

MR. YOVANOVICH: Yes, other than the retail commercial number is really 327,500, not 375-, and then the office, professional office, is 70. Okay. So your number was a little higher.

CHAIRMAN STRAIN: I had 375- because I thought that's what he said.

MR. YOVANOVICH: Plus 70 then, yeah. It was 327,500.

CHAIRMAN STRAIN: Now, the reason I wanted to bring that up is, if we were doing a subdistrict and we were doing a site-specific application, those numbers would be part of the application. We would throw them into the GMP just like we have in all the others, or many of the others.

I want to figure out, since this is not site specific and it's very general, you are coming through with a PUD and the DRI at the same time. Am I hearing a commitment from you-all that these numbers will not be exceeded, these or less are what you're going to be putting forward in your PUD/DRI?

MR. YOVANOVICH: That's what we've submitted in the PUD and DRI. Those are the numbers.

CHAIRMAN STRAIN: Okay. So any mix that you come up with, we're going to end up with that?

MR. YOVANOVICH: Hang on. Wait a minute.

CHAIRMAN STRAIN: There's the hitch. I read your documents.

MR. YOVANOVICH: No, no. We have flexibility. Those are maximum numbers, but we have flexibility within those maximums, as you know.

CHAIRMAN STRAIN: As long as the maximum isn't going to be exceeded. I think the flexibility is some formula that we have yet to have fun with. When that process --

MR. MULHERE: When we do the zoning.

MR. YOVANOVICH: The PUD, yeah.

CHAIRMAN STRAIN: Yeah, right. And that formula involves a change between what you perceive in intensities when you mix and match uses on the site of -- in residential, in particular, and some others. I'm not certain that's a good idea, but we'll cross that bridge on those other documents.

But I want to make sure, under no circumstances are we talking about excesses in this, and I want to -- since you'll be coming through at the same time, I can assure you it will be a bone of contention when we come up here and hear the next round, so --

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: Okay. Ms. Caron?

COMMISSIONER CARON: Just in an effort to get those numbers correct, according to your narrative, the hotel -- 140,000 you just said for hotel?

MR. YOVANOVICH: A hundred and thirty-five rooms for the hotel.

COMMISSIONER MURRAY: A hundred and thirty-five rooms.

COMMISSIONER CARON: But that comes out of your 327,500 square feet of --

MR. YOVANOVICH: No. Look, we're jumping ahead to the PUD, and that was one of the concerns that we had in doing this.

Let me give you the numbers, and then when the PUD document comes back later, we can correct all this.

CHAIRMAN STRAIN: No. Let me correct that statement, though. You make a lot of these statements, and I want to make sure we're right. Our concern is having a generalization where we normally have specificity in the GMP.

So the fact that you submitted the PUD and DRI and we're pulling information from that to be more specific now is something that should be done and should have been done, and we're trying to make that system work.

MR. YOVANOVICH: I understand.

And Commissioner Caron --

MR. MULHERE: I would --

MR. YOVANOVICH: Hang on a second.

Our intention was that the hotel rooms are in addition to the square footages. I don't want to have another -- and we can make sure that the advertising is crystal clear so we don't have another situation where people believed that the 135 rooms was coming out of the 327,500 retail.

We will make it very clear in our advertising when the PUD document comes through the advertising process that these are all max numbers and in addition to each other, not within.

MR. MULHERE: And the only comment I would make is, the difference I thought here, at least we thought here, was that this is already within an activity center. So typically when you have a zoning action -- I'll wait till they're done talking.

So what I was saying was, when you have an activity center and you come in for a zoning -- which we were coming in for a PUD and a DRI, that's when the -- in most typical, you know, zoning actions and in an activity center, that's when those restrictions and regulations are placed on the property.

The only reason you do that in the subdistrict is you don't have the ability to develop mixed-use or commercial when you're asking for a subdistrict. You're creating a whole new commercial node. And here the commercial node already exists.

COMMISSIONER CARON: Bob?

MR. MULHERE: Yes.

COMMISSIONER CARON: I am reading from your own narrative --

MR. MULHERE: Yes.

COMMISSIONER CARON: -- and basis for approval.

MR. MULHERE: Yep.

COMMISSIONER CARON: It says here that the 135-room hotel is -- it's listed right here under the retail square footage, and it's coming out in year 2014.

MR. MULHERE: Yeah. It wasn't intended to be part of that retail use.

COMMISSIONER CARON: Part of that total, it doesn't -- there's no other total for it.

MR. MULHERE: There is no -- because we don't know what the square footage will be. It's just 135 -- you know, a room limitation.

MR. YOVANOVICH: It's valuable to have this discussion to make sure that our exhibits are clear. Our square footage for the retail is what the square footage is, 327,500. In addition, we can do 135 hotel rooms. If we need to clarify our exhibits, we'll do that, and we'll do that at the PUD-level discussion.

But, Mr. Strain, you asked us for max numbers, and we're going through that, and I'm just trying to clarify that issue so we're all -- we're all straight on what you see at the PUD level.

MR. MULHERE: What we were proposing is the maximum limitation would be a traffic -- a trip generation, a peak-hour trip-generation limitation. So when we get to the PUD, that's what we are proposing as the maximum. So

there's flexibility, but you can't exceed that trip-generation number, which has been used other times.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: Okay. But I'm not -- what I'm getting at, that trip-generation number will stick.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: But we're also going to hold you to the number of the unit counts and the square footages and the hotel room quantities and all the other things.

MR. YOVANOVICH: Yes.

MR. MULHERE: That's fine.

CHAIRMAN STRAIN: Okay.

MR. BAUER: Unless they insist on more.

MR. YOVANOVICH: And George says, unless you insist on more.

CHAIRMAN STRAIN: That only happened one time even -- since I can remember, and that's when that Wolf Creek -- that project near Wolf Creek where we added mixed use where you didn't even ask for it. That's the only time I think we ever added anything. But anyway --

MR. YOVANOVICH: And you see how that turned out.

CHAIRMAN STRAIN: Yeah, I know. It's sitting there vacant right now.

One correction, though. It's 135 hotel rooms and 140,000 square feet of business park.

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: Okay. Now we're talking gross square footage; is that correct?

MR. YOVANOVICH: Correct.

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Okay. There's going to be a multitude of questions.

Ray, I saw you come in with a paper. Is that the uses on the hospital?

MR. BELLOWS: That's correct. I gave it to Mr. Mulhere.

CHAIRMAN STRAIN: Why don't we get that resolved real quick. Well, it won't be real quick, but at least let's take a look at it.

MR. MULHERE: There's two sections within the PUD. There's the hospital tract, then there's the medical -- what is it called -- medical office subdistrict.

CHAIRMAN STRAIN: Which one is that 10-acre parcel in?

MR. MULHERE: That's in the hospital tract's.

CHAIRMAN STRAIN: Okay. Then the hospital tract's the one we should be focusing on.

MR. MULHERE: Okay. I'm going to get this so you can -- is that readable?

CHAIRMAN STRAIN: Yep.

MR. MULHERE: Okay. There's the fairly limited list of uses.

CHAIRMAN STRAIN: Okay. And the way I would use that, as the principal uses. So any accessory use, like a childcare or healthcare or laboratory or an eating place, which could be a restaurant normally, but it would have to be as an accessory use to a principal.

MR. MULHERE: And internal to the hospital.

CHAIRMAN STRAIN: Okay. Well, that does limit the uses to non-activity center generally, except there's the drugstore and proprietary stores.

MR. YOVANOVICH: Accessory to the hospital.

CHAIRMAN STRAIN: Okay.

MR. BAUER: Inpatient.

CHAIRMAN STRAIN: So that's not a stand-alone facility?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. Anybody have any questions now that we've got that in front of us? Brad?

COMMISSIONER SCHIFFER: Well, just -- are you comfortable that that is purely accessory or --

CHAIRMAN STRAIN: Well, I think as an access use, when staff gets up here, we can have them comment on how accessory uses is limited, and then that would solve that problem.

COMMISSIONER SCHIFFER: Right.

MR. MULHERE: And I mean -- you know, in a typical commercial PUD in an activity center, you've had a

much longer list of permitted uses. This is very limited and related to the medical.

COMMISSIONER SCHIFFER: I do have another question, Mark.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER SCHIFFER: And it goes back to the TDRs again. Looking at a chart you provided here, the maximum TDRs you can pull off on the site are what? I mean, you're going to use it to derive a hundred and -- 1,760 units, correct?

MR. YOVANOVICH: Yes.

COMMISSIONER SCHIFFER: Okay. How many does that leave behind? I mean, there looks like a calculation here -- there's eligible 1,850; is that right?

MR. YOVANOVICH: Yeah. The three -- at the end of the day, that exhibit tells you that if we bring all 187 in, we still have 395 that are beyond the one-mile distance that we can't use, and we have to wait until another receiving land comes to us and says they would like to buy those 395 units.

COMMISSIONER SCHIFFER: Okay. I mean, there is a calculation and a chart that you provide. It comes up with a number of 1,850.08. What does --

MR. YOVANOVICH: That -- and, Mr. Schiffer, that's really a PUD-level discussion as to what can the site ultimately generate. But if you take that number as correct, we could get up to 1,850, but we're only asking for 1,760 in our project. So we're not even asking for the max that you could theoretically get onto the property.

But that's -- let's talk about all that, if you don't mind, at the PUD level, because there may be some discussions about that table that we need to have between now and the PUD.

COMMISSIONER SCHIFFER: The reason I'm asking about it here, I'm still having a little wiggly with that one-to-two mitigation thing, and should you be able to sell the TDRs off of those two acres. That's --

MR. YOVANOVICH: We're not. We're bringing them in.

COMMISSIONER SCHIFFER: Well, you're bringing them into --

MR. YOVANOVICH: We're bringing them into our project.

COMMISSIONER SCHIFFER: You're getting the benefit of them. In other words --

MR. YOVANOVICH: We're trying to use -- we're trying to use the compensation you're giving us for putting this area in preserve.

COMMISSIONER SCHIFFER: My problem with the loop is that what you're saying is that in the urban area I'm going to be able to essentially not preserve one acre because I'm going to, out in the NRPA, put two acres. And then you're taking the TDRs of those two acres and bringing them back into the development density of the urban things. So --

MR. YOVANOVICH: Correct.

COMMISSIONER SCHIFFER: -- I'm having a little trouble with that logic --

MR. YOVANOVICH: The alternative would be, is you give us a little lower density in our project, and we take that density, shift it out into the NRPA, and build on NRPA lands, and it's no longer preserve, which your system is saying, please preserve it. And in exchange for the preserve, please bring these units in.

So that's exactly how the system's supposed to work. We're preserving more lands -- because we had development out there. We had some nice single-family development pods out in that -- in that nice area that would have been nice units to sell. And in exchange for doing that, we're bringing -- we're doing other type of development within the urban area. So I think it's a fair trade-off.

MR. MULHERE: And maybe this would help if --

COMMISSIONER SCHIFFER: But let me -- when you started that thing off, we start out by limiting our density, but actually I'm talking about the -- you having that extra acre to build on doesn't limit your density. So the conversation you just had, I'm not sure I follow.

MR. YOVANOVICH: Well, my density is capped on whatever the PUD says I'm capped at. What I'm saying is, if you want to look at development footprint -- and that was the purposes of the sending-land designation, was to not let development footprint, at whatever density, occur out in the sending areas.

So we're moving our -- we're having a smaller development footprint out in the sending areas in exchange for a -- one -- for each acre or larger development footprint in the urban area.

MR. MULHERE: But let me -- there's a couple things that maybe would help.

As Rich said, you know, if we did use density blending and impacted more area in the sending lands, we

would not be preserving those lands.

COMMISSIONER SCHIFFER: Correct.

MR. MULHERE: So we've agreed to not do that and to preserve those lands. So you are getting more preservation, unquestionably, than you would get under our original plan, which would have impacted those lands.

We may not use all of the 187 TDRs that we're now asking to be eligible to use. We may not use all of them. If we don't use all of them, we're still committing to a two-to-one preservation ratio. So you're getting everything that you need under any scenario here. We've done everything that was asked of us.

You're saying we would preserve them anyway if we transferred the TDRs off, and I'm saying we may not transfer all the TDRs off.

COMMISSIONER SCHIFFER: I think you're double dipping on them, because they're -- even if you don't transfer them, you're going to sell them later; you stated so yourself.

MR. YOVANOVICH: You hope.

COMMISSIONER SCHIFFER: Or you wish you could sell them later.

MR. YOVANOVICH: You hope. I mean, you hope that the system will some day start working.

COMMISSIONER SCHIFFER: So essentially what you could sell later is the TDRs off of the land you preserve so that you could not have it in the --

MR. YOVANOVICH: What we're saying is, listen, you gave us 187 TDRs for us to put this land in preserve. Don't make us wait for someone to come to us and use those TDRs. Let us use them in our own project in the urban residential fringe. That's all we're asking for is, let us use our currency in our own project so we're guaranteed the value that you thought you gave us by putting us in this TDR program. That's as simple as it can be.

COMMISSIONER SCHIFFER: And all I'm saying -- which isn't really -- that isn't even an answer to it. All I'm saying is that if you mitigate an acre out of urban area for two acres in the NRPA area, that should be your reward. Those two acres should not be available for TDRs then. That's all I'm saying. And that's a period at the end. You don't need to answer it.

CHAIRMAN STRAIN: Okay. Well, we need to take a break and -- but before we do, I notice the room's having some people collect to the back. If you're here for the Vanderbilt Beach Road issue, just to let you know, the agenda has changed a bit. The second item was a boat-dock extension. That has been continued, so that will shorten your time to wait.

We have one boat-dock item up after this is finished. That one boat-dock item is two elements, but it should go pretty quick, and then we're right into the Vanderbilt Beach thing.

Now, the issue is, how long will it be here with Hacienda Lakes? It could take a while longer. We're just -- we haven't had staff presentation yet. But I just kind of wanted to give you an update, because I know you all are waiting patiently, and we'll try to get to you as fast as we can.

And with that in mind, let's take a break until 10 minutes after 10, then we'll resume the meeting. Thank you.
(A brief recess was had.)

CHAIRMAN STRAIN: Okay. Everyone welcome back from the break.

Before we resume, I had seen this face in the audience who is -- brings back ancient history in Fred Reichel. If you don't mind standing, Fred. Welcome back to the dark side.

Fred had left us years ago. He was a very capable county employee. He went into the private sector. And Fred is now back, and he is doing -- working on the LDC, the administrative code, and issues that are badly needed to be addressed in Collier County. So we're very grateful Fred could come back to us. And smart move on the part of the department to hire him back, because Fred always did a great job.

We'll look forward to all the fun we're going to have reviewing all the detailed language you write. So, thank you, Fred.

Okay. With that, we left off with Richard, I think, wrapping up, or finished?

MR. YOVANOVICH: I think we were in the question-and-answer phase. And if you were done with questions and answers, I think staff was coming up next.

CHAIRMAN STRAIN: Well, what I was going to do is -- and I'd like to get general -- if we have any general questions we want to get over right now, but I think by hearing the staff presentation first and anybody from the public and then go into our more detailed questions if we still have them would be a more effective way to approach this very complicated project.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: So that's what we'll do.

Thank you, Richard.

Corby, I think it's all yours.

MR. WEEKS: Good morning, Commissioners. For the record, I'm David Weeks of the county's Comprehensive Planning section.

CHAIRMAN STRAIN: You're not Corby.

MR. WEEKS: I am --

CHAIRMAN STRAIN: You guys look a little bit different.

MR. WEEKS: Yeah. No mistaking us, no.

I was just going to address the mixed-use activity center component of the application, just with a few comments, and then I'll step aside and let Corby make his presentation.

I thought I heard it stated that activity centers, or perhaps it was master-planned activity centers, one or the other, are required to be developed as mixed use, and if that's what I heard, then that's not accurate.

Ever since they were created in 1989 up to the present, activity centers, whether it's a mixed-use activity center, an interchange activity center, a master-planned activity center, none of those require mixed use. They all allow mixed use, and it is encouraged, it's desired, but the truth is, for the most part, they are zoned and developed 100 percent commercial.

Secondly, the hospital within this particular activity center, or a portion thereof, as a noncommercial use in an activity center is not unique. We do have other noncommercial uses in mixed-use activity centers. We have some residential, a limited amount. But in this particular activity center, as has already been noted, I think, in the northwest quadrant, there is residential development, but there are ALFs and nursing homes, other types of noncommercial uses within activity centers.

And following the logic that the hospital is not a commercial use suggests that the activity center should be developed 100 percent commercial and, to me, following that logic further means that these other noncommercial uses also should be replaced, their acreage replaced or transferred or simply added to an activity center to make up for that lost commercial potential.

Activity centers, when they were created in 1989, were half-mile square, which results in 40 acres in each quadrant, but they have always been and remain measured from the midpoint of the two roads that form the intersection around which -- around which the activity center is formed.

Point being, all mixed-use activity centers do have road right-of-way within them. So the 40 acres per quadrant for all of them does not result in 40 acres of developable land, because they all have right-of-ways. With the exception of Wiggins Pass Road and U.S. 41 intersection, all of them are -- have roads that are at least four lanes, two roads that are at least four lanes. So there is a significant amount of the 40 acres in each quadrant that is lost to road right-of-way. That is not unique here.

However, I think the applicant is correct as far as the FP&L right-of-way. I can't think of any other mixed-use activity center that has that condition. And Heidi's already commented about what can be there as far as -- buildings cannot be. And I would agree with what the applicant said, there's the potential for some components of development. Might be landscaping, might be water management, might be excess parking, but it is not a given. But our experience over the past is that the FP&L will allow some component of development to occur within the activity centers.

And, finally, the master-planned activity center, as has been stated already, is something that is allowed at that particular mixed-use activity center.

The ownership of this petitioner is in excess of 51 percent of the southeast quadrant, which does allow for the reconfiguration, and that is exactly what the language states. Reconfiguration, it explicitly says, you cannot add acreage. And of course, the applicant knows that. They are asking for an additional nine-plus acres of activity-center land.

How do you get that boundary reconfigured if you were to ask for that? Well, you've got two options. One is through a rezoning action or a DRI, one of those two. It's through an application process at that level, or the other is an amendment to the Growth Management Plan itself to change the boundary.

But the master-planned activity center concept was designed to allow that flexibility without having to amend

the Growth Management Plan so that it could be implemented through a development application, that is, the rezoning or the DRI, and that specifically stated in the language -- excuse me -- in the subdistrict, that a master-planned activity center is one with a unified plan of development in the form of a PUD or a DRI. That's not a quote, but that's almost exactly what it states.

That simply goes to the point that, as I understand the previous ownership of the activity center, all of it was owned by Mr. Bauer, so he did have the opportunity at one time to have modified the shape of the entire 40 acres, but it would have had to have been through a rezoning or a DRI application process.

Today the applicant has the ability only to reconfigure the acreage that they do have within the activity center. But, again, I'm -- they're clearly not doing that. They're asking for an additional acreage. That's all, thank you.

CHAIRMAN STRAIN: Okay. Does -- any questions?

David, the fact they're doing a DRI/PUD rezone at the same time they're doing this GMP language, you alluded to a process in the rezone that have avoided the need for a GMP language, and that's not -- that can't be done because he sold off that 10-acre piece to the south of the activity center; is that what you basically have concluded?

MR. WEEKS: As far as the entire original 40-acre quadrant, that's correct, because it's not a part of this application. It's not a part of this rezoning or DRI. And as Heidi's already stated, that's the issue. You can't take someone else's land out of an activity center if they're not part of this application process.

CHAIRMAN STRAIN: The uses that we saw for the PUD that encompasses the hospital, those uses are mostly accessory to a hospital principal use; the only principal use is a hospital. Is that typical to uses in an activity center? I mean, I think the answer's no. I don't think you typically include a hospital as a use in an activity. You look for commercial retail, office, hotel, things like that. Is that generally right?

MR. WEEKS: Yes. To my knowledge, this is the only hospital that is within, or partly within an activity center and, yes, to your second part, but only as far as commercial uses go. You listed a variety of different types of commercial uses, but again, the activity centers are intended to be mixed use. They allowed mixed use as well.

CHAIRMAN STRAIN: Okay. The point I'm trying to make is, even though that 10 acres is still part of the activity center and they're considering adding almost 10 acres again, the 10 acres that went to the hospital rezone for the PUD that the hospital has really can't be used for activity-center uses unless they came in for another rezone to include more uses than they have as accessory uses to the principal.

MR. WEEKS: That's where I disagree with you, because a hospital is an allowed activity-center use. They allow the full array of uses. They're not limited, they're not specifically designed for commercial uses only. That would take this -- rephrase what you've stated and say it's residential development. Well, that residential is not commercial, so that's not really a mixed-use activity-center use. Yes, it is. They're intended to allow the full array of uses, including hospitals.

CHAIRMAN STRAIN: Okay. But the hospital that's there was put there under the auspices of the essential service, not activity center?

MR. WEEKS: Well, it's not --

CHAIRMAN STRAIN: I mean, how did it -- what was the basis for the rezone from ag. to hospital in the urban fringe unless it was there -- I mean, it wasn't zoned for hospital originally.

MR. WEEKS: As an essential service, it would be allowed throughout the urban mixed-use district, be it inside the activity center or outside.

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

Anybody else have any questions of David before Corby starts?

(No response.)

CHAIRMAN STRAIN: Thanks, David.

MR. SCHMIDT: Good morning.

CHAIRMAN STRAIN: Good morning.

MR. SCHMIDT: For the record, Corby Schmidt, Comprehensive Planning Department.

To touch on a few items before I call for questions, working in reverse order my notes tell me that some of the uses on the property that were mentioned that are proposed in the PUD, although you're not considering that planned unit development at this time, I would not want to fail to mention that the possibility of other land uses are proposed, including the adult living facilities or the like, as well as a travel-trailer RV park.

And you talked about conversion tables that are in that PUD that your consideration of may be delayed until

that time. These other land uses have similar conversions are -- in a conversion table in the PUD.

Also mentioned earlier, some changes that you may have seen in one version of the FLUE or the CCME language that may have included the legal description of the property to make it specific to the site.

We also saw that in the past few weeks. We recommend against that. It's not part of your formal packet. Although including by legal description certain properties has been done in the past in the FLUE, it, A, consumes space; B, is unnecessary, repetitive at times, it would have been shown twice and consumed pages of space, and it can be done more simply, consuming less space in the document and serve the same purposes.

The version you have in front of you now that's dated for January 20 is the version that you can be -- should be working from that includes the appropriate description of the property, and it's referenced by meeting criteria in another section of the ordinance, and that narrows it down to this piece of property, or these pieces of property. So there should be no concern about the legal description being included or something like that.

One more item. You may have heard some discussion about the requirement for preserving more than 60 percent of the lands in the -- in sending lands area. We also saw that proposal in the past week or so, and we also said, that should not be in the -- in the version you see.

Reason being, it's not the requirement for more that staff is asking to change or -- and the applicant is proposing. They propose to offer more than 60 percent preservation in the sending lands area, but the county either in a past version or, nor do we intend in the future, to require more than that. So changing that language would be inappropriate as well.

Those are my quick points, and I certainly can begin to address your questions.

CHAIRMAN STRAIN: I have to ask you to follow up on your last point real quick before I forget.

The 60 -- change in the 60 percent, if we don't do it in the GMP, how does it get accomplished and finalized, assuming that -- I mean, say the GMP goes forward and they pull their DRI/PUD, how do we know that the 60 -- greater than 60 percent then is going to be kept? How are we going to receive that?

MR. SCHMIDT: Their language may seem cumbersome in places, but other phraseology offers to do so, and the Comp. Plan changes satisfies that. It's a matter of either offering or -- accepting the offer or requiring it of everyone in the county, and that's not our intention.

CHAIRMAN STRAIN: Okay. Paul?

COMMISSIONER MIDNEY: Thank you.

Yeah, I read the regulations for the NRPA and, it said 90 percent vegetation preservation. Where did the 60 percent come about?

MR. SCHMIDT: It's a combination of measurements. It has to do with the amount of vegetation that may characterize more than 90 percent of the property, but only 60 percent of it is required to be preserved.

There's a number of reasons for that calculation or that ratio, because on the other side of the coin, up to a certain percentage can be developed with these properties that straddle these boundaries. So that 60 percent is a limiting factor for a reason.

COMMISSIONER MIDNEY: So if you have an area that's in a NRPA and that is, let's say, predominantly -- or let's say 100 percent native vegetation, it's a natural area that hasn't been invaded by invasive plants or whatever, you can develop 90 percent -- you can develop 10 percent of that or you can develop 40 percent of it?

MR. SCHMIDT: Up to 40.

MR. MULHERE: Depends on the project.

MR. YOVANOVICH: I can help.

COMMISSIONER MIDNEY: That wasn't the way I read the regulation.

MR. YOVANOVICH: Mr. Midney, what it says is, it's 90 percent, not to exceed 60 percent of the site. So if you had a thousand-acre parcel, the 90 percent criteria would say, you preserve 900 acres.

COMMISSIONER MIDNEY: Right.

MR. YOVANOVICH: But the limiting factor in the code says, but it's not to be more than 60 percent of the site, so it goes down to 600 acres under that limiting number. It's 90 percent of the native vegetation, not to exceed 60 percent of the site. That's where the 60 percent number has been coming back and forth.

COMMISSIONER MIDNEY: You couldn't -- even if you wanted to, you couldn't exceed that.

MR. YOVANOVICH: We can preserve as much as we want, but you can't make us preserve more than 60 percent of the site. So 40 percent of that site under that regulation we could develop. We can -- we could do more.

You could also do more, but you cannot force us to do more.

COMMISSIONER MIDNEY: Thank you.

MR. YOVANOVICH: And that's what we're offering is to do more.

CHAIRMAN STRAIN: Anybody else have any questions of Corby?

(No response.)

CHAIRMAN STRAIN: Corby, I would certainly like you to address the four points that are being attempted here today and, especially, I notice your -- you mentioned earlier about the conversion issues, and it's a very big concern of mine, is what's being attempted by all the conversion issues for the -- in the RV park, the ACLF, and the others.

In the Collier County, when we designate a unit, a unit is what? Do we -- I mean, I know what it is. It's basically a livable unit with certain elements to it that are habitable.

Is an RV a unit?

MR. SCHMIDT: It may be.

MR. MULHERE: Dwelling unit?

CHAIRMAN STRAIN: Okay. Now I'm seeing heads -- these are -- okay. I mean, I'm glad you said that, because if they're going to intend on putting 15,000 RVs because they're not considered units and the 1,760 only applies to certain things, I'd like to know that now today before we even venture into the 1,760.

MR. SCHMIDT: Let me explain. RVs or park units, for instance, that may be permanently placed in an RV park are habitable, but there are other limitations that prohibit them from being inhabited for lengthy periods of time. And so it's another kind of definition that is not a dwelling unit in the same way that a single-family residence or a multifamily unit would be.

CHAIRMAN STRAIN: Okay.

MS. ASHTON: Mr. Chair, under our LDC, it defines an RV unit as commercial.

CHAIRMAN STRAIN: Okay. So then how much commercial square footage is used up of 327,500 for an RV? I mean, I don't -- I can see where this is going to go. If we're -- because it's a subdistrict but it isn't, because it's generalized and not specific, we're going to get into this push and shove at the PUD/DRI discussion stage, and it's going to be said, well, you guys approved this in the transmittal. You didn't have a problem with it. I want to have the problem with it discussed now. I want to get it on the table now. I want to know what they expect to do and what units are counted and not counted -- and if we say 1,760 units, what does this board mean by 1,760 units? Does that include RVs? Does it include adult congregate living facilities? Does it include hotel rooms? Let's just get it all on the table and work it out today.

So you've read all these documents. You read them before we got them. And you probably know where the confusion's going to be down the road. Why don't we attempt to clean it up today?

MR. SCHMIDT: We could do that.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: The PUD documents -- and I believe in the second handful or the follow-up delivery to last -- or the previous meeting in this month included that information for you. Those conversion tables are found in there. The information about all the uses they propose for the property is found in there. It may not have been in the earlier version where some of the PUD materials were drawn into the GMP amendment materials. So the review by staff is very limited of the PUD materials.

We've begun that and it's ongoing, and that's following a different schedule. So I think I'm going to, at this point, allow the petitioner or their agents to answer some of those questions if those conversions are a matter you'd like to discuss now.

CHAIRMAN STRAIN: Well, I want to know how many units they're going to put on the property, and I don't know who wants to call what what, but let's just get it on the table.

MR. YOVANOVICH: Can -- is it -- I know this is staff's comment, but is it something --

CHAIRMAN STRAIN: No. He just deferred to you at this point, so you're stuck with it.

MR. YOVANOVICH: Okay. Here's the problem, Mr. Strain. Senior housing has always been measured based upon a floor-area ratio. So it doesn't count as a unit, but that has always been uncomfortable for the Planning Commission and for the Board of County Commissioners, because we get a piece of land, and we yield X square feet, and you say to us, well, how many units are going in that X square feet?

So we have typically used a conversion formula; for each standard residential unit, you would get four senior housing units.

So the answer to your question is, we have 1,760 units. If we decide to do senior housing, we then reduce from that 1,760 based on our conversion formula.

I can't tell you today how many senior housing units I'm going to have, but I can tell you I provided for that in a formula to address the concern of that question, about how many units, because they're not apples to apples. They're treated differently. One is measured in a floor-area ratio. One is measured in regular units, if you will.

So that's why we have that conversion formula in for that type of a use. Same thing with RVs. For instance, Swamp Buggy, they have RVs that come there now. We certainly didn't intend for the Swamp Buggy RVs to count against our unit type.

You know, if Junior Deputies want to have a couple RVs there when they're having events there, we certainly didn't intend for those RVs to come out of our 1,760, but we do have formulas in there to address those eventualities. Should we do an RV park, we have formulas in there to address those concerns.

CHAIRMAN STRAIN: Isn't the Swamp Buggy's a separate PUD?

MR. YOVANOVICH: No. It's within this PUD.

CHAIRMAN STRAIN: But they have a separate PUD, don't they?

MR. YOVANOVICH: They have a separate PUD which will be coming into this PUD basically verbatim.

CHAIRMAN STRAIN: I can't recall, but how are RVs addressed in that separate PUD; do you recall?

MR. YOVANOVICH: I don't remember off the top of my head, Mr. Strain. But these are -- these are all very legitimate questions. I just don't know why we need to -- I think we should address them at the PUD/DRI stage. There clearly is appropriate times to talk about those specific provisions.

Our requests are more global, and then we will talk about -- you haven't approved any intensity in any of these PUD amendments other than you've given me the ability to ask for 2.8 units on -- per acre when I come forward with my PUD, if I bring -- if I do the appropriate transfers. You've given me the ability to reduce my native preservation as long as I bring you a PUD that makes sense to you-all. You've given me the ability to ask questions, but you haven't predetermined my approval.

CHAIRMAN STRAIN: But see, Richard, that's why my earlier line of questioning was, this is a subdistrict, but it's not. And if it had been a subdistrict tailored in the way we're used to seeing them, we could have got into the specificity more than if it's a subdistrict created by generalization of the GMP. And it still provides a level of concern to this board. It's kind of like letting the -- what do they say -- the camel's nose under the tent. Before you know it, the whole camel's there.

Well, I don't want to see us in the position where we've said, okay, this sounds good and then have that misinterpreted down the road so that we have a battle going on with the PUD/DRI where you don't need to be there.

MR. YOVANOVICH: But remember, those hearings are going to happen on the same day. I'm only at transmittal right now. The adoption will be simultaneously. The Comp. Plan amendment adoptions will be simultaneous with the PUD and DRI adoption, so you don't run the risk of I get an adoption, and I come back later and we discuss the very issues you want to discuss.

CHAIRMAN STRAIN: But see, you'll be running to the adoption with a flag, waving it saying, see, DCA said this was okay, and that's going to be a big hammer. And I don't want to give you that if we don't -- until we understand it. That's all I'm asking. And where I was leading with Corby -- and I fully understand your issues with the RV park, and I'm trying to figure out how it should be limited, but maybe that's where the PUD comes in -- back to Corby and where we are with these four criteria.

Corby, they're looking for a density increase, they're looking for changing their preservation quantities in different ways --

MR. SCHMIDT: Yes.

CHAIRMAN STRAIN: -- they're looking for the use of The Lords Way as an access to the business park, and they're looking to add 9.16 acres to the activity center.

Now, staff has done a write-up. In fact, staff's done so many write-ups, I've got a whole book of them here. And I'd like for you to tell us, starting with the first one preferably, how you see it, so we can get your read on it, and then we can go into general questions after that, or actually public, and then general questions.

MR. SCHMIDT: Thank you, Mr. Chairman.

I'm going to keep it in six parts because the density issue -- yes, it comes to you in a tandem or a pair. Both the density lift and the preservation shift were -- there's two policies or elements involved in each of those.

The first one is in the FLUE, and there's a handout coming your way from Mr. Lenberger -- he's working his way up there -- with part one of six. And there may have been some confusion -- confusing language in staff's initial proposal.

So working with Comp. Planning staff and county attorney, we've come up with some alternatives. This page you're receiving at this time is very similar to your one-of-six versions in your January 20 staff report recommendation.

It's the similar version copied twice on the page. Alternative one, or the top version, is the one that staff recommends. The bottom version went through the department of -- redundancy department, and it may be more cumbersome.

CHAIRMAN STRAIN: The redundancy department? I hate to ask. Is that Jamie's department?

MR. FRENCH: Wow.

MR. SCHMIDT: The part-one-of-six version is what is being recommended for that portion, and it simply clarifies the use of the 10 percent lift by additional enhancements or mitigations in the preserve areas, and also that 2.5 acres and the 2.8 acre totals for density.

CHAIRMAN STRAIN: Go ahead, Brad.

MR. SCHMIDT: The other portion --

COMMISSIONER SCHIFFER: Corby, one question.

CHAIRMAN STRAIN: I'm sorry. Go ahead, Brad.

COMMISSIONER SCHIFFER: What this is saying, though, is for each acre you're transferring, you get 1.3 dwelling units; is that correct?

MR. SCHMIDT: Yes --

COMMISSIONER SCHIFFER: Okay, thank you.

MR. SCHMIDT: -- it does.

MS. ASHTON: Corby, is there a --

MR. SCHMIDT: Well, 1.3 additional dwelling units, yes.

MS. ASHTON: Is there a typo in the first alternative under Item A, 2A? Shouldn't that be up to one unit per acre via the transfer?

MR. SCHMIDT: In the second version it is. In the first version it gives the totals followed by the transferred, and the second version it gives you the transfer twice and then the total.

So transferring --

MS. ASHTON: Yeah, but under the first one you've got a base density of 1.5 plus another 2.5, so that's not -- the first one's not correct. I don't know what the difference is between the two alternatives, but the first one's not correct.

MR. SCHMIDT: Yeah.

MS. ASHTON: Because you're giving them four units when you add that, 1.5 plus 2.5.

MR. SCHMIDT: Well, it does indicate the transfer of up to one unit per acre for the total of 2.5. So I'm not sure how it's incorrect, except that the phraseology may be backward. But this is as close to the FLUE language as we could stay without restructuring the document further. It was correct in the version you had for January 20, and it's still correct today.

CHAIRMAN STRAIN: Well, then why are you giving us this?

MR. SCHMIDT: Well, for the other words in green and the intro paragraph, not the numbers.

CHAIRMAN STRAIN: So you do want this -- you're suggesting some of these changes in regards to the submission that you sent out on the 20th; is that --

MR. SCHMIDT: We are, for part one of six and the top -- or the alternative one.

CHAIRMAN STRAIN: Well, I'll tell you what, if this thing gets any more confusing --

MS. ASHTON: What's the difference between the two, Corby?

MR. SCHMIDT: The top half, alternative one.

CHAIRMAN STRAIN: The one on the bottom -- why does staff prefer the one on the top versus the one on the bottom?

MR. SCHMIDT: Because it indicates a transfer twice in the same sentence and then refers to a total. And again, I'm not sure that I need to make the language more cumbersome to mention the same number twice.

CHAIRMAN STRAIN: Well, you've got me confused, and I'm sorry if I'm --

MR. SCHMIDT: Well, for instance, in the bottom half of the page --

CHAIRMAN STRAIN: Yeah.

MR. SCHMIDT: -- 2A, if I read it aloud, as cumbersome as it would be silently, up to one unit per gross acre via the transfer of up to one dwelling unit per acre from lands located within one mile of the urban boundary, and it goes on.

CHAIRMAN STRAIN: Well, what it's saying is you can have an additional one unit per acre for every additional dwelling unit that you -- get it for every TDR that you create, right?

MR. SCHMIDT: It does.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: And the version --

CHAIRMAN STRAIN: That's confusing to you?

MR. SCHMIDT: It's confusing because it says it more cumbersome than -- the version at the top of the page says the same thing.

CHAIRMAN STRAIN: Okay. The one on the top says, "Up to 2.5 units per gross acre via the transfer of one dwelling unit per acre from lands located within one mile of the urban boundary." I don't see how those two are equitable.

The bottom, it seems like you're going to be able to transfer one unit per every TDR, and the top you get to have 2.5 units total per gross acre for every one TDR transferred.

So you're taking the 1.5 in the first paragraph, increasing it by one because of the designation in A on the top, and in the bottom you're taking 1.5 and increasing it by one in A, but you're not stating the maximum of 2.5. Is that --

MR. SCHMIDT: It is stated later in the same sentence. It is there.

CHAIRMAN STRAIN: Right, but not in that first line.

MR. SCHMIDT: The alternatives are offered to you to make the choice.

MS. ASHTON: I think the second alternative is okay if you delete "for up to 2.5 units an acre," because if you do that, it might lead to some confusion since you get 1.5 in the top. You want me to put it on the visualizer?

CHAIRMAN STRAIN: Well, I -- sure, if it's handy, but I think I know what you're -- actually in 2A on the bottom of the page --

MS. ASHTON: Yeah.

CHAIRMAN STRAIN: -- we're looking the third line down where it's added in green. "For up to 2.5 acres per unit," that redundancy, whoever the redundancy department is, would be perceived as being added to the 1.5 or possibility of 4, whereas, if we drop that --

MS. ASHTON: It could create confusion.

CHAIRMAN STRAIN: -- it's one to one on top of 1.5, for a maximum of 2.5.

MS. ASHTON: And the same comment for the last line under A, "For up to 2.5 units an acre." That can come out.

CHAIRMAN STRAIN: That one says actually, "For up to 2.8 units per acre."

MS. ASHTON: Two-point, I'm sorry. But you still need that "or" in there.

CHAIRMAN STRAIN: I think if we were taking those out -- I mean, I can imagine how confusing it is to read. The people in the audience must think we're nuts. But for the detail that we're getting into on this, it will benefit you in Vanderbilt Beach -- Vanderbilt Road, so --

MS. ASHTON: Mark, but I think that works. The only other additional issue is, there may be some other properties that straddle both of them, and Corby was going to be prepared to mention those properties. So it would apply to a few other properties in this area.

COMMISSIONER EBERT: Mark, I have a question.

CHAIRMAN STRAIN: Yes, go ahead.

COMMISSIONER EBERT: In reading this, in the materials it said -- the blended-density provision in the GMP, and they had this property in mind -- they said, "It is capped at 2.5." Who capped this, Corby?

MR. SCHMIDT: That would have been action of the county board when they adopted these provisions.

COMMISSIONER EBERT: So -- okay. So what this petitioner is doing is wanting to go against that and take this and make it even higher?

MR. SCHMIDT: That lift from 2.5 to 2.8, yes, that's their request.

CHAIRMAN STRAIN: Go ahead. Brad?

COMMISSIONER SCHIFFER: Yeah. Corby, what's the geometric definition of straddle? I mean --

MR. SCHMIDT: Portions lying on both side of.

COMMISSIONER SCHIFFER: Well, we have words in the code, adjacent, adjoining. Couldn't we use those words or --

MR. SCHMIDT: We could, but it's not proposed for change, so I'm not sure I would want to go there.

COMMISSIONER SCHIFFER: Well, this is a double underline, so this is the first time we've seen it, so --

MR. MULHERE: It's used elsewhere.

MR. SCHMIDT: Yeah. It's used in a number of other places. When it talks about the urban residential fringe and those properties along that geographic area that lie there and in sending lands.

COMMISSIONER SCHIFFER: Well, what does straddle mean to you then?

MR. SCHMIDT: Portions lying on both sides of.

COMMISSIONER SCHIFFER: Okay, okay. I got it.

MR. SCHMIDT: I'm not thinking equestrian.

COMMISSIONER EBERT: Corby, I have another --

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Corby, I have another question.

In reading this, it says in here if nothing -- if the GMPA is not accepted, that right now this project is limited to 1,662 dwellings without all these other things they're asking for?

MR. SCHMIDT: I believe those numbers are offered up, yes, and without the ability to move those unused TDRs or those buildable rights for additional dwelling units onto the urban portion of their property, that would be the number they were limited to.

COMMISSIONER EBERT: They were limited to 1,662. Okay, thank you.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Corby, you have deleted Hacienda in there, and I wonder if you did that on the basis that it's redundant within the context of the work, or was it intended to allow for it to stand as a basis for other properties that might tend to or could qualify -- theoretically qualify for this same type of process.

MR. SCHMIDT: Not the first, but at -- in the beginning, or earlier in this process, it could have been the second, where a change in the language from specifically identifying this project by name might have led to allowances for other properties to utilize the same provisions.

As we moved along through the process and considered more closely other properties that straddle the same boundary north and south of this property, we found that there were no other properties that could take advantage of this.

COMMISSIONER MURRAY: Ah, okay.

MR. SCHMIDT: So these double-stricken through then the double-underlined provision that refers to Policy 5.2, those are those -- those are the other provisions that were specifically written at a point in the past for this property, and that's also mentioned, and it could apply to no other.

COMMISSIONER MURRAY: Thank you.

CHAIRMAN STRAIN: Corby, you had started on this discussion over those items. Would you just continue through them as briefly or as succinctly as you can.

MR. SCHMIDT: Certainly.

In the other half of the density shift -- or the density lift, I'm sorry, the part -- I've got to find it here -- is that part three of six in the recommendation, which allows them to begin sending the TDRS. The first one of six receives 1.3 instead of 1.0 per acre, and the other half of that same provision to allow for the density to be fully utilized sends it from the other area. So that's how that -- those two provisions work in tandem.

The vegetation -- native-vegetation and preservation provisions also work in tandem, one of them allowing them to preserve less than the 25 percent in the urban area of the project and the other provision allowing them to -- in exchange and to preserve or their -- offer to preserve more than the 60 percent in the sending lands portion of the

project.

The business park acreage, that's the third item, you may have seen between your earlier-in-January version and your January 21 version, a lengthening of that entry to include the improvement of the roadways to be used, Rattlesnake Hammock Road extension, to allow for that industrial or that business-park traffic.

Apparently from what we've heard earlier today, that additional language isn't necessary, and I think the county attorney indicated where that provision or that sentence would end.

Other policies or provisions in transportation planning or the transportation element of the county covered those requirements. We don't need to state them again.

The last portion of it, the increase in size of the Mixed-use Activity No. 7. Much discussion has already been about that. I'm not quite sure how much to touch on that for you now.

CHAIRMAN STRAIN: No. I think we're -- I think we got that.

MR. SCHMIDT: All right.

CHAIRMAN STRAIN: Corby, there is one issue I'd like to discuss, and that is this -- for lack of a better term, this lift that we're talking about, this increase in density. It's a result of their agreement to you to preserve more area in the rural area.

Richard's shaking his head "no," so clarify that for me.

MR. SCHMIDT: All right.

CHAIRMAN STRAIN: I can hear it rattle all the way up here.

MR. SCHMIDT: Earlier in this process, as staff reviewed and worked with the agent and the applicant on the project and the proposal, we had the same perception, that they were giving us this for that. If we're preserving additional lands, you're giving us additional density. That is not the case.

The language is carefully crafted, and there is no intent to do so. There is no connection between the two provisions.

The simpler request for the additional use of existing density or useful density, eligible TDRs, the ability to use all of them in the urban area is not related necessarily by what you're seeing in the Comp. Plan amendments with the additional preservation. The preservation is a separate issue, and it stands on its own merits that preserving the better habitat and the vegetation in the sending lands area of the project is good for the TDR program and the rural fringe mixed-use district, and the quality or the development of those lesser lands and that vegetation in the urban area is a fair trade-off for preserving more of the other.

CHAIRMAN STRAIN: Okay. So the TDRs that are -- would be required for this lift in density, we are getting those, though, right?

MR. SCHMIDT: Yes, yes.

CHAIRMAN STRAIN: Well, there's a certain number of TDRs -- and maybe, Richard, why don't you just -- I mean, he's going to give me some kind of gestures to indicate his agreement or disagreement, so why don't you just come up and address it to us so we can get it right on the record.

You're using a certain number of TDRs for this project because of the blending issue, and then you wanted to go beyond that number. And the way this thing had come about when I was reading it, I thought the benefit for you to receive a lift in density was that you were going to provide more rural area. But the TDRs from that rural area are not all being used in the lift of the density or the increase in density.

MR. YOVANOVICH: Correct. What happens is, is we have one provision that says, if you'll allow us to impact more of the urban area, we'll preserve, at a two-to-one ratio, more of the rural area.

Now, the one that addresses density is, today we have a cap of 2.5, because we can bring in --

CHAIRMAN STRAIN: Right. I understand.

MR. YOVANOVICH: We have 1.5 base, and we can bring in up to one unit per acre, forgetting the 10 percent that you can also get through other provisions. But just those two together work at a 2.5.

We're saying at the end of the day we have all this sending land out here. Some of it is eligible for transfer into the urban area; some of it is not. The areas that are eligible to come in yields 187 units we can't use under today's rules. We would like to use those 187 in our project, which would mean that that 1.5, plus the 1 now need to become 1.5 plus 1.3. We're simply asking you to allow us to use TDRs that we create through this program of being in the sending lands within our own project --

CHAIRMAN STRAIN: Okay. So then what happened --

MR. YOVANOVICH: -- instead of having to wait for somebody else in the urban residential fringe to come to us and say, we'd like to use those units, because that day may never come. And you had already planned for these 187 units to come into the urban residential fringe when you designated those lands receiving lands.

CHAIRMAN STRAIN: Okay. So the designation of the additional acreage from the two-to-one swap has nothing to do really with the increased use of the TDRs?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: They're coming from another sector?

MR. YOVANOVICH: Correct, correct.

CHAIRMAN STRAIN: Okay. And the TDRs that would be created from the two-to-one swap, those areas are still TDRs that you have available to use to the extent you want to use them somewhere else?

MR. YOVANOVICH: To the -- yes. Bingo. That's the 395 that we hope some day someone will come to us.

CHAIRMAN STRAIN: Go ahead, Heidi.

MS. ASHTON: But I think I -- in his calculation, he used 187 to get up to his density of 1,760 residential units. So therefore they've got to relinquish the 187.

CHAIRMAN STRAIN: I think -- but -- yeah, that's what he just said.

MR. YOVANOVICH: Yes.

MS. ASHTON: Okay.

CHAIRMAN STRAIN: But it's only the 187.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: The amount that you gain or that was in place from the increased acreage you're setting aside as a result of the two-to-one benefit, you're still going to use those TDRs; that's not part of the 187?

MR. MULHERE: That's right.

MR. YOVANOVICH: Essentially, yeah.

CHAIRMAN STRAIN: But I get that part of it now.

MS. ASHTON: And I do have some proposed language that I think addresses --

MR. MULHERE: Could I just add one thing on this issue that we were just talking about before? I just want

--

CHAIRMAN STRAIN: Okay.

MR. MULHERE: Very briefly. Okay. So -- because Ms. Ebert asked some questions about the increase, and I just wanted to make sure that it was understood clearly that we're not talking about new density. These units exist. They exist within our property. We're only asking to use some of the units that exist within our property that will be used somewhere within our project. I didn't know if you understood that.

CHAIRMAN STRAIN: Okay. Go ahead, Heidi.

MS. ASHTON: Do you want me to put the proposed language --

CHAIRMAN STRAIN: Yes.

COMMISSIONER SCHIFFER: Mark, wait. Heidi, let me --

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER SCHIFFER: From what they just said, we were talking about that one-to-two ratio, they're saying that those acres are not going to be used for TDRs.

CHAIRMAN STRAIN: That's right. No, they can be used for TDRs, but not the ones that are going to be used in the 187 that's being used for this project. They can sell them on the open market. Still, they didn't -- they didn't remove the underlying base benefit of the property by creating the TDRs. They just said they will use that property for exchange land. They will not develop it. And so they get the benefit of the TDRs from it at some future possible use.

COMMISSIONER SCHIFFER: So they must know how many --

CHAIRMAN STRAIN: TDRs?

COMMISSIONER SCHIFFER: -- how many acres they're not going to preserve by now then, or do they?

CHAIRMAN STRAIN: Well, the PUD/DRI would get into those specifics when they worked out their land plan. But the land plan, I understand, is being changed constantly because of the Benfield Road corridor and other things that are moving around.

So I think it's a little -- probably premature to nail down the amount of preserve in TDRs they're going to

have right to the acreage, so --

COMMISSIONER SCHIFFER: So to say it back is that none of the TDRs -- or none of the acreage that was used in the one-to-two swap, the TDRs from those acres are going to be used to increase density in this project?

CHAIRMAN STRAIN: No. They're going to hold those and use those to sell them on the market. The 187 TDRs are created within the area that is within the one -- first one mile of the urban fringe, if I'm not mistaken.

MR. MULHERE: Ninety-five acres.

CHAIRMAN STRAIN: Yeah. He's -- okay.

MR. YOVANOVICH: I'm rattling.

CHAIRMAN STRAIN: Okay. I can see that. Okay.

Okay, Heidi. Go ahead.

MS. ASHTON: Okay. This is the proposed language. And the difference from what you have in your package primarily is the change right here to base density of 1.5.

CHAIRMAN STRAIN: Okay. Back up. Where is this proposed? We just got a handout. That's not the handout, so --

MS. ASHTON: It's not --

MR. SCHMIDT: It's extremely similar to the bottom half of your handout.

CHAIRMAN STRAIN: Oh, you guys. This is not going to go over well.

MS. ASHTON: What page is this in the book that they have?

CHAIRMAN STRAIN: How about, what page is it in the most latest rendition of the staff report that you issued?

MR. SCHMIDT: I can assist you with finding that location. It should be the first page of Attachment HL-2, which is around 29 pages back.

CHAIRMAN STRAIN: Oh.

MR. SCHMIDT: Or seven from the last page.

MS. ASHTON: Can I see what it looks like?

MR. SCHMIDT: Sure.

CHAIRMAN STRAIN: Corby, you handed out a September 20th staff review. It has a series of pages to it. Can you tell us what page in that staff review this language is found, because that's the one that's on the top of our pack -- HL-2.

MR. SCHMIDT: And I believe it's Page 1. We'll put it up on the imagizer as well.

MS. ASHTON: But it's, like, the last six pages, I think, is in the staff report. The last six is the proposed language.

CHAIRMAN STRAIN: Okay. It's in the -- if you take the staff packet that was handed out most recently dated September (sic) 20th -- or I think it's September 20th, whatever date that is.

MS. ASHTON: Okay.

MR. SCHMIDT: January.

CHAIRMAN STRAIN: January 20th, I'm sorry. I said September.

MS. ASHTON: Yeah. Let me know when everyone has it.

COMMISSIONER SCHIFFER: Twentieth or --

CHAIRMAN STRAIN: September (sic) 20th there was a packet handed out, and in that packet were Attachments HL-1, 2, and 3, and that's towards the back of the packet. And if you go to about the fifth page forward from the back of the packet, you'll see the beginning of Attachment HL-2, and that's the page I believe we're on.

MS. ASHTON: Yeah. We're under A2, and the change is that you're adding the word "base density" of 1.5 units per gross acre, and the language in the book is exclusive of density that may be achieved via CCME policy. And there were some issues on what that meant, so we made it simple by adding the word "plus any" density bonus that's achieved under that policy. That's a mitigation of 10 percent. That's the language in the CCME, if you'd like to see that.

And then in the one in your book it says, "or higher through the use of the following," and we changed it to "and either," because if you left A the way it is, it would be 2.5 units, and you wouldn't be able to get the 10 percent anymore, because now you've opted for the 2.5 instead of the 1.5.

So this language that's on the visualizer has the 1.5 base density plus any density they can get in the CCME,

which would be 10 percent if it qualifies, and either an additional one, which would bring it to 2.5 for most of the properties, if they use the Transfer of Development Rights, except for property that straddles the two districts, which Hacienda does, would give you a total of 2.8 when you add the 1.5 plus the 1.3.

So I think it does what everyone's trying to do.

CHAIRMAN STRAIN: Okay. Does any of the 2.8 -- does it still have an ability to be increased because of the 10 percent in the CCME?

MS. ASHTON: Yeah, yeah.

CHAIRMAN STRAIN: Okay. So 2.8 still is not the cap. The cap is 2.8 plus 10 percent.

MS. ASHTON: Correct.

CHAIRMAN STRAIN: Under some scenario.

MS. ASHTON: Correct. And I'm not trying to change what they proposed. That's what they proposed based on what was in their in their calculations.

CHAIRMAN STRAIN: Okay. I heard Corby say no.

MR. SCHMIDT: It's already in the calculations. It's not already in the language. The answer was correct from county attorney.

CHAIRMAN STRAIN: Okay. So --

MS. ASHTON: What we had been told is that staff applied the 10 percent from the CCME. That's how they've been applying it, if I'm correct. And so this was just to clean up the language to make sure it was clear to everybody.

CHAIRMAN STRAIN: Okay. Any questions on this language change? Ms. Caron, did you have a question?

COMMISSIONER CARON: Yeah. I just want to be sure that I understand about additional density bonuses that can be achieved via the CCME.

Would any of that come on top of the bottom line for -- what I understood to be the bottom line for this project, which is 2.8?

MS. ASHTON: The way this is written -- now, I don't know if this is how it's intended. But the way it's written, it would apply to just the 1.5. And if that's not what's intended, then the language needs to be further changed.

MR. SCHMIDT: It does not, not in the way you're asking that. The calculation for the 10 percent -- we'll call it a lift -- from the CCME for the additional preservation, comes in an earlier calculation which would not increase their number higher than 1,760, or whatever the count is, and it doesn't affect the ratio, the transfer ratio, of 2.5 or 2.8.

CHAIRMAN STRAIN: Richard, did you still want to --

MR. YOVANOVICH: No.

CHAIRMAN STRAIN: Okay. That's good.

Okay. So the language that Heidi's proposed would probably be the best scenario out of the multitude we've had so far to get this accomplished?

MR. SCHMIDT: It is similar to the bottom half of your handout page.

CHAIRMAN STRAIN: Okay. But let's not go there. Do you like to one?

MR. SCHMIDT: Sure.

CHAIRMAN STRAIN: Does it --

MR. SCHMIDT: It's the same except for exception.

CHAIRMAN STRAIN: I'm not going to ask if it's clear enough for staff. Just, is this -- is this one we could use? I understand what she's trying to do here.

MR. SCHMIDT: It is our current recommendation.

CHAIRMAN STRAIN: Okay. Okay.

Now, Corby, I think we've finished with your presentation. Are there any questions of Corby at this time? I think we have it all squared away.

Ms. Caron?

COMMISSIONER CARON: Corby, The Lords Way.

MR. SCHMIDT: Yes.

COMMISSIONER CARON: Whose road is The Lords Way?

MR. SCHMIDT: There are portions of The Lords Way, the majority of it today, that -- in private hands. It's a private roadway. The extension of --

COMMISSIONER CARON: Not controlled by this developer, correct?

MR. SCHMIDT: A portion of it may be. When you see the diagram or the schematic they showed for the mixed-use activity center and those halves of rights-of-way, they may have control of that south half of the right-of-way east of 951, yes.

They have sufficient control to meet the requirements we're asking of them, if that's the endpoint.

COMMISSIONER CARON: It isn't part of the activity center, The Lords Way end of things.

MR. SCHMIDT: I'll try to get it back up on the imagizer.

COMMISSIONER CARON: Yeah.

CHAIRMAN STRAIN: The Lords Way is north of Rattlesnake Hammock, and there's portions of Lords Way that go through the former church -- well, it still is church property. Different church. And I think the question is, how much control does the applicant have over the property to approve Lords Way where the church is; is that a fair statement?

And, Richard, if you can answer --

COMMISSIONER CARON: Well, yes, because -- because we -- their intent is to extend The Lords Way on their property and then use that road for -- to access their business park. And I just want to know if they have any control over the actual access point at 951.

MR. YOVANOVICH: The answer to your question is yes. It is a private road, but we have easement rights over that property that is a private road.

So we will have to -- obviously when we come forward with our zoning and site plan, we'll have to show you that we have the ability to deliver on that, but we have -- it's not a county-maintained road is the basic answer, and we have rights to use that private land.

CHAIRMAN STRAIN: Okay. And I think the statement you just made, when you come back through with your site plan -- no, this will be in -- if we allow this GMP to go forward, we're saying you can use -- that Lords Way is going to be the route.

MR. YOVANOVICH: If we can --

CHAIRMAN STRAIN: We have to have assurances that Lords Way can be the route at this stage, not waiting to the future.

Now, we can get through transmittal, but the -- I was certainly going to point out that we need some further assurances with Lords Way by adoption.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Okay. And I think that may get to where Donna's trying to go.

MR. YOVANOVICH: That's fine. And we understand that the condition is, is the road's got to be sufficient to handle the traffic that will go to a business park. We understand that.

COMMISSIONER CARON: Not only that, but that you actually have --

MR. YOVANOVICH: I understand that.

COMMISSIONER CARON: -- an easement.

MR. YOVANOVICH: Right. We'll get that for you at the adoption hearing.

CHAIRMAN STRAIN: Okay. The other part of that is, Lords Way is going to be needed for utilities. You're going to have to have safety features, drainage elements, all the things that involve a roadway that has to rise to the level that's needed to support not only the business park, but the other uses within your project. Staff's going to have to prove that cross-section.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: We would need to see it by adoption.

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: The agreement gives you what you believe are the rights to have the utilities installed, the drainage installed, the drainage components for the capacity of the surfaces you're putting in, all that needs to be in place. We need to see the agreements by the adoption --

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: -- which will be the same time you do your PUD and DRI.

MR. YOVANOVICH: Right, no problem.

CHAIRMAN STRAIN: Okay. Mike, did you have something to contribute since we're talking -- you're standing back there like you want to talk.

MR. GREEN: Michael Green, transportation planning. I was just coming up in case I was needed, in case -- to back up comments from Corby or Rich in the conditions of The Lords Way.

CHAIRMAN STRAIN: Well, you are needed, because one of the questions would probably be, the arterial-level requirement, how is Lords Way going to meet that -- or satisfy that as far as capacity improvements, safety improvements, the type of traffic that would be used in and out of a business park of 140,000 square feet along with the residential; is The Lords Way easement areas, in the cross-sections that would have to be developed in that area, capable of supporting everything that I just mentioned that could be put there by this project?

MR. GREEN: They could be. That becomes more of a civil matter between the property owners who actually own The Lords Way. One could argue almost that they would classify this as their driveway and that their access is The Lords Way to 951; 951 is the arterial.

The alternative to them would be to build a new driveway north of that through the rest of their project and connect to 951 separately.

COMMISSIONER MURRAY: You can't do it north of that.

CHAIRMAN STRAIN: Well, this road will be used by the public living in that facility and by the public traveling to the business park or any other places in there, plus its intersection at 951. Since it will be used by the public, are there any safety criteria and improvements that your staff would have to require?

MR. GREEN: Absolutely.

CHAIRMAN STRAIN: Okay. Do you see those being able to be done within the easement areas provided in the private format that they're now provided for for Lords Way?

MR. GREEN: Yes.

CHAIRMAN STRAIN: Okay. Anybody have any questions of Mike at this point?

COMMISSIONER CARON: Yeah.

CHAIRMAN STRAIN: Go ahead, Ms. Caron.

COMMISSIONER CARON: I just want to pursue this a little further. So if you look at the map that is up there now and where it says The Lords Way it's a lighter color than when you get into this project -- the project we're discussing today, all of that area -- no. Back up.

I want to talk about 951 and what's owned here now by the church. The church owns from 951 back to the beginning -- this property owner's property right now, they're telling me that they're going to have an easement to use that road which would absolutely be not only logical, I would assume it would be required; however, is it required for the level that would be needed for a business park?

I mean, we can't put any added burden on the church in order to come up to the standards that we're going to need to access their business park, which is beyond.

MR. GREEN: The burden -- the burden of improving that roadway to satisfy the projected daily volume would not fall to the church. The church has in what they have been required to put in for their access, and the easements are in place. As a matter of fact, there are some easements along the church property in addition to what was identified by right-of-way as part of the last PUD amendment that the church was going through with the county dedicating additional easements for road improvements and stormwater to the county.

So it is a matter of changing maybe structural pavement, the width of the road, the drainage, some other safety features, to bring the road up to the standards that the new daily traffic would require.

COMMISSIONER CARON: Okay. But who's going to be responsible for changing the width of the road?

MR. GREEN: The applicant.

COMMISSIONER CARON: Okay. But it's on somebody else's property that they would have to be doing that.

MR. GREEN: But they have the rights to make the improvements within the easements that exist.

COMMISSIONER CARON: That already exist?

MR. GREEN: Yes.

COMMISSIONER CARON: And you're going to bring that to us --

CHAIRMAN STRAIN: By adoption.

COMMISSIONER CARON: -- by adoption?

MR. YOVANOVICH: Yes.

COMMISSIONER CARON: Okay. Now, in order for a business park to go where they have it sited now, it's not supposed to go through a primarily residential area.

On -- this church property right now is zoned for residential on top of that church.

MR. GREEN: There is one tract that the church is working with to go to residential. I don't know what the existing conditions are since it has changed owners.

COMMISSIONER CARON: Well, it's changed owners, but the existing is -- there's residential there. I don't know whether the current church wants to keep it. I've been told by someone that maybe they don't want residential there, which is fine. That actually helps this project.

MR. GREEN: Then you would need to evaluate the difference between what's zoned and what is existing in use. There's no existing or extremely limited existing residential uses that are constructed and operating.

COMMISSIONER CARON: Okay.

MR. GREEN: But there are some areas that are zoned for residential.

COMMISSIONER CARON: Okay. So you would rely on the fact that it may be zoned for that but it's not built to that?

MR. GREEN: Yes, that's correct.

CHAIRMAN STRAIN: While we're at this time frame, I'd like to make a note to the people here for the Vanderbilt Beach Road GMP issue. Being that it's 11:14 and we haven't finished this one, my goal hopefully would be to finish this one by our break at lunch, which would be an hour. And then we still have a dock, one dock to go through, before we can get to you.

I could tell you most assuredly we would not hear your project before 1 o'clock. So if that provides any of you for a longer extended lunch hour, please feel free to take it, because we will not get to Vanderbilt Beach Road before 1 o'clock. And we're kind of stuck with that -- with the intensity of this project.

So with that in mind, we'll continue on.

Any other questions of transportation at this time?

COMMISSIONER EBERT: Yep.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Mike, I notice that it is 60 feet for The Lords Way. So that's one-lane traffic each way?

MR. GREEN: That's correct.

COMMISSIONER EBERT: To a business park or a school. Okay. Thank you.

CHAIRMAN STRAIN: Before we get into a lot more questions, let's see if there's any concerns from the public for this project, and then we'll get back into general questions.

Do we have any public speakers on this particular project? Nicole?

MR. BELLOWS: Yes. Nicole Ryan.

CHAIRMAN STRAIN: Is she the only registered speaker?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: When Nicole finishes, if there's anybody else that would like to address us on this matter, feel free to come up.

MS. RYAN: Good morning. For the record, Nicole Ryan, here on behalf of the Conservancy of Southwest Florida. And I wanted to put these amendments and the project, because they really are very much linked together, into context for you from the Conservancy's perspective.

As Bob had mentioned, this project, in various iterations, has been around for a long time, and the Conservancy has had, and still has, concerns about the project per se. It makes a lot of impacts to wetlands. It's certainly better than it used to be, but there's still 460 acres of wetland impact. It impacts a lot of listed species habitat.

We have in the past had concerns about the footprint of the development, and we were very concerned about the proposal to relocate the Swamp Buggy park to NRPA sending lands.

With that being said, we did sit down and meet with the applicant and put together our different maps and wish lists of how, if this property were developed, we would prefer it to look. Of course, we started out with the initial map of nothing being developed, and I think Rich was actually shocked into silence with that one, but we did

have some other proposals going forward.

And the applicant did take a look at our considerations, looked at what we were proposing for the Comp. Plan amendment changes, and they did incorporate not all but a lot of what we had suggested into their environmental considerations.

So I do want to acknowledge that. We're always up here opposing things, and so I do want to say that they did really try to incorporate a lot of our suggestions.

That being said, we still are going to be commenting about the wetland and wildlife impacts to those permitting agencies.

But looking at this strictly from a county planning and comp. planning perspective. We do not oppose the environmental amendments that are before you today. We really haven't analyzed the transportation, The Lords Way issue, or the activity center, but those environmental amendments are amendments that we are not opposing.

We certainly were happy to see that the relocation of the Swamp Buggy park was taken out. That was one of our biggest issues.

We also had concerns about a lot of amendments that were Hacienda Lakes specific but could be applicable to other projects within the rural fringe and the density-blending areas. And I know that it's gone back and forth of how to address that. There was first the recommendation to have this PUD referenced. That has been taken out. I believe we're now at the point where the legal description will be attached to the Comp. Plan amendment, and we believe that that's probably the best way to move that forward. So we think that that's a good idea.

In looking at the increased density from the 2.5 cap up to the 2.8, this is something that we also didn't oppose because we're not increasing the overall density within the county or the density allowed within the rural fringe and that urban residential fringe, but we're pulling it more into the urban area, and that really is the intent of the rural fringe program, is to get that density out of the fringe where it could be urban sprawl and get it into the urbanized area. So we see that as something that could be compatible.

The shifting of the preservation allowing for more impact to those urban wetlands in exchange for additional and two times the preservation of good wetlands within the sending lands, we also see that as something that can be a benefit and, again, that's going to be something that really is Hacienda Lakes specific.

In looking at this project and what can be done, I think it's very important, and you touched on it before, the fact that the NRPA sending standards for vegetation preservation are very high, 90 percent. But then there's this density-blending provision that says, if your project straddles the urban and the fringe, then you can combine, shift things around, and you only have to preserve up to 60 percent of the site. You have to have 60 percent preservation, not that 90 percent.

And because that could allow so much impact in those NRPA sending lands and sending lands, we really think that the amendments before you in the context of the PUD/DRI that will come to you at adoption, we think that this is going to be an acceptable balance of things. So we're not opposing the amendments.

I do want to bring up one issue, and it's not on the table for your consideration or recommendation today. But I do want it brought up, because it is going to be important in the future, and that's the issue of the Benfield Road extension. The Conservancy and many other nonprofits and many state agencies are actually very concerned and oppose the extension of Benfield Road because it would impact so many wetland resources and so many wildlife and listed species habitat resources.

And that road is being very much tied to this project, not only requiring that the project put the road right-of-way on the master plan, but also the county transportation staff requiring that Hacienda Lakes be responsible for all or a portion of the design, permitting, and construction of the road through their site.

And we believe that it's inappropriate to tie such a controversial road that may never get its permits to this project. Certainly the county needs to get the transportation concurrency requirements from the developer. We believe that there are certainly a lot of roadways in the long-range transportation plan that are less controversial, more likely to get permitted, and are more shovel ready.

So have those transportation -- I don't want to say extractions, but -- considerations and negotiations be put to those other projects. We really believe that it's going to be a detriment to this project as it moves forward if it's so intimately linked and tied to actual construction, permitting, design, of Benfield Road.

So I bring that up now because if this can't be resolved before it comes back at adoption, I think there's going to be a lot of concern voiced at that point, so --

CHAIRMAN STRAIN: And the concerning voices at that point would be more directed at the master plan that's included with the DRI/PUD, not necessarily the GMP language, because it doesn't really touch on the road quarter.

MS. RYAN: It doesn't, but I just wanted that out there so that you're aware of it going forward.

CHAIRMAN STRAIN: No. And we appreciate that, because that's something we can look hard at. And I don't necessarily disagree with your position. So thank you.

COMMISSIONER SCHIFFER: Mark, I have a question.

CHAIRMAN STRAIN: Anybody other -- Brad?

COMMISSIONER SCHIFFER: Yeah. Nicole, are you okay with the fact that the lands, that one-acre-to-two-acre mitigation, that the TDRs stay on that land after that's done?

MS. RYAN: Well, the TDRs -- the TDRs wouldn't stay on that land because those lands are eligible, and TDRs are being pulled off of that regardless of whether you have this new provision being put in place. So I -- I'm not sure that that's really an applicable policy, and that's not what they're asking for.

Our thought and position on that is that if we can get more preservation in the sending lands, which that policy would allow, we're okay with them taking the TDRs as long as they're moving them into the urbanized areas.

And because they are moving more of their development than they're required to do into the urbanized areas, that means that they're going to have to impact some of the lower quality native vegetation wetland habitat in the urban area. But in exchange we get a more intact preservation -- requirement and preservation set aside in the rural area. So we're comfortable with that.

COMMISSIONER SCHIFFER: Okay, thanks.

CHAIRMAN STRAIN: Thank you, Nicole.

MS. RYAN: Thank you.

CHAIRMAN STRAIN: Anybody else wishing to speak on this issue before we go into questions of the staff or the applicant?

MR. BELLOWS: None registered.

CHAIRMAN STRAIN: Okay. Well, you don't have to be registered. If you just want to speak, just stand up. Okay.

And Richard's the only one standing.

MR. YOVANOVICH: I'm stunned into silence.

CHAIRMAN STRAIN: Well, let's go forward with our questions. Does the Planning Commission have any general questions they'd like to ask at this time?

I have a few. So let's start. Heidi, where art thou? There you are.

MS. ASHTON: Right here.

CHAIRMAN STRAIN: I didn't know if you were walking around or not. You had added something on Page 23 of the January 20th staff report, or think you added it. Someone, and maybe it's not you. It says under part five of six on the top of Page 23, "Approval of business park access via The Lords Way also has the affect of preliminarily endorsing a business park at the proposed location within the Hacienda Lakes project."

I don't know if you put that language in or if staff did, but I'd certainly like your input on it. Do you feel that's a true statement?

MS. ASHTON: No, not necessarily. It still has to go through the PUD amendment. It's a -- or the PUD. It's allowing the business park as an option.

CHAIRMAN STRAIN: I just want to make sure --

MS. ASHTON: But that will be clarified during the PUD stage.

CHAIRMAN STRAIN: I just want to make sure if we go forward with some stipulations that include The Lords Way working out in the manner they propose, that we're not tying ourselves to a future automatic approval of that business park.

MS. ASHTON: No.

CHAIRMAN STRAIN: Okay.

MS. ASHTON: No. But I would like to comment that if a business park does go along Lords Way in approximately that location, that there's currently no CAT bus system that goes down that road. So if you agree that it could be further down on Lords Way and not directly on an arterial, you just need to be aware of that consideration.

CHAIRMAN STRAIN: Okay. But that's more of a DRI/PUD consideration, and we certainly will, hopefully, have those comments discussed at the adoption hearing.

Okay. I'll move through what questions --

COMMISSIONER CARON: So before you leave that, what are we going to do with this language? Are we taking out that first --

CHAIRMAN STRAIN: Well, that's not the language we're adopting.

COMMISSIONER CARON: Oh, that's right.

CHAIRMAN STRAIN: That's just a comment.

COMMISSIONER CARON: This is just part of the comment, yeah.

CHAIRMAN STRAIN: Right. So I wanted to make sure that the comment didn't bind us, and it doesn't, so -- in the -- I'm going to have to go back and forth between some of the renditions we've received from staff.

In the original staff report -- I'm not sure it's the original. It's the one dated January 6th on Page 5, and I'll read it so -- in case you-all can't find it. There's a reference to the land uses used within the Swamp Buggy Days PUD.

Most of them are items that nobody would want in a residential neighborhood, but they're already there. It's kind of like the airport that exists and people move around it. People moving in the area will know there's swamp buggy races going on, and that's part of it; however, the fourth item is a use that I think is -- raises the level to a public-safety issue other than just noise, and it's target ranges.

I used to use the range out at the Swamp Buggy grounds years ago. I'm not sure what condition it's in today.

COMMISSIONER MURRAY: It's closed.

COMMISSIONER AHERN: It's closed.

CHAIRMAN STRAIN: Well, it's closed, but it's still a use within their PUD.

COMMISSIONER MURRAY: Okay. But it's been closed.

CHAIRMAN STRAIN: Well, I'm more concerned about it remaining as a use within the PUD with its relationship now to an occupied business park, housing, and potentially a school around it.

So what is the possibility of getting that removed by adoption?

MR. YOVANOVICH: By adoption?

CHAIRMAN STRAIN: Yeah.

MR. YOVANOVICH: I think there's a possibility, if you're comfortable with it becoming an indoor --

CHAIRMAN STRAIN: Yeah, that wouldn't be a problem.

MR. YOVANOVICH: -- range. I think that that's a possibility at adoption and the PUD level.

CHAIRMAN STRAIN: Okay. That would be something we would probably stipulate then.

Staff has analyzed the commercial components, and they've indicated that your need for additional commercial isn't supported in the area, that there's a dramatic surplus of commercial. You've provided an economic analysis to support your commercial. I've read your economic analysis, and I certainly don't put any -- any value to it.

But the efforts for our property owner to be able to develop his land if he's zoned commercial I think supersede that. So I'm not going to base my decision regarding the commercial component on your economic analysis, because I think it's virtually worthless, but I will certainly provide you with the ability to use commercial on that site from my perspective. I think that's your right as a property owner.

But having that said, I'm sure staff has a different position on that, and they've already voiced their reasoning as to why the commercial shouldn't be moved or should be moved or however it should happen. If there's anything else you want to say, Corby, in that regard involving the economic analysis, feel free. If you have any comments about it --

MR. SCHMIDT: Thank you, Mr. Chairman, but nothing else at this time.

COMMISSIONER EBERT: Somebody does, though.

CHAIRMAN STRAIN: Go ahead, David.

MR. WEEKS: Commissioners, again, for the record, David Weeks of Comprehensive Planning section. Just, I guess, to make sure it's clear what the staff position is -- and for those of you that have been on the commission for a while, you've heard me say this over and over. Staff does not look at a request for commercial from the perspective of, if they build it, will they come? We do recognize that that is the property owner, the petitioner. They are taking that risk. And if they get this petition approved, and if they build it and it's successful, good for them. And

if it's not, bad for them and maybe bad for the community.

We do look at it, though, from a standpoint of inventory. How much commercial inventory does the community need? That is our perspective. So if they are successful in getting their approvals and they build their commercial development and it's successful, again, good for them, but that may be bad for some other commercial location, possibly elsewhere within this activity center even.

So it's not a matter of saying, we don't think that commercial development will be successful at their location. We're saying, do we need more commercial inventory? Do we need more of it? And the staff answer is, we don't think so.

CHAIRMAN STRAIN: Well -- but see, then staff's putting government in the position to decide on how successful or unsuccessful a business or a property owner should be, and that's a property right I think this country provides to property owners.

I understand your position, David, but at the same time, there are vacancies throughout this county. Maybe it's because they can't be as competitive as they need to be because they paid too much for their land, built the building at the wrong time and got loans against their property that were too high.

We have an opportunity now for commercial to go in that might be at a better rate that could flourish because they can be more competitive. And if others have to lose out because of competitiveness of this project, I don't see a problem with that. That's going to benefit the public.

So I think you have a valid concern, but I believe in my voting process, mine's going to outweigh yours, at least from my perspective, so -- but there are some questions I'd like to ask involving the persons-per-household numbers.

Corby, in your report you wrote up, the changes in the persons per household varied from 2.0 to 2.5. I just want to make sure on the record our standard is 2.39, is it not?

MR. SCHMIDT: In this area it is, yes.

CHAIRMAN STRAIN: Is there any reason why it should have varied in their reports?

MR. SCHMIDT: There are some, one of them being that the 2.39 figure takes into account, or does not take into account, vacancies or part-year residencies. So that 2.39 figure is all year-round residencies. And so numbers less than that are just as valid.

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: However, staff was careful to include calculations in some of our review statements based on the full figure.

CHAIRMAN STRAIN: Thank you, sir. I'll try to move through my questions fast. If anybody else has any while I'm thumbing through, go right ahead.

You had on -- I don't know what version this is -- one of the exhibits, and it was under tab -- oh, Exhibit A text, the fourth page, you had alternative language involving The Lords Way. You had a one and a two.

MR. SCHMIDT: Yes.

CHAIRMAN STRAIN: Is that still standing as alternative language?

MR. SCHMIDT: No, neither.

CHAIRMAN STRAIN: Okay. So what would we do in this case? You don't need "neither" then?

MR. SCHMIDT: It's not that we don't need either of these. Either -- or both of these versions, however, have been superseded by what is in your most recent packet in HL-2.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Page 5.

MR. SCHMIDT: Yeah. It's on Page 5. And that has been amended, or at least recommended to be amended further with strike through of the provisions for street improvements.

CHAIRMAN STRAIN: Okay. I think we've gotten to just about everything.

MR. SCHMIDT: It's on the visualizer now. That should be your Page 5 replacement alternative to those you just mentioned on Page 4 of Exhibit A.

CHAIRMAN STRAIN: Right. I remember seeing it now. Thank you. Okay.

Those are the questions that I have. Anybody else have any questions of either the applicant, staff, or anybody else at this time?

(No response.)

CHAIRMAN STRAIN: Well, let me make some comments then to the applicant so we're on kind of the same page -- well, I don't know if we'll ever be on the same page, but let's try.

There are some enclaves within your rural areas that you're preserving. They're owned by Florida Department of DEP or something like that. By the time of adoption, do you have any objection to proposing -- or supplying to us whatever documents you have that guarantee access to those enclaves?

MR. YOVANOVICH: We can send that to you if you need it.

CHAIRMAN STRAIN: Well, I just said by adoption.

MR. YOVANOVICH: Yeah. No, we can send them to you at adoption.

CHAIRMAN STRAIN: Okay. Do you have any problem providing a cross-section of Lords Way that provides the elements needed to assure us that you're protecting the neighborhoods or the other properties it goes through?

MR. YOVANOVICH: Yes. We have no problem doing that.

CHAIRMAN STRAIN: Whatever. It shows the sidewalks, it shows any necessary required streetlighting, but it just meets the standards that we want to see to make sure that the public's safety is protected if they use that roadway.

MR. YOVANOVICH: We can have that at adoption. It will be -- it's part of the PUD, but -- so you'll have all that.

CHAIRMAN STRAIN: But unfortunately it comes into play in the GMP, so --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: The alternate two-way language that's proposed by the county attorney most recently in version 100, whatever it was, the one that was put on the overhead, do you have any problems with that?

MR. YOVANOVICH: The answer is, I think I understand it, so we have no problem with it. But obviously, between now and adoption if we sit down and read it, we can hash out if something comes up.

CHAIRMAN STRAIN: Can you supply us with the documents by adoption that allow you to do the improvements --

MR. YOVANOVICH: Yes.

CHAIRMAN STRAIN: -- on The Lords Way as will be required in whatever cross- --

MR. YOVANOVICH: We'll provide you with the legal documents that give us those rights.

CHAIRMAN STRAIN: Okay. I'd suggest ahead of time, make sure that they include utilities and landscaping and maintenance and irrigation, all those good things that road access normally doesn't mean. So it has to be greater than road access.

You would modify the Swamp Buggy Days PUD to remove that -- or modify the target range so it becomes either indoor or removed altogether.

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: Okay. Then at the same time I'm going to say this but probably -- but not make it as a stipulation, because I don't know how we're going to -- we would put it in the language, but you have committed to certain numbers of units. I know we're going to see more detail in the PUD/DRI, but I think today's discussion got that on the table very, very clearly, so I'm going to suggest that you try to not deviate from what you told us today, and that was 1,760 units, 327,500 square feet of commercial, 70,000 square feet of office, 135 hotel rooms -- these are all up-to numbers -- 140,000 square feet of business park, and a school not to exceed 19 -- 919 students.

Those are what's in your either writeup or verbally expressed to us today as maximums, and those are what we would be relying upon in order to review the upcoming documents for adoption.

MR. YOVANOVICH: And as you know, there's some conversion formulas in there, and we will -- we will be prepared to address all of those issues at the PUD stage to either defend or give up on our conversion formula, so --

CHAIRMAN STRAIN: Okay. But we're -- I mean, from my perspective --

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: -- I'll be breaking down those conversion formulas to the simplest basic --

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: -- common understanding. If a unit is a unit is a unit, it will be a unit. So however you --

MR. YOVANOVICH: I understand.

CHAIRMAN STRAIN: And if we've accepted something in the past --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- that's a good precedent. But keep that in mind when we get there.

Ms. Caron?

COMMISSIONER CARON: But I'm not sure you want to indicate to them in any way that those figures are necessarily acceptable until after we've actually analyzed --

MR. YOVANOVICH: Right --

CHAIRMAN STRAIN: No, they're not going in the --

COMMISSIONER CARON: -- the PUD.

CHAIRMAN STRAIN: No, they're not going in the transmittal. I wanted to make sure we knew where they're saying their maximums would not exceed so that when we get there, that's the first line of concern is, where'd you fall in relationship to what you told us.

MR. YOVANOVICH: Right. We understand.

CHAIRMAN STRAIN: And I wasn't looking to add something that's subject to --

COMMISSIONER CARON: Okay. But -- and I'll just give you an example. Because, for example, if in the expanded activity center the average is 20,000 square foot per acre and the county average is 5,000, we may want to give them something in between that, not what they're requesting, whatever came out to, 327,500. So I just want to make sure that that's clear to everybody that, you know --

CHAIRMAN STRAIN: Well, because we had the benefit of the PUD and DRI, there are a lot of issues in those documents that were confusing. I'm making an attempt now to at least minimize the confusion to maximums not to exceed, but they always have to be rational, and that rationality will come into play when we analyze it prior to adoption.

COMMISSIONER CARON: Yep.

MR. YOVANOVICH: Correct, we understand that. We understand.

CHAIRMAN STRAIN: I'm just making it clear, because I was involved in something last month that had intentions that were told to us supposedly in 2005 that nobody understood, so I want to understand them all from now on. Anyway, so much for that.

Anybody else have any other questions of anybody in the applicant's, staff's side, or whatever before we close the public hearing and further discussion, then a motion?

(No response.)

CHAIRMAN STRAIN: Okay. With that we will close the public hearing, and we'll have discussion. I don't mind leading off, if you-all would like.

And there's four items in discussion here, and that is the density increases, which are called lifts in this case, the preservation quantities and movement that's making that possible, the use of Lords Way as an access to a business park -- or an access to the project for a possible business park, and the addition -- or the movement -- or the addition, actually, and movement of 9.16 acres within that activity-center quadrant.

I previously asked the applicant if they had any objection to certain stipulations. The five that I pointed out were access to the surrounding parcels in the rural area, provide that, show us a cross-section assuring the safety use of Lords Way and the compatibility issues that would address Lords Way with the other uses that are not their project, the alternate two-way language that the County Attorney's Office had put on the overhead and worked out, the use of the improved Lords Way as far as what rights they have to improve that roadway to the element -- to the level that they have to use it for a business park access, or for whatever access it's deemed to be, and then the modification of the Swamp Buggy PUD to remove the target range.

Those are the things that I made notes of. I iterated the issues. Any comments from anybody on the Planning Commission?

COMMISSIONER MURRAY: Yeah.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: You mentioned remove the target range. I think you had suggested the possibilities or had suggested --

CHAIRMAN STRAIN: Remove or internalize.

COMMISSIONER MURRAY: Yeah, correct.

CHAIRMAN STRAIN: I mean, yeah, make it enclosed in a building, so --
Anybody -- Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah. I mean, I still think the mitigation acreage is double dipping, but if the Conservancy doesn't have a problem with it, who am I to worry about it?

CHAIRMAN STRAIN: Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Is there someone that would like to make a motion?

COMMISSIONER AHERN: I will.

COMMISSIONER KLEIN: May I make a comment?

COMMISSIONER AHERN: Go ahead.

CHAIRMAN STRAIN: Melissa -- oh, go ahead. Barry, you're making a comment or a motion?

COMMISSIONER KLEIN: I'm making a comment.

CHAIRMAN STRAIN: Okay. Then we'll go for a motion.

COMMISSIONER KLEIN: I just want to say that I am in favor of something being done in this area. I've lived in Naples for 11 years, and I live close to this development. My running route would take me to the intersection. And I do believe there is a need for additional services in retail, et cetera, in this area.

There's about 7 or 8 miles from Radio Road where Collier is to the north and to the Tamiami Trail to the south, and right in this middle there's a supermarket, a strip center. There's all kinds of people living in the area. It has grown. And I think that the commercial development is not only good, it's needed for that area. Thank you.

CHAIRMAN STRAIN: Okay. Thank you.

Melissa, did you want to make a motion?

COMMISSIONER AHERN: Yes. I will make a motion to approve CP2006-11 with your stipulations for transmittal.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Okay. Motion has been made by Melissa, seconded by Barry.

Richard is standing there with a puzzled look on his face.

MR. YOVANOVICH: No. I missed -- did she say with staff's language?

COMMISSIONER AHERN: No.

CHAIRMAN STRAIN: No. As I stipulated.

MR. YOVANOVICH: As you stipulated, okay.

COMMISSIONER AHERN: No.

MR. YOVANOVICH: That's right, okay.

CHAIRMAN STRAIN: Now, before we call a vote, I'd like to make sure that staff understands the motion and it's as complete as it needs to be to provide staff with the direction to come back with a consent agenda finalization at today's afternoon conclusion. Because it's all being done today.

MS. ASHTON: Was the motion to approve except for the two items that were placed on the visualizer, the language that was in your Attachment H, what was that, H-1?

MR. YOVANOVICH: H-2.

MS. ASHTON: H-2.

CHAIRMAN STRAIN: The latest rendition provided by staff is the September -- or why do I keep saying September -- January 20th date. That staff presentation was the one that I was going on.

MS. ASHTON: That's what you're approving subject to the changes that were placed on the visualizer.

CHAIRMAN STRAIN: With the exception that staff had certain recommendations, one of which was not to transmit. We did not buy on that. We're saying move the quadrant and transmit.

MS. ASHTON: Correct.

MR. SCHMIDT: Understood.

CHAIRMAN STRAIN: Okay. Or to expand the quadrant and transmit. So that's where we're at. That's the only change to staff's that I've seen.

Richard, is there any issues there that bother you?

MR. YOVANOVICH: No. We're good. It's Heidi's language on 2A.

CHAIRMAN STRAIN: Yes, it is.

MR. YOVANOVICH: And then the extra red language regarding the roadway on Lords Way, that came out. So everything remained the same in H-2. So it had be -- we're on the same page as to what you should see at the consent this afternoon. They're very minor changes.

CHAIRMAN STRAIN: That's what we're looking for.

MR. YOVANOVICH: Very minor, yes. We're on the same page.

COMMISSIONER AHERN: Correct.

CHAIRMAN STRAIN: Works with the motion maker, works with the second?

COMMISSIONER KLEIN: Yes.

CHAIRMAN STRAIN: Okay. Any further discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries 9-0. Thank you. It's a challenge to say the least.

Okay. We normally break at 11:45 and come back at 12:45. We have a boat-dock extension and variance that's going to be up first. I suggest that we probably handle that at 12:45. Is everybody okay with that? Okay. Let's break till 12:45. Thank you.

(A luncheon recess was had.)

CHAIRMAN STRAIN: Okay, everybody. Welcome back from the lunch break.

Before we left we had finished off the Hacienda Lakes project till consent discussion later this afternoon.

The Item 9B had been continued earlier today. That's the Little Hickory Shores boat-dock extension.

***And we have a single boat-dock issue but with two items coming up. I'll read them both because we'll hear them both together, and then we'll vote on them separately.

The first one is a boat-dock extension, BD-2008-AR-13142, for Paul Schneller at West Pelican Street on Isles of -- I think it's Isles of Capri, and then the second companion item to that is a variance. It's VA-PL2010-739, same applicant, same address.

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

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

CHAIRMAN STRAIN: Discussions on the part of the Planning Commission, or disclosures? I'm sorry. Anybody have --

COMMISSIONER MURRAY: How about discussion?

CHAIRMAN STRAIN: We could have both, I assume.

COMMISSIONER AHERN: Motion to --

CHAIRMAN STRAIN: Yeah. I guess I talked to Rocky. I don't know, but I think it was the other one we talked about. I don't think it was this one. I did get a piece of correspondence. I can tell you the name in just a minute. I think we may all have gotten it.

COMMISSIONER EBERT: Yes, an email.

CHAIRMAN STRAIN: From Rafael Puente who is --

COMMISSIONER MURRAY: Yeah.

COMMISSIONER KLEIN: Yeah.

CHAIRMAN STRAIN: -- wrote to us about a court action involving this particular property. So before we start with Rocky's presentation, I did look the court action up, and county attorney had done the same thing.

Heidi, does this have any bearing on this -- on our hearing today?

MS. ASHTON: Well, the letter questions whether the owner has the ownership rights to do what they want to do. There was a pending civil action. The property owner was named in the action. There were a couple judgments filed, but there were no judgments that were filed that related to Lot 81.

So I'd just suggest that when you put the owner under oath that you ask him if there are any agreements pertaining to Lot 81.

CHAIRMAN STRAIN: Okay.

MS. ASHTON: Other than that, I think we proceed.

CHAIRMAN STRAIN: Will do. Thank you.

Rocky, it's all yours.

MR. SCOFIELD: Okay. Good afternoon. Rocky Scofield representing Paul Schneller at 39 West Pelican on Isles of Capri. It's Lot 81.

If everybody's familiar with where this is on -- and it's on Pompano Bay, section back in the corner. We've had three -- there's been three previous boat docks in this area that have come before you and been approved.

That's the aerial showing the three docks there on the left side and their protrusions into the bay, and then our proposed dock is the one down at the bottom on the south end. The other three are to the north.

Those boat docks extend out. The adjacent lot, Lots 84 and 85, have a 159-foot extension for a total of 179 feet. The next lot to the north, Lot 86, has 139-foot extension for 159 feet, and then the one furthest north, Lot 87, has a 153-foot extension for a total of 173 feet.

The two lots -- the two extensions to the north were measured from the mean high-water line, and then the one furthest north was measured back, which was in '05. It was measured all the way back to the property line.

And I'm sure some of you will remember, on these boat-dock extensions, they always -- they were saying at one point in time we always measure from the most restrictive area. So when that was brought in front of you for that -- I didn't -- Tim Hancock brought that one for Westlick, LLC. At that point in time the staff said, well, we have to measure it all the way back to the property line, so that one was measured back to there. The other two were measured to the mean high-water line.

That's a closer-in shot showing you our proposed dock there on the bottom and the three existing docks that have been permitted just to the north. That I can -- I'll show you a survey in a minute, but this area back in this corner, it -- originally when Isles of Capri was built, the platted property line went back all the way back -- you see back where the mangroves in back of there -- it went back. That was originally all supposed to be dredged out and seawalled. It was never done, like a lot of Isles of Capri and, therefore, most of Isles of Capri is in the state of aquatic preserve now. So these were never -- a lot of the seawalls were never put in anywhere on Isles of Capri.

So when we started doing this -- and you've seen this quite a few times in Isles of Capri -- land has accreted out beyond the property lines. And in order to get a boat dock onto your property, you have to prove riparian rights to the state that your property does touch the mean high-water line.

So what we've done -- most all of these docks here, all of these have gone through the process, and it's called a certificate from the state, the Internal Improvement Trust Board, and they -- it's called lands filled prior to 1975.

We have -- we have that certificate in the file. What most of the people do, they prove that that land was there -- we do it by aerial photographs. We showed it was there before 1975. Then the state gives you a certificate that says, we have no claim on that land. You can do with it what you want, and most people take that claim or take that certificate from the state, they go to the county, and they have it in -- then it's put into their deed, and then the property lines now show that their property extends out to the mean high-water line. That's where these extensions are measured from. There's a lot more dock coming back through there to get to the upland.

This is Mr. Schneller's lot, and that -- yeah, thank you, Ray.

And that shows you where the property rights extend out to. Now, originally the platted line was back here. They were all squared off. And now it extends on out to the mean high-water line.

That's a drawing that was done by Tony Trigo, surveyor, back in -- when we were dealing with the Hughes case back in '96, which established the riparian lines for all of these lots in there. Mr. Schneller is Lot 81 there, back in the corner.

These lines were done by Tony Trigo, as I said, back then, who -- this has been -- this is what the state has used ever since then for these riparian lines. That's what all the three docks before us have been permitted to, staying

within their riparian lines. Two of those docks also had companion variances along with them.

And to -- one to zero -- zero setbacks, and the other one to two-and-a-half-foot setbacks, because it had a little bit more room.

The Hughes dock -- I could not find a variance. He has zero setbacks. That's Lots 84 and 85, just to the north of Mr. Schneller's.

I did that -- back in '96 was the BDE. And I can't find anywhere in the records where there was a variance done. And, quite frankly, at that time it probably slipped by everybody, and it was just run through as a BDE, and it was approved -- it was appealed to the Board of County Commissioners from some of the neighbors back then, but the Planning Commission's vote was upheld at the BCC, and the resolution -- the BDE was granted in that case.

I'm going to put this -- this is a survey by Trigo that was done. When you opened this hearing in reference to Mr. Puente, this was the survey done when all of that came about, and I just wanted to show you in relationship where Mr. Schneller's lot is. He's right here. Can you get out? Mr. Schneller's lot is right here. This is Mr. Puente's lot right here. And if you can make that out, I can zoom in if you want. The discrepancy back then was between Lot 79 and 78 in here.

There was a seawall that was pushed way out to the water line, a seawall put in, and a dock, and it straddled riparian lines. Back then they thought -- this is just a quick little history, and I don't know if you want to get into it or not, but if you do, the owner can talk to you about it.

But what Mr. Puente is -- what happened there is the owner of Lot 78, he thought the riparian lines way back then, they just extended the property lines straight out, which a lot of times it was done back then.

Obviously, in this cove case, that's not the case today. But he thought it was. He extended the -- put in a seawall out there, put in a dock, which clearly straddles riparian lines. And this was the fight back then that happened in the lawsuits between those two neighbors.

My client is down here in the corner where there's a Lot 80 even separating, so it doesn't even come into play with this. I think there was misinformation that everybody -- most everybody around here got dragged into the lawsuit in one way or another, and people were dismissed. The Schnellers were not part of it.

So that's what -- the letter you received saying there was some discrepancy on riparian rights, but it does not affect my client's lot.

The criteria on the BDE, we meet all of the primary criteria. We meet five out of the six secondary criteria. The navigable waterway here -- you'd think I'd learn it after a while, wouldn't you?

There's -- the line underneath, which is 519 feet, that's the open navigable waterway. Where Mr. Schneller's dock is, it only extends out roughly 20 feet. And if you want to call that navigable water, there's only 2 feet of water under where Mr. Schneller's boat is going to be moored. So there's clearly over 90 percent of that waterway that's left open for navigation just like the other docks surrounding it.

So if you have any questions, I'd be glad to answer them.

CHAIRMAN STRAIN: Questions? Mr. Murray?

COMMISSIONER MURRAY: Hi, Rocky. Just one regarding -- and there's a better photograph of what I'd like to suggest. But even with this one here, would it be possible to put a little right oblique, maybe six-inch jog before you get out to that convergence to allow for more safety for the mooring of those vessels?

That other photograph you showed rather early on showed just exactly how close those vessels are. And in a storm, they take a hell of a beating out there anyway. But look at that where you've drawn it. It basically lies against the hull of the other vessel.

So what I'm asking is, within the limitations that you have, is it possible to put a jog in there that would help?

MR. SCOFIELD: Not really. If you -- the riparian lines -- as you can see there, when we get out there, that's what we're dealing with. You know, we've got to -- we're just -- we're -- we've only got a few -- a foot or two on each side of where that boat has to go.

The neighbor is right on the riparian line with his -- with a larger boat. This is really the only place that we can go and -- to get out to that kind of water.

You know, we've -- the last -- I think it's the last 87 feet of this dock is -- violates the seven-and-a-half-foot setbacks, so we're dealing with a very small area, so that's why we're -- the companion variance will be coming up next.

But that's what we're dealing with. We're going to be asking for 0-line setbacks, 0-foot setbacks to the

riparian lines here just to get this boat in here.

And Mr. Schneller is -- that's it. You're looking at about a 17-foot skiff that draws about 18 inches of water, and that's what he's limited to, and he's well aware of that. Mr. Hughes next door is well aware of it, and they -- they're both compatible with it, and they're okay with it.

COMMISSIONER MURRAY: Well, okay. And I thought I would ask even though it looked like it was awful tight.

MR. SCOFIELD: It is.

COMMISSIONER MURRAY: And it's a shame, but -- all right. Well, they know going in what the realities are.

MR. SCOFIELD: Right.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah. Rocky, the -- this site is Lot 81?

MR. SCOFIELD: That's correct.

COMMISSIONER CARON: All right. When you look to the left of that site, there's 82, I'm sure. How are those people going to get a dock out?

MR. SCOFIELD: Eighty-two can't.

COMMISSIONER CARON: They can't. So it's not even considered right now a boat dock.

MR. SCOFIELD: No, they don't. They have --

COMMISSIONER CARON: Eighty-two and, I think, eighty-three.

MR. SCOFIELD: Well, here. If you see 82, you see those double lines.

COMMISSIONER CARON: Right.

MR. SCOFIELD: That's their riparian lines. They cannot. They can't have a boat dock or anything in there.

COMMISSIONER CARON: Okay. No, that's all --

MR. SCOFIELD: Right.

COMMISSIONER CARON: So there was no accommodation made in the beginning to make sure that everybody could get out?

MR. SCOFIELD: No, there was not. See, originally, if you look at those property lines, if you look at the old, old plats of Isles of Capri, that's where it was going to be dredged back to, and then, you know -- well, even then, 82 could not have had a dock, even if they put the seawalls back there, so they're out.

COMMISSIONER CARON: Okay. And 84 is one of the three we see already, right?

MR. SCOFIELD: Eighty-four and eighty-five are combined. Mr. Hughes owns both lots, and that was the first extension, so his dock straddles the property lines. So he owns both lots.

COMMISSIONER CARON: Okay, thank you.

CHAIRMAN STRAIN: Any other questions?

Rocky, I -- one of the aerials you have shows the lines extending out, the riparian lines, with the -- Mr. Schneller's boat at the end of it, but it also shows the boat next door. I think you said it's owned by a guy named Hughes.

MR. SCOFIELD: (Nods head.)

CHAIRMAN STRAIN: His boat's clearly over that riparian line, which is pushing up against, really, Mr. Schneller's lot. You see that big white boat? I mean, it looks a bit oversized for the amount of area he has, because the amount of area he has is pretty close to what your applicant seems to have. So how did that happen?

MR. SCOFIELD: Well, I can tell you that it's -- you know, surveying that and getting things exactly right is a tough situation. What I can tell you is that Mr. Hughes and Mr. Schneller are completely aware of this.

When these -- when this came about for Mr. Schneller going in, Jim Hughes came to him and saw that his piling was over the line for his boat, and he offered -- he said, "If it's a problem, I will move it." Mr. Schneller said, "I don't mind it. It's okay." And he said -- but he is aware of it. It's a little bit over the line. It's -- and Mr. Schneller's -- they've agreed to it, and Hughes has given him a letter of no objection and likewise.

CHAIRMAN STRAIN: Did you do Mr. Hughes' dock?

MR. SCOFIELD: I did the -- I brought it to -- I didn't do all the original work, but I did bring it before the county for the BDE.

CHAIRMAN STRAIN: The reason I'm saying is, if you had done it, wouldn't your length of extension gone

out past the front of the boat where this one -- where the boat now goes out past the extension in this case, and is that the boat size that you did it for, because that's maybe a bigger boat -- certainly a bigger boat than what Mr. Schneller's got? And I'm just wondering why we would have approved -- why somebody would have approved it.

MR. SCOFIELD: Well, I can tell you -- he has two lots, so he has double the riparian line -- width there, and it's even -- his is a little bit wider. He has two lots worth of riparian lines, which they're zeroed on.

That line I showed -- the blowup I just showed you a minute ago, we used the same measurement lines. Now, you've got to -- you've got to take into account these are aerials, and we try to rectify them. These measurements can be within 10 feet when we show -- you know, when we show you an aerial like this. Because when you look at this one blown out and we use that same line measurement of 179 feet, it appears to go to the front of the boat.

So I shouldn't say 10 feet -- it looks like a discrepancy of maybe 4 feet. But, you know, these are aerials shot up, and it's hard to get it exactly rectified. But they're within -- they're pretty close.

Now, whether he sticks out beyond that or not, I have not had it sur- -- we haven't had it surveyed, but they're all aware of it.

CHAIRMAN STRAIN: I was just going by what you had supplied in that aerial, so --

MR. SCOFIELD: Right.

CHAIRMAN STRAIN: Okay. The variance application is being considered simultaneously, so do you have anything you want to add for the variance aspects? I mean, I think you explained it all, but you said you were going to talk about that next, but I thought you already addressed it, so --

MR. SCOFIELD: Again, that's the only thing -- I've shown you that. That's the only thing I would show you on the variance where the boat is, and we're just asking for -- from the seven-and-a-half foot required to zero, which has been granted before, so we can get the boat in there. That's it.

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

(No response.)

CHAIRMAN STRAIN: Thank you, Rocky.

Mr. Schneller is here. Can I ask him one question, please, sir. If you could come up to the microphone, identify yourself for the record. And you were sworn in, I believe, at the beginning.

MR. SCHNELLER: Yes, sir. My name is Paul Schneller. I live at the residence, 39 Pelican Street West.

CHAIRMAN STRAIN: We all do what our attorneys tell us to do, and our county attorney suggested we ask you if there are any agreements on this property that involve a -- this dock situation or your property in regards to the riparian lines or anything of that nature.

MR. SCHNELLER: No, none whatsoever. Jim and I have spoke about it. I was aware that the one pile on the end is right on my riparian lines.

Suggestion, that that's one of the poles I'll tie my boat off of if I need to, he said. And Jim and I get along great, as well as many of the other neighbors, and there's no discrepancy here.

CHAIRMAN STRAIN: Okay. But the issue with the -- was raised involving the court case that Mr. Puente, I believe, sent us a letter on.

MR. SCHNELLER: Yes.

CHAIRMAN STRAIN: That case didn't seem to involve your property. We just want assurances that you have no -- you have no re- -- there's been nothing as a result of that case or any similar case that involves your property in any way?

MR. SCHNELLER: No, nothing. There was a case that the neighbors brought in -- because we have a deeded right to the property when I had bought it. We had researched it before we had bought it.

From my understanding in the courts, the Hugos, who own the property, and two other residents were dismissed before the judgment came, which was not involving the riparian lines, but the two neighbors on the other lots and their side lot.

So what my neighbors were looking for, that I didn't want to come and take their properties, that was all resolved. And as everybody in the back -- they're all neighbors, we all talk, and everybody's fine with everything right now.

Mr. La Puente (sic), I believe, was upset on the judgment, which his letter did not reflect the true judgment that the Court came down with. My wife had researched that before we moved into the house, as well as this morning

for two hours to retrieve what the verdict of that judgment was with La Puente (sic) and Hugo, and we weren't even mentioned in it, we were never summonsed, we weren't a part of it, and it did not -- and the land prior to us owning it was released from that suit before.

CHAIRMAN STRAIN: Does that satisfy you, Heidi?

MS. ASHTON: Yes, it does. And I just wanted to note for the record, the other judgment that I found, it was a different case number, 05-1419CA. It involved the Hughes and the Schnellers, and it's recorded in OR Book 4306, Page 1296. And in there it expressly states that it doesn't affect the property located between the boundary of the Schnellers' platted lot in Pompano Bay, and that was a 2007 different action but same parties, some of the same parties.

CHAIRMAN STRAIN: Okay, thank you.

Thank you, sir. Appreciate your time.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Okay. Is there a staff report?

MS. GUNDLACH: Good afternoon, Commissioners. For the record, I'm Nancy Gundlach, principal planner with the Department of Land Development Services.

And staff is recommending approval of both the boat-dock extension and the variance for this particular petition.

CHAIRMAN STRAIN: Well, that's nice and short. Thank you, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: We've had a long day already, and we've only been through basically one case, so -- any questions of the staff at this point?

(No response.)

CHAIRMAN STRAIN: Thank you, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Any members of the public registered to speak?

MR. BELLOWS: No one is registered.

CHAIRMAN STRAIN: Any members of the public wish to speak?

(No response.)

CHAIRMAN STRAIN: With that, we will close the public hearing and entertain a motion. Is there a motion?

COMMISSIONER MURRAY: I'll make the motion.

CHAIRMAN STRAIN: Mr. Murray. We've got to have two motions, by the way, one first on the boat dock and then another one on the variance.

COMMISSIONER MURRAY: On the boat dock, yes.

Well, I'll make the motion that Petition BD-2008-AR-13142, Schneller dock, be approved according to staff recommendations.

And I would make a --

CHAIRMAN STRAIN: Well, let's take that motion first.

COMMISSIONER MURRAY: Fine.

CHAIRMAN STRAIN: Is there a second to the first one?

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Yes, Heidi?

MS. ASHTON: When we spoke the other day, you wanted to add some language that a condition that pertained to the '82 -- 1982 ordinance be added into this resolution.

CHAIRMAN STRAIN: No. That was for the other boat dock, the one that got continued.

MS. ASHTON: Oh, I'm sorry.

CHAIRMAN STRAIN: This one doesn't pertain to that.

MS. ASHTON: Okay. I'm sorry.

CHAIRMAN STRAIN: Okay. Motion has been made, seconded by Barry.

Any discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Any opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Mr. Murray, did you want to make the next one?

COMMISSIONER MURRAY: Petition VA2010-739, Schneller variance, the companion item, and I offer that for approval.

COMMISSIONER EBERT: I'd second.

CHAIRMAN STRAIN: Motion made, and seconded by Ms. Ebert.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Thank you. Long wait for a short item.

COMMISSIONER AHERN: Hey, Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER AHERN: Yes, sir?

CHAIRMAN STRAIN: Oh.

COMMISSIONER AHERN: I'm just wondering on these companion items if there's any way to reduce some of the redundancy. It seems like we got basically duplicate packets for the same -- all of the same information twice. It just didn't seem --

CHAIRMAN STRAIN: Well, it's staff's call. Staff?

COMMISSIONER AHERN: -- necessary.

CHAIRMAN STRAIN: I think the record has to be clear for both. So if someone looks up a variance, they're going to find one record in one document -- or one section, and if they look up a boat-dock extension, they'll find another. So that may be part of this.

MR. BELLOWS: That's exactly the main reason. But I will look at redundant information. I agree with you wholeheartedly. Some of it can be provided for the main one, which would be the extension.

COMMISSIONER AHERN: Right. Okay. Thank you.

CHAIRMAN STRAIN: ***Okay. The item up is what I think the most people have been waiting for. It's

CP-2010-1. It's a Future Land Use Element of the Growth Management Plan modification. It's for a project at the corner of Vanderbilt Beach Road and Livingston Road.

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

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

CHAIRMAN STRAIN: Disclosures on behalf of the Planning Commission?

Anybody? Go ahead, Ms. Homiak.

COMMISSIONER HOMIAK: I spoke to Mr. Yovanovich.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. I spoke to Mr. Yovanovich, the gentleman from Ever, Mr. Nelson, Wayne Arnold, I spoke to the neighborhood association, a whole group of people. I don't remember all your names, but they're all in the audience. So that's about it. All the issues I discussed will be probably discussed here today.

COMMISSIONER CARON: I guess I should say I was told I was going to talk to Mr. Yovanovich, but I did not.

CHAIRMAN STRAIN: Okay. With that, whoever wants to make the presentation.

MR. YOVANOVICH: Good afternoon. For the record, Rich Yovanovich on behalf of the petitioner. And with me today is Doug Nelson, who represents Ever Bank, and Wayne Arnold, with Grady Minor & Associates, who is the professional planner on the project.

In front of you today is basically an amendment to the Vanderbilt Beach Road neighborhood commercial subdistrict, which was approved in 2005 by the Board of County Commissioners. And on the visualizer is an aerial identifying that subdistrict. As you can see the subdistrict, it was originally approved as two separate parcels. You had a Parcel 1, which was the parcel at the intersection of Livingston Road, which runs in the north/south direction, and Vanderbilt Beach Road, which goes in the east/west direction.

Parcel 1 was approved for C1 through C3 uses at a maximum intensity of 100,000 square feet, and Parcel 2 was adopted as also C1 through C3 type uses with an intensity of up to 80,000 square feet, and also on that parcel we could put senior housing.

As we were going through the original subdistrict process of getting adopted, there were concerns raised regarding landscaping, architecture, noise as we were going through the original adoption process. And if you look at the existing subdistrict language, you will see that for both Parcels 1 and 2, when we came through with the zoning process, we were required to address specifically landscaping and architecture.

And in particular on Parcel 1 -- Parcel 2 it is, I'm sorry -- Parcel 2, which is the parcel to the east, as can you see we have residential on our east boundary, which is part of Wilshire Lakes. We were required to address hours of operation and noise-related issues for Parcel 2 because of our close proximity to residential.

So when we came through and did the zoning, on Parcel 2 is senior housing. There is no commercial on that piece, on Parcel 2 next to the residential. And then on Parcel 1 we've come through, and it's already zoned Bradford Square, consistent with the Comp. Plan amendment.

As we went through the original process, at the adoption hearing in front of the Board of County Commissioners, we were asked about big-box stores on either of these parcels. At the time -- there is no definition of big box in the LDC. We looked at what could we use as a measuring standard for big box, and the architectural standards, I believe, at 20,000 square feet apply a different standard. And that's where that 20,000-square-foot standard came in for "No individual user can exceed 20,000 square feet."

So we agreed to that condition as part of the original Growth Management Plan amendments. The -- at the time this project was going through, we envisioned a boutique-type shopping center. The reality is that the market has changed, and those boutique-type shopping centers aren't really making a go of it.

Ever Bank owns the property. They took it back. They didn't want it back but they got it back, and they're looking at what can -- what can they do within reason to make the property more valuable, and as the property increases in value, I believe the quality of the tenants also come along with the increase in value.

And in marketing the project, the 20,000-square-foot limitation has been raised by prospective purchasers.

So we've submitted a Comprehensive Plan amendment to request a change to the commercial subdistrict to allow a limited number of uses to exceed the 20,000-square-foot limitation and go up to a maximum of 50,000 square feet.

And they're the uses you would find in a typical neighborhood shopping center. We've asked for a grocery store, physical fitness facility, a craft hobby store, a furniture store, and a department store to be those only -- only those five uses can exceed the 20,000-square-foot limitation that's currently in the Growth Management Plan.

All of those uses are already allowed uses on the property. They're just simply capped at that 20,000-square-foot -- 20,000-square-foot cap.

We've had two or three or maybe more meetings with the surrounding neighborhoods. We have Tiburon to our north, we have -- is it Verona Walk -- Village Walk. I always get the Divosta ones wrong -- but Village Walk to our south, and Wilshire Lakes.

So we've had meetings with representatives of the various properties, and we have come up with a list of prohibited uses to include in the Comprehensive Plan amendment, because there was concerns about uses that could go in on that property, together with the 50,000-square-foot use.

So we've provided a copy of the list of prohibited uses to your staff and to our neighbors. I believe we got the list of prohibited uses correct, and we would be prepared to add that list of prohibited uses to the Comprehensive Plan language. There already are a list of some prohibited uses.

CHAIRMAN STRAIN: Did you give us copies?

MR. YOVANOVICH: Do we have copies for everybody? We can get some copies made real quick if that's -- we thought we could do it through the visualizer, but if we need to make --

CHAIRMAN STRAIN: But before the meeting -- before we get done, I'd like to have a copy for my folder.

MR. YOVANOVICH: Sure, okay. Yeah. We have a couple of extra copies that we can give you right now.

But we were going through, and some of these uses are presently allowed on the property both through the Comprehensive Plan and through the existing zoning on the property, so we are -- this list of prohibited uses would actually take away some of the uses that are already allowed on the property.

And I'm not going to read all of them to you. But going through the first page, there's veterinary services, there was some concern about bigger animals, so we listed that as a prohibited use. Animal specialty services. There's -- as you go through the SIC code book, as you all are aware, there are a lot of uses. And we sat down with the neighbors and went through the SIC code book, and this list of prohibited uses is the list of -- now that we've all sat down and gone through the list of the book, these are the uses they have asked us to take out. Poultry dealers, they don't want retail nursery, they didn't want auto home and specialty stores, generally. There are some specific specialty stores that are allowed, but no outdoor repairs.

If you've had a chance to look at that, I'll go to the next page. We've eliminated drinking places, we've capped the size of liquor stores. There are no used merchandise stores allowed any longer. Automatic merchandising machine operations are prohibited. Power laundries are out, coin-operated laundries are out, dry-cleaning plants are out. And some of these were, you know, allowed under the current zoning, so they're out now. A host of miscellaneous personal services are eliminated.

Then we get down to business services. A lot of these are the general catchall categories in the SIC codes. That's eliminated. Refrigeration and air-conditioning repairs are out.

So as you could see, a lot of these more intense, or I would -- I don't want to use the word "industrial," because I don't know whether that's right either, but more intense uses have been eliminated and are shown now as prohibited uses within the district.

We believe that by adding this list of prohibited uses, it protects the neighbors from not -- a bad use going onto the property that could, you know, affect the value and appearance and aesthetics of the center.

We believe that addresses the concerns. There's existing zoning on the property which has extensive buffers in it, it has architectural standards on those. We're not asking you to change anything that's currently allowed under the zoning document.

If we do decide to increase the square footage from the 20,000-square-foot cap, we would have to come back and go through the PUD amendment process, so there's -- there is another step that we would have to go through that involves the public in the process, including changing the master plan. So all of that would have to go through a public-hearing process.

We have provided a letter to our -- the neighbors acknowledging -- thanking them for working with us, and we do appreciate their working with us, but also acknowledging that, you know, when we come back through the process, we know they may have concerns depending upon what we put on here with noise. We told them we can't

change the architecture without basic getting their approval, because we'd have to amend the PUD to do that. We'd have to amend the PUD to change the buffers.

To do all that -- we know that they have concerns regarding basically noise, hours of operations, and things of that, if we do make the change, and we're committed to working with them to address -- or to -- one person doesn't like the word "address," but to address their concerns to hopefully everybody's satisfaction.

With that, that's the overall view of what we're asking. The intensity of the center's really not changing. It stays at 100,000 square feet. It's just trying to change the 20,000-square-foot cap for those five uses to allow up to 50,000 square feet for those five uses.

CHAIRMAN STRAIN: Okay. Questions from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: I think a lot of our questions may hinge upon the comments from the public and staff. So why don't we proceed with the rest of the presentations.

Ms. Caron?

COMMISSIONER CARON: This is a nine-acre site; is that right?

MR. YOVANOVICH: Yeah, nine or so.

COMMISSIONER CARON: Yeah.

CHAIRMAN STRAIN: Heidi?

MS. ASHTON: I just need to make a statement. The handout I've seen, like, one minute before we resumed from lunch, just like you-all. So if there are any problems with the SIC code, we can take care of them between transmittal and adoption.

But the way this is written is a little bit different of what I was verbally told by staff, because the way this is written is, as soon as this is adopted, those uses are prohibited on Parcel 1 regardless of whether you do the 50,000 increase or not; is that what's intended?

MR. YOVANOVICH: That's correct, that's correct, yes.

MS. ASHTON: Then I think that if -- when you go forward with adoption, you're going to have to have the PUD amendment at the same time as the adoption; otherwise, you're going to have a Growth Management Plan that differs from the PUD.

MR. YOVANOVICH: We -- that's not unusual. I mean, there are other instances where the Growth Management Plan prohibits uses on property, and it's not clearly spelled out that way.

If we need to -- if we need to put something in either the text language to make that clear that those uses are no longer allowed uses on the property, we're willing to do that. We're also willing to record a deed restriction on the property to address that concern as well.

There's just -- frankly, there's just no way for me to do a PUD amendment and get it through the process by the adoption hearing, timewise.

MS. ASHTON: Because the way I see it, there are two options. Either the additional prohibited uses kick in if you exceed the 20,000 square feet, or you do a PUD amendment. I'm not really sure how else Nick's staff, Jamie's staff, can administratively process it once -- if you have a preexisting PUD. But I'll give that to them.

CHAIRMAN STRAIN: Well, the first I heard that you weren't going to modify the PUD was when I met with you that day; what was it, Tuesday?

MR. YOVANOVICH: Correct.

CHAIRMAN STRAIN: We met early in the morning, and you had -- I didn't realize that you hadn't intended to modify the PUD until you said so then. I don't know how to -- I don't know how to protect the neighborhood and work it out without some way of assuring that this doesn't happen as a result of the PUD being in conflict with the GMP. I'm trying to find a solution and --

MR. YOVANOVICH: I am also. Well, let me -- let me take it a -- I haven't said we are not -- I haven't said we're not amending the PUD. I said there's -- if we decide to take advantage of the additional square footage, eliminate the cap, we absolutely have to amend the PUD.

Right now we don't know if we have a potential buyer who needs the extra square footage, or if we have to make changes to the master plan, we would have to amend the PUD. So there are other opportunities that may kick us into the need to do a PUD master plan.

So I don't want to say we're not going to do a PUD amendment, but I also didn't want people to say, you're

absolutely required to do a PUD amendment through this process, because we're not.

Now, we're trying to work with our neighbors to assure them that these uses won't appear on the property. There are other mechanisms to do this. One is to record a deed restriction on the property to the benefit of our neighbors. We can do that so they themselves could say, hey, Rich, even though the PUD still has that use in there and even though the Growth Management Plan says you can't have it, the belt-and-suspenders approach could be to give them a deed restriction that they can further assure themselves that if there's a mistake, they have a remedy against the property owner if we were to put in a bar. They themselves would have a remedy through the deed-restriction route.

We are committed to making sure that these people will not get these list of prohibited uses.

CHAIRMAN STRAIN: Well, I like the fact that you're offering the uses -- the restrictions up regardless of whether or not you modify the PUD for the 20,000 or 50,000.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: So right away it's a given for the neighborhood. It's a positive for them because these uses get restricted.

For that reason alone, it's important we figure out a way to make this work. And maybe Michele can shed some light on it, since she was the person reviewing it for the county. I know you've had these documents much longer than we have, which has been a whole minute, so that means you've had them for two.

Do you see a way this could work?

MS. MOSCA: For the record, Michele Mosca, Comprehensive Planning staff.

I just spoke with Heidi, and she had suggested the restrictive covenant. I had suggested possibly, if the amendment is adopted, that there's a specific time frame after adoption which the PUD would have to be amended to reflect the prohibited uses that are being proposed in the Growth Management Plan, but I definitely defer to legal staff.

CHAIRMAN STRAIN: What is the sunset time on the current PUD; do you know?

MS. ASHTON: I think it's five years.

MR. YOVANOVICH: Mr. Strain, I can't tell you for exact sure, because there was an am- -- there was an ordinance adopted by the county that included a tolling period for PUDs, and I haven't done the calculation.

CHAIRMAN STRAIN: Okay. The ordinance was adopted --

MR. YOVANOVICH: In '07.

CHAIRMAN STRAIN: -- in April 24th of 2007. And I believe -- what is it, three or five years?

MR. BELLOWS: Under the new LDC amendment, it's five years.

MR. YOVANOVICH: Which would put it into '12, but in the interim there was another ordinance adopted.

CHAIRMAN STRAIN: But that ordinance had to be -- you had to apply for the extension. It didn't -- it wasn't automatic at least --

MR. YOVANOVICH: No.

MR. BELLOWS: Well, there was one --

MR. YOVANOVICH: It was a county --

MR. BELLOWS: -- initiated by Mr. Joe Schmitt that, for those active PUDs between May of 2008 through 2012, you could be vested or have your PUD extended up to May of 2012.

MR. YOVANOVICH: I don't know the answer, so I don't want to misrepresent. It's -- at the earliest it's 2012.

CHAIRMAN STRAIN: Well, what I'm getting at, if you were coming up for sunset, it would take care of it. You'd have to revise the PUD anyway, or ask for an extension. The extension clearly wouldn't be going -- wouldn't be needed without revising the PUD. But that's out the door.

But the restrictive covenant would be a practical way to go?

MS. ASHTON: Well, it doesn't address the staff error, but it does provide another layer of restriction.

CHAIRMAN STRAIN: Okay. And that could be something we could ask as a stipulation prior to adoption, or at the time of adoption?

MS. ASHTON: Yeah. You could ask them to --

CHAIRMAN STRAIN: That could give the opportunity --

MS. ASHTON: -- record it.

CHAIRMAN STRAIN: -- to the neighborhood to sign off on it and endorse it, and then you come back with your signatures, and we'd be good to go at that point.

Then the restrictions for these prohibited uses would be in place. You'd option to go to 50,000, and it would be there if you wanted it. But regardless, the neighborhood benefits from the --

MR. YOVANOVICH: Right. They get these prohibited uses now.

CHAIRMAN STRAIN: Okay. Questions? Well, let's have -- are you done with your presentation?

MR. YOVANOVICH: Yes, sir.

CHAIRMAN STRAIN: Any more questions of the applicant before we go to staff?

(No response.)

CHAIRMAN STRAIN: Michele, come on up. Tell us about all your studying of this new application that you've had for two minutes.

MS. MOSCA: Well, actually, I'm probably going to follow Nancy's -- Nancy Gundlach's lead and be very short.

Staff is -- staff supports the proposed Growth Management Plan because of its limited scope and impacts. The agent has pretty much addressed all of the specifics regarding the Comp. Plan amendment, the change from 50,000 to -- I mean, I'm sorry -- 20,000 up to 50,000 for five specific commercial users.

CHAIRMAN STRAIN: Okay. And, yeah, it's pretty straightforward, and I like the solution. I think that's good that the staff will be willing to work to get this accomplished. It will be good for the neighborhood.

So anybody else have any questions of staff before we hear from public speakers?

COMMISSIONER EBERT: Well, I want to hear from public speakers.

CHAIRMAN STRAIN: Right. That's where I was going.

Those -- I guess, Paul, you're the only one that was going to speak. You're more than welcome to come up. And if anybody else does want to speak after Paul, just acknowledge, and we'll call you, and you're more than welcome to speak.

MR. FEUER: I'd like to thank you and the members of the Planning Commission.

MR. BELLOWS: Would you state your name, please.

MR. FEUER: My name is Paul Feuer. I'm the president of the Village Walk Homeowners' Association, and today I'll be speaking on behalf of not only Village Walk, but on behalf of Wilshire Lakes, Tiburon, and the Orchards. Again, thank you for giving me an opportunity to speak.

We've held, as Mr. Yovanovich has said, a series of meetings, very productive in terms of coming to agreements on the non-uses of the property, which I believe he laid out quite well.

However, we did prepare a mission statement which we turned over to Mr. Yovanovich that outlined our major concerns, which we requested that Ever Bank agree to in principle.

They have assured us in writing that they will work cooperatively to respond to our concerns but did not agree in principal to the mission statement that we did provide them with.

So, if I may, for the record, I would just like to address what our concerns are and then read our proposed mission statement.

CHAIRMAN STRAIN: Most certainly. Go ahead.

MR. FEUER: The parcel of land, for your information, as shown by Rich before, is directly in the middle of several pristine residential communities. Each one was designed carefully and integrated carefully with a pleasant atmosphere.

Among these communities is the highly regarded Tiburon Golf Course, which is designated as a certified Audubon cooperative. Parts of this course border directly on this parcel of land. So you have the golf course directly behind it with the lakes and homes, million-dollar homes that are going up directly behind it.

It is for this reason we requested the petitioner to agree with the following mission statement. We didn't need anything legal or -- just in principle that they would agree.

One, every effort would be made by the developer to ensure that the location and configuration of the structures as well as all detached components and all used (sic) thereto, such as dumpsters, will be designed to ensure for the least amount of odor, noise, and disturbance to the surrounding communities.

Two, the hours of delivery and pick-up for the various users of the parcel will be established to adequately serve the users while at the same time not create unreasonable noise, however so -- howsoever caused, and

disturbances to the surrounding communities, particularly the communities to the north and east. Reasonable being defined as no noise or disturbance during normal sleeping hours; otherwise, no noise or disturbance which would interfere with the enjoyment of the adjacent homeowners' property, i.e., noise, odor, site lines.

The designated hours should allow for efficient and effective receipt and return of goods for the users without sacrificing the comfort and quality of life for the surrounding communities.

Three, the location of any and all dumpsters will be based upon ensuring that they will not be an eyesore to the surrounding communities and will be located at a distance far enough to adequately preclude any odors of vermin from reaching the nearby residential units and will be enclosed.

Four, every effort will be made by the developer to ensure that the architectural theme shall be similar or equal to the previously approved MPUD, which had established a mediterranean theme. The roofs would be pitched and have barrel tile or similar material.

While the developer cannot guarantee the same exact architectural theme, the petitioner agrees that whatever theme that is offered by the developer will be attractive, appealing, and complementary with the surrounding communities.

And lastly, the landscaping, buffer zones, berms, lakes, setbacks, including the required preserve of 15 percent native vegetation, as well as the retained preserve vegetation as stipulated in the original approved MPUD, will remain essentially the same as previously approved with possible minor changes that will have little or no effect on the overall appearance of the development.

In conjunction with this, there shall remain a 75-foot buffer zone to the north comprised of present vegetation subject to statutory and regulatory exception, as well as reasonable similar buffer zone to the northern one-half of the east border of the properties.

If we can be assured that the bank and the developer will agree in principle with our statement, our community would be only too happy to agree to the request that's being made.

Thank you.

CHAIRMAN STRAIN: Okay. Before you leave, Paul, there's a couple things I'd like to mention to you. The -- I understand your mission statement, but there's -- on a GMP level, there's no way for us to interject the issues in your mission statement into this.

Now, some of those could be addressed in zoning, which is like your PUD. But if they don't modify the PUD, that opportunity won't arise very quickly. There are other items that you mention that are already covered in our code, noise and litter and things -- vermin, things like that our code already address either through our Code of Laws or our Land Development Code.

And some of the language that you phrased would be difficult for anybody to sign. When you say, every possible way or every -- they'll do it to every extent possible, "every" is a very ambiguous term, and most attorneys won't touch that with a 10-foot pole, because what you think is "every" might be different than what I think.

But I also see an opportunity for your organization to work closely with the applicant to get this deed restriction written in a manner that makes you feel more comfortable for those items in a practical way. And I would suggest -- and Richard's pretty knowledgeable about our code -- sometimes too knowledgeable -- but he could go through and find elements of the code, either in the Code of Laws or the Land Development Code, to assure you during the process of reviewing the deed restriction that addresses these prohibited uses that either your issue is covered or, to the extent it's not offered, a compromise can be reached in a paragraph in the deed restriction.

I think if that happened, by the time it got to adoption, you-all would feel more comfortable, and then we could feel more comfortable at that phase.

That's the best, I think, we can come up with as a solution to what you're proposing.

Go ahead. Mr. Murray?

COMMISSIONER MURRAY: That, of course, is very good guidance to you. It occurs, too, that the possibility of a memorandum of understanding that you might have with the developer that would include some of those and be more particular in their intent and purpose.

MR. FEUER: Right. In all fairness to Rich, everything that you both said, he had already told us. We needed the comfort feeling of at least bringing it to the Planning Commission's attention, and that's the reason for putting the mission statement together.

I like the idea of a memorandum of understanding, and I would like to work with Rich on that if we can,

something that would be agreed to by both parties.

But thank you very much.

CHAIRMAN STRAIN: Well, for today, I think in the best interest of your community, I think this board -- to accept the proposals today for the language change backed up by a deed restriction to be successfully endorsed before the adoption hearing or at the time of the adoption hearing -- I think that gets you where you need to be, and you'd be in a better position than you are in today. So that's where we might be going.

So, thank you very much.

MR. FEUER: I thank the commission.

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

COMMISSIONER EBERT: Yes, I do.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: Where this property lies is pretty much -- is all around family units. This is not a mixed-use activity center. It's just a neighborhood commercial development.

I thought 20,000 square feet -- because I was going through the records -- it was a big deal in front of the BCC, and they limit it to 20,000 square feet.

So with you coming along and asking for -- you know, not increasing over a hundred, but asking for larger, I'm just wondering if the neighborhood around there is comfortable with going with a 50,000-square-foot building.

CHAIRMAN STRAIN: Yes.

MR. FEUER: You're asking us if, under those circumstances --

CHAIRMAN STRAIN: You'll have to come up to the record -- to the microphone, Paul. Thank you.

MR. FEUER: Your question is a good one, because our concern was to get the word to Commissioner Henning, who is very concerned about the big-box theory.

COMMISSIONER EBERT: Yes.

MR. FEUER: And I did send Commissioner Henning an email notifying him of the results of all our discussions, how we've been working together, how we've arrived at an agreement in principle on a number of things, and suggested that if we could get the Planning Commission to, again, approve this, that we would want his support as well, meaning that we would go along with the proposed amendment to 50,000 square feet under those terms and conditions.

COMMISSIONER EBERT: Okay. That's -- just one of the things, because in reading this, this was a big subject in front of the BCC that day, and the only thing is a grocery store, you are so close to a main activity center where there is so much vacancy. You have Publix just down the street. You have everything with -- that is convenient right in the area, so I was a little concerned about --

MR. FEUER: You are correct.

COMMISSIONER EBERT: -- the big-box theory also.

CHAIRMAN STRAIN: Paul, before you walk away, Heidi, this idea of a deed restriction -- and I know it may come up after the meeting. We know who the applicant is. Who would be the other signer on the deed restriction?

MS. ASHTON: Well, it would be by whoever the owner is, which I understand is Evergreen. It would be a declaration of restrictions, and it would prohibit the following uses, and it would be for the benefit of --

MR. FEUER: The four communities.

MS. ASHTON: We have to decide which communities -- or I guess Rich can work out with them which communities would be included in that.

CHAIRMAN STRAIN: You think you can do that?

MR. YOVANOVICH: Yeah. And frankly, I think that that's to their benefit, because should we decide -- you know, we find out, you know what, we've got -- one of the prohibited uses makes some sense, I've got to go coordinate with them, not just you.

CHAIRMAN STRAIN: No, I'm not saying that.

MR. YOVANOVICH: I mean, I'm saying I have to coordinate with them and convince them, so I think that the deed restriction is --

CHAIRMAN STRAIN: Well, I didn't want someone coming back here later on from the public and another community who's saying, wait a minute, we didn't sign that. I'd rather -- just to make sure it's all covered.

MR. YOVANOVICH: I would -- I expect that it would be our -- it would be Village Walk, Wilshire Lakes, and Tiburon. Those are our immediate neighbors.

MR. FEUER: And the Orchards.

MR. YOVANOVICH: Orchards, okay. Everybody who -- there was representatives from all of the groups.

CHAIRMAN STRAIN: Okay. As long as you feel --

MR. YOVANOVICH: We aren't going to be selective in who we pick.

CHAIRMAN STRAIN: Okay. Thank you, Paul.

MR. FEUER: Can I just make one point?

CHAIRMAN STRAIN: Sure.

MR. FEUER: Because the question that may come up by the commission would be, how come all of a sudden we are asking for these uses to be eliminated? Why didn't we do it the first time around.

And so for the benefit of the commission, the first time around when we were proposed Bradford Square, the only thing we were aware of at the time is was what they came to with us and told you they were building.

We knew exactly what we were getting. The layout was there. We had no idea of all these SIC codes that could be used later on in the event that wasn't built. Somehow, in all fairness to the communities for the future, if something's going to be built, we should know up front. I take the hit because I assumed that this is exactly what we -- what we saw is what we were getting.

And the Turner sisters worked quite closely with us, as well as Rich, in putting the plan together, getting the full approval. As a matter of fact, we applauded their efforts on this.

So the concern that I have is, in the future, if there's going to be any changes, I think the community needs to be well aware of these SIC codes and the fact that there's a number of things that could, in fact, be put in there other than just what you're seeing on the rendering.

Thank you.

CHAIRMAN STRAIN: Good point. Thank you, Paul.

COMMISSIONER KLEIN: Mr. Chairman, may I make --

CHAIRMAN STRAIN: Okay. Go ahead, Barry.

COMMISSIONER KLEIN: May I make one -- just comment as some advice for the people who are asking for the changes? I've been in the shopping-center business for almost four decades, and I have been, for the most part, successful. And I appreciate what you're trying to do here, and I commend you and I commend the attorney to -- for you to -- you know, to work together.

No matter what happens, you cannot legislate how a shopping center's going to turn out. So just remember that. Sometimes what you want might come true as far as what -- your restrictions, but you also don't want to have ten vacancies.

I think you did make a very good move by allowing the up-to-50,000 square foot, because that size shopping center you need an anchor tenant, and 20,000 won't make it for any kind of supermarket anymore.

But good luck. Thank you.

CHAIRMAN STRAIN: Ray?

MR. BELLOWS: I just wanted to put in the record that the county doesn't enforce deed restrictions, but we can reference that through our computer tracking system to flag the lot so any future development that comes in, we'll reference this Comp. Plan amendment and those deed restrictions.

CHAIRMAN STRAIN: Fair enough.

Okay. Does anybody else have any questions of staff? Oh -- yeah, everybody's done, so anybody have any questions at all?

(No response.)

CHAIRMAN STRAIN: Okay. I think that we'll close the public hearing and entertain a motion. We'll have discussion first.

The only note that I have is the reference to a deed restriction being enacted at the time we redo this for adoption relevant to the uses that were prohibitive and any other issues that, you know, they put into that deed restriction.

So anybody have any comments, questions.

Ms. Caron?

COMMISSIONER CARON: Just to remind the public that essentially the deed restriction puts the onus back on them, so --

CHAIRMAN STRAIN: Right. Well, that's basically --

COMMISSIONER CARON: -- because we don't enforce them as the county.

CHAIRMAN STRAIN: Well, the deed restriction, I would suggest, would be a placeholder until the PUD is modified, if it is modified. If it gets modified, you could really deal with all the issues you need to at the PUD level, so --

MR. YOVANOVICH: And let's not forget, there's a very specific PUD master plan in place that we believe addressed every one of the concerns they raised in their mission statement in great detail, and there was some ambiguous language. The concepts weren't ambiguous, but -- how do we get to an agreement was a little ambiguous, and that's why, as Mr. Strain pointed out, I was reluctant to sign on the dotted line, if you will, because we believe the PUD already addresses those concerns. And any change would have to go through a very public process.

But we're committed to the deed restriction on the uses, and we'll look at the other issues to the extent we can include them in those deed restrictions, if we can.

CHAIRMAN STRAIN: And I did print out your PUD, and it did actually have an architectural rendering in it, which is advantageous to the neighborhood as well, so that does tie that project to that rendering, so --

MR. YOVANOVICH: Yeah. I mean, there -- I think it's a pretty safe PUD regarding architecture and buffer uses.

CHAIRMAN STRAIN: I thought we had a lot of safe things until recently.

MR. YOVANOVICH: I'm sorry.

CHAIRMAN STRAIN: Okay. I'll call for a motion. Does anybody wish to make a motion?

COMMISSIONER AHERN: I'll make it.

CHAIRMAN STRAIN: Go ahead, Melissa.

COMMISSIONER AHERN: Motion to approve CP-2010-1 with the amended language and the deed restrictions.

COMMISSIONER KLEIN: Second.

CHAIRMAN STRAIN: Motion made and seconded.

Any discussion?

Barry made the second.

Your voice was so recognized, Barry, I didn't need to say your name. The amended language being that language that was presented on the screen involving the prohibitive uses and the up-to-50,000 square-foot uses and the deed restriction we talked about.

So with that, all those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Any opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: Thank you.

***Okay. Next item up is CPSP-2010-2. It's a petition requesting amendments to the FLUE and to modify the Bayshore/Gateway Triangle overlay. It's proposed by staff.

David is up again.

MR. WEEKS: Afternoon, Commissioners. Again, David Weeks of the Comprehensive Planning section for

the county.

Commissioners, when you discussed this previously on December 16th of last year, after your discussion, this item was continued to today's hearing, and my notes reflect there were five issues or items of discussion, the first of which pertained to Policy 5.1, which is found on Pages 1 and 2 of your staff report, provided for the last hearing, and the second was pertaining to the office and infill commercial subdistrict which is found on Page 2 of that staff report.

And in response to those two areas of discussion, a revised text was provided to you, I think about a week ago, with your packets for today's hearing. It's just a two-sided single sheet of paper. And that contains the revised language for Policy 5.1 of the Future Land Use Element and, again, the office and infill commercial subdistrict.

And staff worked closely with the County Attorney's Office. And, in fact, I'll give Heidi her due. I'd say she did -- pretty much did the writing itself. And it's much more concise and, I think, clear than the original versions provided to you.

And I'll stop there in case there's any questions.

CHAIRMAN STRAIN: Any questions? Mr. Schiffer?

COMMISSIONER SCHIFFER: Dave, just to be sure it says, "The property may be combined and developed." The intent really is to make sure the properties are adjacent and everything. Could that ever be misconstrued to be properties that are not contiguous? I mean --

MR. WEEKS: Well, I would say no because I don't know how you can combine properties that aren't adjacent. I mean, if you have --

COMMISSIONER SCHIFFER: Well, I could legally combine things that aren't adja- -- I mean, it's -- I guess it's a legal answer. If it's clear, it's clear. If it's not, let's make it clear.

Heidi? I mean --

MS. ASHTON: I think that if you try to clarify it, you're just going to create some confusion. I think if you can put the -- create the legislative history, that the intention is that it be properties that are adjacent, that helps.

COMMISSIONER SCHIFFER: Well, I mean, what if a property's across the street? That's adjacent, isn't that, in our definition?

MS. ASHTON: I mean, we could put, "With other adjacent property," or "contiguous property," whatever language you want to use. Any property --

COMMISSIONER SCHIFFER: I mean, we have -- don't we have a definition for adjoining and adjacent? Isn't adjacent across a street?

COMMISSIONER CARON: Abutting.

CHAIRMAN STRAIN: Abutting.

MR. WEEKS: That's correct. And then abutting would not allow for an intervening street.

COMMISSIONER CARON: And abutting is what you were really talking about here.

MR. WEEKS: Yes.

COMMISSIONER SCHIFFER: And Heidi was saying adjacent, so she's actually saying they don't have to be contiguous.

MS. ASHTON: Okay. Well, then you could put "with other abutting property," so that would be the end of the first line.

COMMISSIONER SCHIFFER: But maybe -- would we want properties that are across the street? Would that make sense ever or --

MR. WEEKS: That's not what we had in mind.

COMMISSIONER SCHIFFER: Okay.

MR. WEEKS: So if I'm clear, we would simply, at the end of the first line on this new paragraph, D, in between the words "others" and "property," we would insert the word "abutting."

CHAIRMAN STRAIN: Abutting, yes.

Okay. Any other questions in the first part that David presented to us? If not, David, you want to move on.

MR. WEEKS: Okay. The next area at issue pertaining to the Bayshore/Gateway Triangle Redevelopment Overlay -- and there was some discussion about the proposed deletion of the 14 feet-per-story height limitation and also some discussion about the proposed use, theater use.

And you have not been provided with any revised language, because staff does not believe any is necessary. First of all, the existing overlay does allow C1 through C3 uses, and within the C3 zoning district, a movie

theater is allowed by conditional use. So the movie theater use is already covered.

And furthermore, the implementing zoning overlay, both of them, the Bayshore mixed-use district zoning overlay and the Gateway Triangle mixed-use district zoning overlay, both include movie theater as an allowed use. I think it's by conditional use but, again, it is allowed in those zoning overlays.

Secondly, the specific language that is proposed, the specific mouthful of a term pertaining to the theater use, was very deliberately chosen by staff because it is -- it is the exact language that is used in the standard industrial classification manual. And the reason for wanting to use that language directly is so that we have a frame of reference. There's no question about what uses are allowed. We'd go right to the SIC manual, and we look at that phrase and we see, these are the SIC code uses that fall within that phrase, that is what is allowed.

How that would get implemented, the addition of this -- these uses, would be through an amendment to the zoning overlays. And possibly if there's an independent rezoning petition, then it could be implemented through that rezoning action.

The third area pertains to the deletion of the 14-foot-height-per-story limitation. And as I had stated previously, the CRA is in support of that removal. In fact, they are the genesis for that removal.

And Jean Jourdan of the Bayshore CRA is here in attendance, should you wish to hear from her.

I know there was some discussion. Mr. Schiffer, you had asked about that height limitation that, perhaps, the intent -- or maybe you stated it as a fact, that the intent was to maintain a visual line, that the first floor would be the same height for all structures.

I could only say, again, the CRA has asked for that to be removed and, secondly, to express an observation that even if the limitation remains, that does not ensure uniformity. It assures a maximum.

If one building comes in at the maximum of 14 feet for the first floor, the next-door neighbor could come in at 10 feet. You would still have some variation in height.

COMMISSIONER SCHIFFER: And, Mark?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: Yeah. I looked at it. The concern I had about the first-floor height is covered in a total different section, not even referencing stories. It's giving dimensions.

MR. WEEKS: Okay.

CHAIRMAN STRAIN: Okay.

MR. WEEKS: Okay. The third point, Commissioner Caron asked about the estuarine base map, which is found on Page 6 of your staff report, the text about it. And no map change has been proposed. I've done some research, including looking back at the original 1989 map that shows estuarine bays in Collier County. And the Wiggins Pass area is identified as Hickory Bay. I know there's a distinction between Little Hickory Bay further to the north, but Hickory Bay is identified as the large water body that encompasses the Wiggins Pass area.

COMMISSIONER CARON: And is that on the map that I questioned?

MR. WEEKS: Yes.

COMMISSIONER CARON: Is it labeled as such?

MR. WEEKS: It is labeled as Hickory Bay, yes.

COMMISSIONER CARON: Okay. I'll go back and look at that, David.

MR. WEEKS: Okay. I could not find a map that I -- that labels that water body as Wiggins Bay.

COMMISSIONER CARON: Thank you.

MR. WEEKS: Okay.

CHAIRMAN STRAIN: Mr. Murray?

COMMISSIONER MURRAY: Just going back to the movie theater thing, just so I'm clear, you mentioned the SIC codes. And is live theater involved in the SIC code? What I'm trying to establish is that we're not limiting it to movies alone, are we?

MR. WEEKS: Correct. Movie theaters are allowed presently. The addition would allow for a live theater, amongst other things.

COMMISSIONER MURRAY: Okay. That's what I needed to understand.

MR. WEEKS: And the last thing, Commissioners -- and this you were only emailed yesterday. This is the wellhead protection map. And there had been some discussion about the lakes within the northeast quadrant of U.S. 41 and Collier Boulevard. Those lakes are at least one of the water sources for the City of Marco Island.

As a result of that discussion, you can see that the lakes have been added to the map, identified with text, and the concentric circles, the protection zones, have been added to the map.

And as before, Ray Smith, the pollution control director, is here should you have any questions of him. And that's all I have.

CHAIRMAN STRAIN: Okay. Anybody have any questions of anyone involving this? Second time around, so I think it's got cleaned up.

With that, I'll ask for a motion to recommend transmittal, or denial, whatever you want to do. I'm assuming it's going to be positive.

Anybody want to recommend?

COMMISSIONER SCHIFFER: I'll move we recommend with the discussion we had today with a recommendation of approval.

CHAIRMAN STRAIN: Is there a second?

COMMISSIONER KLEIN: Second.

COMMISSIONER EBERT: Second.

CHAIRMAN STRAIN: Second by Diana Ebert.

Discussion? I assume it includes the change of adding that word "abutting?"

COMMISSIONER SCHIFFER: Correct.

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

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

***Next item up is the consent hearing for Hacienda Lakes, the one we started with this morning, Petition CP-2006-11.

Somebody have something to give us?

MR. YOVANOVICH: We're waiting for Corby.

MS. ASHTON: If you want to take, like, a 10-minute break.

CHAIRMAN STRAIN: Oh, I'm sorry. I didn't know he was --

MS. ASHTON: I have it. I can distribute it. I've checked it. It's okay.

CHAIRMAN STRAIN: Okay. We'll wait. We'll get it copied. Let's come back in 10 minutes and wrap it up then. So ten after two let's resume.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If you'll please take your seats so we can resume the meeting.

Okay. Corby, I heard that sigh way over here. It isn't that bad, is it?

COMMISSIONER EBERT: It's warm. Corby's trying to let you know he's warm.

CHAIRMAN STRAIN: Oh, okay.

Corby, you want to walk us through the -- through what's been done?

MR. SCHMIDT: I certainly may, or I can, thank you. Again, for the record, Corby Schmidt with the Comprehensive Planning section of the -- some bigger division.

There are four changes made to what you saw earlier today in your HL-2 attachment, and I'll go through them one by one. The Item 1 of 6 was revised with those "base" and "either" text entries, and in the second paragraph removed the 2.5 and the 2.8 references. That's as you approved it or recommended for approval this morning.

And Part 5 of 6, the entry with a little "h," we removed the end of that longer sentence regarding the design

and construction portion of The Lords Way.

Now, the other changes that I made that appear in your consent version now in front of you that you did not necessarily pick out from the HL-2 version but was part of your recommendation overall was to the Part 4 of 6 -- I believe that's on Page 4 of your handout.

And in your original version of HL-2 you had alternative languages for whether you would recommend approval of the additional language in the mixed-use activity center or if you did not.

I've removed those alternatives, and what you're seeing now is the language that matches your recommendation to increase the size of Mixed-use Activity Center No. 7, and that begins in that larger Paragraph 1C12, with the wording, "The maximum amount of" off on the left side, and that's where the acreage figures are corrected to be the larger mixed-use activity center, and then immediately below that where there is a note and the map series entrance, or entry, for those portions of the document where we would change that map series showing the increased size of the mixed-use activity center.

That being said, Mr. Chairman, to review the other direction that was part of the recommendation or part of the motion, there were five items. I won't go over those. They were clear enough to staff. But there were two items from Page 26 of your staff report that staff had recommended that we assumed were part of the motion. I want to clarify that they are. They have to do with -- let's look, shall we?

CHAIRMAN STRAIN: Are you talking about the bullet items that were added on Page 26?

MR. SCHMIDT: That's correct, a couple of bullet-pointed items, just to make sure that they're included where they were intended to, and they should be included as part of your motion.

CHAIRMAN STRAIN: I assumed they were. Does anybody have any objection? I think that was the --

COMMISSIONER AHERN: Are they in this handout?

CHAIRMAN STRAIN: They're in the new -- not the handout you got just now, but the January 20th staff report; it's on the -- Page 26 of that staff report just before the signature page.

COMMISSIONER CARON: They gave their books away.

COMMISSIONER AHERN: Yeah.

CHAIRMAN STRAIN: You gave your books away?

MR. SCHMIDT: That's all right. I can read it for you.

CHAIRMAN STRAIN: You can put it on the overhead, if you want.

MR. SCHMIDT: I can.

CHAIRMAN STRAIN: That David doesn't miss a beat with collecting those books, does he?

COMMISSIONER EBERT: No, he doesn't.

CHAIRMAN STRAIN: It's the two bullets that you see there.

MR. SCHMIDT: All right. The original version or the previously recommended language -- I'm sorry --

CHAIRMAN STRAIN: You have to use the mike.

MR. SCHMIDT: -- is struck through, and there are two entries -- two entries to replace that to cover the proper timing and use of the TDRs.

The highlighted portion I simply crossed through, and you can leave that out as well. It refers to a form that previously had been prepared and provided by the county. That form no longer exists. But the correct terminology is now in there, and they are still useful direction.

CHAIRMAN STRAIN: Does anybody feel that the motion made earlier did not include this correction that was in our packet?

(No response.)

CHAIRMAN STRAIN: Okay.

MR. SCHMIDT: Understood, thank you.

CHAIRMAN STRAIN: Corby, there is one item I'd like to bring up for clarification.

MR. SCHMIDT: Sure.

CHAIRMAN STRAIN: The handout that you provided, the last page, Page 6; the last two sentences reads, "In no instance shall the amount of native vegetation for the urban portion of the project be fully removed or shifted entirely to the sending areas."

Now, if someone wanted to be cute with that paragraph, they would leave one-tenth of one acre there and say they met the intent of that paragraph. Is that what you're intending?

MR. SCHMIDT: That certainly is not the intention, and I'm sure that neither the Planning Commission nor the county board would allow that kind of minimum. But we're looking at a ratio here of, I believe, 35 percent removal and 65 still being preserved, percent of that requirement.

We were asked by the county attorney to simply indicate that there should be no zero or complete removal.

CHAIRMAN STRAIN: Well, wouldn't we be better off looking at --

MS. ASHTON: I just said, "Let's just make sure everybody knows what we're approving." So if the number's zero, then everybody -- as long as you know what you're approving, that was my concern.

CHAIRMAN STRAIN: Do you have a concern with that wording in regards to the fact that someone might use it to eliminate all but a small percentage, smaller than what's intended?

MS. ASHTON: No. I just raised the issue that before you inserted the sentence, the urban area could be -- all the preservation could be shifted out of the urban area, and as long as everyone knew that that was a possible consequence, that's what I wanted -- you know, staff came up with that language in response to my comment. But I agree, somebody could do something cute, and it could be one-tenth or less. I mean, you know --

CHAIRMAN STRAIN: Do you feel the language is good enough to protect us from that?

MS. ASHTON: No. I think that you could pretty much eliminate all preservation in the urban area, and as long as you understand that, you know --

CHAIRMAN STRAIN: But I don't think that's the intention. All I'm suggesting is, should we put a percentage in there instead of "fully removed"?

Go ahead. Ms. Caron?

COMMISSIONER CARON: I think from the petitioner's point of view, they're looking for maximum flexibility; however, I know that I had a long discussion with him about the fact that we needed more than just a viable community left in the urban area, that I didn't want to see it be zero. And I think their intent is -- and right now it's at 65 percent. I don't know if that's, you know -- if being that specific is an issue. It was --

MR. YOVANOVICH: May I? I mean, I know -- I think we're in the consent, so I want to make sure I understand.

CHAIRMAN STRAIN: We are, but I'm trying to -- we did the consent today to accommodate you.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: At the same time, we may have a little more cleanup to do. And I'm just suggesting, if we can catch it now, it would sure be better than later.

MR. YOVANOVICH: Right. We had -- obviously we have to go through and do a rezone of the property anyway, so we would bring a master plan to you so you would have your opportunity at that point to make sure we didn't go to zero, unless you thought it was a good idea to go to zero on that particular plan. Who knows? It's not our intent to go to zero, as you know.

We have a master plan that's winding its way through the process subject to revisions, so I hesitate to commit to the 65 percent, but we -- what we had talked about, at least with Commissioner Caron, and I think Commissioner Strain -- in separate meetings -- putting a --

CHAIRMAN STRAIN: Thank you for that.

COMMISSIONER CARON: Thank you.

MR. YOVANOVICH: Just wanted to make sure the record was clear -- that put a floor, that at no time could we go less than 25 percent of the native-vegetation requirement. So it would be more than a tenth of an acre.

That's what we had discussed. I don't think we have an issue of -- if you think we needed to do that now as part of the agenda. And that should give us enough flexibility with what's winding its way through the process right now to address the concern we would have to be pigeonholed into -- too closely at this point.

COMMISSIONER CARON: So would you suggest --

CHAIRMAN STRAIN: Well, that I'm -- go ahead, Heidi.

MS. ASHTON: Well, he just said 25 percent of the 25 percent native-vegetation requirement. So whoever can do math could come up with one number.

CHAIRMAN STRAIN: It's one-quarter of one-quarter.

MS. ASHTON: Yeah.

CHAIRMAN STRAIN: "In no instance shall the amount of native vegetation for the urban portion of the project be less than 25 percent."

MR. YOVANOVICH: Is that one-quarter of one-quarter?

COMMISSIONER SCHIFFER: That's an eighth.

CHAIRMAN STRAIN: No. That would be 13 and -- 12-and-a-half percent -- well, no, that would be --

COMMISSIONER SCHIFFER: It would be an eighth, an eighth.

CHAIRMAN STRAIN: Would be an eighth, that's right, yeah.

COMMISSIONER SCHIFFER: Twelve point five.

CHAIRMAN STRAIN: Eight point two five.

MR. SCHMIDT: A 16th.

COMMISSIONER SCHIFFER: A 16th, even?

MS. ASHTON: Yeah, what's a --

COMMISSIONER SCHIFFER: Quarter divided by -- yeah, you're right.

CHAIRMAN STRAIN: Terri, how you getting all this? You getting all these numbers going back and forth?

Has somebody got a number that works for that? Where are we at, Corby?

COMMISSIONER SCHIFFER: It's one-sixteenth, he's right.

MS. ASHTON: I'm sorry?

COMMISSIONER SCHIFFER: Four times four is sixteen. One-quarter times one-quarter.

COMMISSIONER AHERN: One-sixteenth.

COMMISSIONER SCHIFFER: Of an acre.

CHAIRMAN STRAIN: Corby?

MS. ASHTON: Oh, one-sixteenth? And convert it to a percent.

MR. SCHMIDT: Working with the structure of the sentence already in place, in no instance shall the amount of native vegetation for the urban portion of the project be -- shall no more than 75 percent of. That leaves you with 25.

CHAIRMAN STRAIN: What?

MR. SCHMIDT: "In no instance shall more than 75 percent of the amount of native vegetation for the urban portion of the project be removed or shifted entirely in the sending lands." That gives you your 25 percent floor.

COMMISSIONER AHERN: Just do 6.25?

MR. YOVANOVICH: How about we just say no -- it's 6.25 percent. That's the number. It's 6.25 percent. Now, it's a little scary when I'm doing the math part.

CHAIRMAN STRAIN: Yeah, the percentages, that's why I figure we better talk about it.

MR. YOVANOVICH: We could originally -- it was 25 percent. Your floor is, we'll keep at least 6.25 percent of our native.

COMMISSIONER SCHIFFER: But what does that number mean? I mean, we're just picking a number out of the air.

MR. YOVANOVICH: Well, what it means is, right now our requirement is somewhere around 80 acres. I don't have my cheat sheet in front of me. I can find it, but -- so I can't go to zero. I'd have to do at least whatever -- let me get my cheat sheet here.

COMMISSIONER CARON: And according to what's planned, you are telling --

MR. YOVANOVICH: We're higher than that right now.

COMMISSIONER CARON: -- us right now that it will be around 47 acres --

MR. YOVANOVICH: Right.

COMMISSIONER CARON: -- that you intend to keep out of that 80 original?

CHAIRMAN STRAIN: But because of the land plan changes, some of which are instituted by the county --

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: -- you're not sure you can retain the 47 acres once they try to move the road system around.

MR. YOVANOVICH: Right. I mean, we need to have some flexibility to --

COMMISSIONER CARON: Maybe 45 or whatever.

MR. YOVANOVICH: -- come back to you. Yeah. I'm not really sure. So if you don't want to -- if you want a floor of I can't go -- I can only keep a tenth of an acre and I'm technically okay, we're offer- -- we're saying, we'll

keep at least six-and-a-quarter percent of our native vegetation in the urban area.

Obviously that's the floor. We'll be coming through with a rezone where you'll see a number that's probably higher than that.

CHAIRMAN STRAIN: Well, just for making things simpler, "In no instance shall the amount of native vegetation for the urban portion of the project be less than 10 percent."

Doesn't that just cover it? You're not going to be that low anyway. You claim you're not going to be. It solves the problem for today, and it's a real simple number to compute.

MR. YOVANOVICH: Okay. Now --

COMMISSIONER CARON: Mr. Strain likes round figures.

MR. YOVANOVICH: I know. I noticed that you rounded up. You couldn't go to five. You couldn't go to five.

CHAIRMAN STRAIN: Well, we can go 15 or 20. I mean, I don't think it's going to hurt you. You're going to want to have some green space in there.

MR. YOVANOVICH: No. I think -- I think you're --

MR. BAUER: That works.

MR. YOVANOVICH: That's okay, okay. I have to ask the engineer.

CHAIRMAN STRAIN: Okay. So the project -- the answer would be then --

MR. YOVANOVICH: I think that's right.

CHAIRMAN STRAIN: -- "In no instance shall the amount of native vegetation for the urban portion of the project be less than 10 percent."

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: Okay. That just protects the bottom line so it doesn't read a tenth of a percent.

Okay. Are there any other --

COMMISSIONER SCHIFFER: Can -- I have a question on this?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: You know, there was mention during there that the TDRs on these sending lands would not be used for density on this project. Is -- is that right? There was testimony to that effect when I was questioning it.

MR. YOVANOVICH: No. The TDRs within the -- area -- the qualifying area will, in fact, be utilized in our project.

COMMISSIONER SCHIFFER: But I'm concerned --

MR. YOVANOVICH: It's TDRs beyond the qualifying area that will not be utilized on our property.

COMMISSIONER SCHIFFER: My concern was, the TDRs that were generated from these two acre -- you know, this mitigation system here. It was -- you know, there was testimony that that -- those TDRs were not to be used on this project.

MR. YOVANOVICH: We can accommodate that through putting the extra preserve beyond the boundaries -- the one -- half-mile boundary. So if that -- if that's -- yes, we can do that.

COMMISSIONER SCHIFFER: Yeah. I mean, I still don't like it. But let's just move away. It's something I don't like.

MR. YOVANOVICH: I mean, you heard the Conservancy not object.

COMMISSIONER SCHIFFER: I'm allowed not to like it. I know, but it is, to me, a double dip. But forget it.

CHAIRMAN STRAIN: Okay. So we've got --

COMMISSIONER SCHIFFER: Pick your battles.

CHAIRMAN STRAIN: -- some tweaking to the final language. Staff understands what that is.

MR. SCHMIDT: Yes.

CHAIRMAN STRAIN: This is consent. You've acknowledged the changes of -- through Pages 1 through 6 in the handout, and we've got the other five items on the table to address by the time we get through the adoption process.

Okay. With that in mind, could -- Heidi?

MS. ASHTON: And the language that you mentioned, the "less than 10 percent" goes in two places. One's

on Page 2 and one's on Page 6.

CHAIRMAN STRAIN: Correct.

Okay. With those stipulations, those conditions, is there a motion for approval, or a recommendation of approval for transmittal?

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: Mr. -- Barry, and seconded by Mr. Murray.

Okay. Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 9-0.

Thank you for an enlightening day.

COMMISSIONER SCHIFFER: That was fun.

MR. YOVANOVICH: Thank you for your patience and indulgence on the consent agenda.

CHAIRMAN STRAIN: We can only hope that the adoption isn't nearly as complicated.

Okay. That takes us to old business. Anybody have anything?

(No response.)

CHAIRMAN STRAIN: New business?

(No response.)

CHAIRMAN STRAIN: Public comment? Everybody's gone.

Discussion, we're over with.

Is there a motion to adjourn?

COMMISSIONER AHERN: Motion.

COMMISSIONER KLEIN: (Raises hand.)

CHAIRMAN STRAIN: Melissa, seconded by Barry.

All in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER MURRAY: Aye.

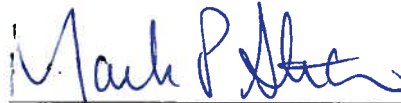
COMMISSIONER EBERT: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Motion carries. We are out of here. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 2:27 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

These minutes approved by the board on 2/19-11 as presented or as corrected .