

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY PLANNING COMMISSION  
Naples, Florida, September 15, 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 9:00 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  
Donna Reed Caron  
Karen Homiak  
Bob Murray  
Barry Klein  
ABSENT: Paul Midney  
Diane Ebert

ALSO PRESENT:

Nick Casalanguida, Growth Management Division  
Raymond V. Bellows, Planning Manager, Zoning  
Heidi Ashton, County Attorney's Office  
Tom Eastman, School Board Representative

CHAIRMAN STRAIN: Good morning, everyone. This is Tim Nance up here having a final conversation just before nine o'clock.

Welcome to the Thursday, September 15th meeting of the Collier County Planning Commission.

If you'll all please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

CHAIRMAN STRAIN: Okay. Will the secretary please do the roll call.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Ms. Caron?

COMMISSIONER CARON: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

And Mr. Klein?

COMMISSIONER KLEIN: Here.

COMMISSIONER HOMIAK: And Mr. Midney and Ms. Ebert will be absent today.

CHAIRMAN STRAIN: Thank you.

Okay. We have some addenda to the agenda to discuss. The first one will be simply the approval of minutes. They weren't distributed, so we will defer No. 5 until the first meeting in October.

On the other items that are here, we have a request that we will discuss now to continue the Orangetree PUD until another meeting, I believe the next one in October.

Mr. Saunders?

MR. SAUNDERS: Thank you, Mr. Chairman. For the record, my name is Burt Saunders with the Gray Robinson Law Firm, and we would like to continue this to the next meeting.

We've met with a lot of folks in the community. We've gotten some letters from the community. We've met with some of the members from the Planning Commission individually to talk about some issues, and I think we can clean up the document a little bit and make some suggestions that will make the hearing go much more quickly.

So we would like to continue that. I understand that there are a lot of people here that were anticipating a hearing this morning. I don't know if it would be the pleasure of the board to hear the public comments. We have no objection to doing that. Don't want to inconvenience anybody if they have some comment to make.

CHAIRMAN STRAIN: Okay, thank you.

What I -- I would like to comment, too. In case any of you saw the last two Planning Commission meetings, we spent a total of seven hours each meeting, or six to seven hours on each meeting on one project called Hacienda Lakes. The final conclusion of that's going to be on consent today, but that shouldn't take more -- very short amount of time.

The Orangetree PUD seemed to be almost as complicated. And in various meetings with the developers' representatives, the members of the community, and probably the other panel members here -- I'm not sure if they met with anybody else on this board -- they've decided to take a closer look at some of the things that were so questionable in that PUD and possibly consider changing them.

So it's a beneficial aspect in the fact that it's being continued to October. It will be the first meeting in October, which I believe is the -- no, not the 1st. It will be the 6th, October 6th.

Customarily, if anybody has come here who can't attend the October 6th meeting and would like to express themselves, you're more than welcome to; however, I'm suggesting if you can at all possibly hold it until that meeting, it's more effective for us to hear your comments at the meeting, especially after the discussions finish when we go over the items that have changed or that need to be changed in the PUD, because a lot of the issues that people may have, we may stumble on in our discussions.

So I guess what we'll do is, Mr. Saunders, we'll vote on your continuance request first, and then if any

members of the public wish to speak, I'll try to move those items up on the agenda after consent so you can at least be heard today if you can't be here on the 6th, but I really hope you would defer your points till the 6th.

So with that in mind, Planning Commission members, is there a motion?

COMMISSIONER CARON: Motion to continue.

CHAIRMAN STRAIN: Motion to continue by Ms. Caron. Is there a second?

COMMISSIONER AHERN: Second.

CHAIRMAN STRAIN: Second by Ms. Ahern.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0.

That means this will be continued to October 6th, our first meeting of that month.

Now, as for a show of hands, does anybody in the audience need to discuss the issues they came with regarding the Orangetree PUD today? One, two, three, okay -- four.

Okay. What we'll do is, we're going to have to go through our consent item first. After consent, we'll hear your discussion. The board members, I will ask that we not participate too much. We just want to hear what you've got to say, because we really need to have the input from the changes to the document from the applicant and everybody else before we can really go back and forth and see what is right or wrong. They may change a lot of the things that you're concerned about.

And with that, we'll move into consent agenda. Well, actually, no. We're going to -- Planning Commission absences. Our next meeting is October 6th. Does anybody on this board know if they're not going to be here on October 6th?

(No response.)

CHAIRMAN STRAIN: That's good. We've barely got a quorum now, so that will help. Well, by then we're going to have, hopefully, some reappointments, or new appointments.

Planning Commission -- or the approval of the minutes we're going to defer until October.

Ray, is there any BCC recaps?

MR. BELLOWS: Yes. The Board of County Commissioners met on September 13th and 14th. They heard the conditional use for Yahl Mulching. That was heard on their summary agenda and approved on the summary agenda. That was approval subject to CCPC recommendations.

They also heard the rezone for the Estates shopping center, the CPUD and the DRI. That was approved by a vote of 5-1 subject to the --

MR. CASALANGUIDA: Four-one.

MR. BELLOWS: Excuse me, 4-1 -- subject to the CCPC conditions. Commissioner Fiala was -- voted in opposition, and her concern was the size of the facility in relation to the rural estate character, and that was subject to the CCPC conditions.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CARON: There was also a lessening of the square footage down to 150,000 square feet from 170 --

MR. BELLOWS: Oh, and you had recommended 170-

COMMISSIONER CARON: -- in the PUD.

CHAIRMAN STRAIN: Okay. Well, I'm glad our stipulations survived, and that was probably part of the whole thrust of this board's objective is to put the best stipulations we could into the document, so that's good news.

Okay. Chairman's report. Due to a family medical issue, I'm going to get a text message at some point today that I'll have to leave for, and Vice-chair Donna Caron will be taking over at that point. I don't know if we'll get through the meeting or not by the time that happens, so I will stay as long as I can today.

Okay. Our first item -- we have two items on consent. We'll discuss them simultaneously and vote independently.

\*\*\*The first item is PUDZ-2006-AR-10146, the Hacienda Lakes MPUD, and then DRI-2006-AR-10147, the Hacienda Lakes DRI.

All those wishing to participate, please raise your hand and be sworn in by the court reporter.

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

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

COMMISSIONER AHERN: I spoke to Mr. Yovanovich yesterday.

CHAIRMAN STRAIN: Okay. Anybody else? Okay. Now, normally we don't do disclosures and swearing in for consent, but because one of the items on this consent we do have to weigh in on, I wanted to make sure the record was clear, and that is the -- Heidi's preparation for the calculation page that we have to discuss.

With that, Richard, I know that you had -- just before we started you mentioned you had a cleanup issue you had to talk to us about.

MR. YOvanovich: Yes, if you don't mind. And I appreciate your -- I'll put this on the visualizer. And we got these comments from our DRI counsel yesterday.

The intent of the stadium was, should we hit a trigger that would require a DRI review, either insubstantial change or substantial change, we would then go through the DRI amendment process.

The language could be -- that's in there today could be interpreted to mean that if we were to do one stadium seat, we would have to do a DRI amendment, and I don't think that was the intent. The intent was when we hit a trigger point.

So Mr. Weaver suggested this language. We provided -- as soon as we got it, we provided it to Dan Trescott and to Heidi. I know Heidi was at the BCC pretty much all the last two days, so I don't know that she's had a chance to look at it.

I think it's consistent with the discussions we've had. I mean, if she needs to do further tinkering with it, that's fine. But I think it captures the intent that once we hit a trigger, we go through the DRI process for the stadium, not that we do it immediately with the first seat. And that's what that language is supposed to clarify.

CHAIRMAN STRAIN: Okay. Does anybody have any questions on that?

(No response.)

CHAIRMAN STRAIN: Richard, before I let it go, I just want to check the -- within the hundred pages, I'm sure I'll come across it here in a minute.

MS. ASHTON: Mr. Chair?

MR. YOvanovich: Do you need -- it's on Page 18, if you need it.

CHAIRMAN STRAIN: That's what I needed. Thank you.

MR. YOvanovich: I can put it on there for you, if you need, Mr. Chairman.

CHAIRMAN STRAIN: Yep. No, I've just found it. My concern was the reference on how you've --

MR. YOvanovich: That actually occurs on Pages -- are you talking about the mitigation now?

CHAIRMAN STRAIN: No, the 7941 reference.

MR. YOvanovich: Yeah.

CHAIRMAN STRAIN: So the only one that you feel will trigger, or could possibly trigger this is stadium training, practice facilities, for professional baseball?

MR. YOvanovich: Well, this is actually what's from the existing Swamp Buggy PUD. We -- those references were to a professional baseball stadium.

CHAIRMAN STRAIN: You're right. That's what I wanted to check, just make sure that reference here didn't limit it too much compared to the language that was in the documents.

MR. YOvanovich: Right. I went back and verified as well, that that's consistent with the Swamp Buggy PUD language.

CHAIRMAN STRAIN: Heidi?

MS. ASHTON: I got the language at 7:30 this morning, so I have not reviewed it.

CHAIRMAN STRAIN: Okay. Tell us now what you think.

MS. ASHTON: I was going through emails. I printed it out. On first glance, I don't think it's consistent with what Mr. Trescott was requesting, because I -- you know, I haven't had a chance to look it up. I don't know what the stadium trigger currently is or what it would be in the future.

We could -- so, no, the language is not acceptable.

If they want to continue it two weeks to figure something out, I'd be happy to. But when I spoke to Rich before we sent the red-line package, he said Mr. Weaver was okay with the language as written.

MR. YOVANOVICH: He was -- and he was, and he went back and looked at it again. And he said, you know, it could be interpreted to mean one seat triggers it. I think we can come up with -- it was always the intent, if I remember, was that we wouldn't have to do anything different today -- we were adding this into the PUD. If we had to do a DRI change today to implement the stadium, we would do it in the future. So that's what this is intended to do.

We can deal with it in between now and then at the board level if we have to. But I do think that the trigger language is consistent with what the Planning Commission and Mr. Trescott did say.

CHAIRMAN STRAIN: Well, I agree that this was only supposed to kick in if you did trigger what would have been considered an impact related to a DRI substantial -- a threshold.

MR. YOVANOVICH: Right.

CHAIRMAN STRAIN: Nick, is there a traffic-count level tied to the swamp buggy grounds?

MR. CASALANGUIDA: Not currently, sir.

MR. YOVANOVICH: Remember the swamp buggy is outside of our traffic count, so there'll be a review just like every other project.

CHAIRMAN STRAIN: I know they are, but I wanted to see if they in themselves had their own traffic count in which they have to be monitored by.

MR. CASALANGUIDA: No.

CHAIRMAN STRAIN: And the reason being is -- and I can understand Heidi's concern is that this may open the door further than it needs to be, so we have to put some kind of threshold that has to be -- or a reference to a threshold.

MR. YOVANOVICH: Well -- and we could say "as required by Chapter 380," because the threshold currently, I think, is 10,000 seats.

MS. ASHTON: I mean, the point is what they're trying to do is vest what they believe they already have under the existing PUD, which is why we were trying to flesh out the language so that we didn't have a fight later over whether it applied or not.

I can read some language in that I think would be acceptable to me, working off of Page 18 of 65 in your package on the DRI.

CHAIRMAN STRAIN: Okay.

MS. ASHTON: Number 8 could read, stadium training and practice facilities for medical, baseball, paren, Group 7941. This use is allowed only if a notice of proposed change or substantial deviation application for development approval is processed in accordance with Section 380.06, paren, 19FS or any successor statute and the Hacienda Lakes DRI is amended.

If state law changes such that a DRI review or other state review is no longer needed, then this provision shall terminate. That's acceptable to me.

MR. YOVANOVICH: Let me -- and that's really not different than what's there. Here's the issue.

MS. ASHTON: Well, it is, but --

MR. YOVANOVICH: Here's the issue. That section, 380.09 -- .06.19 is the process you go through for a change to the -- you do an NOPC. It's not the trigger section. So you can -- you could say -- if you wanted to, just say 380.06 and take out the parens, that would encompass all of the section, including the trigger sections. Because what this basically reads right now is, in order to do it, you've got to do an NOPC, either insubstantial or a substantial change.

The trigger language is in the statutes, and the trigger currently is 10,000. It could go up, it could go down. We don't know. It could go away altogether.

So what we're just simply saying, if we're required to do one under 380, we'll do one, whatever the trigger may be. But right now if you read this, the paren 19 is what gives us trouble, because it's not the trigger statute. It's

the process portion of the statute.

MS. ASHTON: I think that my language satisfies their concern, so I would recommend my language. If they continue to be unhappy with the language, they can propose further changes to the board at the BCC hearing.

CHAIRMAN STRAIN: Could you read your language one more time, Heidi.

MS. ASHTON: Yes. And this is for Page 18 of 65, Section A8, and then we would make the other change to the PUD that would reflect the same language.

So the new paragraph will read: Stadium training and practice facilities for baseball -- professional baseball, paren, Group 7941, end paren. This use is allowed only if a notice of proposed change or substantial deviation application for development approval is processed in accordance with Section 380.06, paren, 19, end paren, comma, Florida Statute, or any successor statute, comma, and the Hacienda Lakes DRI is amended. If state law changes such that a DRI review or other state review is no longer needed, then this provision shall terminate.

MR. YOVANOVICH: Is there an objection to getting rid of the reference to the paren?

CHAIRMAN STRAIN: Well, what I'm thinking is trying to keep it simple, but why are we tying the Stadium Naples -- I mean, the -- Stadium Naples. Whoa. I just got done reading that book. It was interesting, so -- stadium -- the stadium point, why are we tying it to the amendment of the Hacienda DRI?

Simply -- the way this seems to read is that if the Hacienda DRI is amended, then we have to do -- then we have -- this would have to come in during an amendment process, but you're going to -- that is going to trigger the amendment process. You're going to have to amend the Hacienda DRI because now you're part of that DRI if you go to a Stadium Naples -- or a -- Stadium Naples -- stadium -- professional stadium baseball field; is that right?

MR. YOVANOVICH: The intent was, in today's rules, if you go to a stadium greater than 10,000 seats, we would have to amend both the PUD and the DRI development order.

As I read this language today it says, if I use any stadium use, I've got to do it. That's what it reads.

CHAIRMAN STRAIN: Yeah, I understand that.

MR. YOVANOVICH: The 19 is what -- the reference to Paren 19 is the problem, because that's a process section, not the trigger section.

CHAIRMAN STRAIN: But no matter what, when they go to do this, they're amending your DRI, which is now their DRI; is that correct?

MR. YOVANOVICH: Right. They'll amend their portions of DRI that apply to them.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: Just like if we were to make changes to ours, we would have to do the same thing.

MS. ASHTON: Dropping the Subsection 19 is acceptable to me.

CHAIRMAN STRAIN: Okay. Well, I think that's a better -- I like that idea. I think that cleans it up; then you fall under the entire section of 380.06.

MR. YOVANOVICH: Right. And then we're all clean. That was -- I think that was the overall intent.

CHAIRMAN STRAIN: Okay. Boy, this is going to get complicated if they have to do this. Just thinking ahead. That's why I wanted to make sure I understood what you were trying to do.

Now, Heidi, if they drop the Section 19, do you need all your language changes, or --

MS. ASHTON: Yes.

CHAIRMAN STRAIN: -- can they just simply drop Section 19? You still need -- you still feel you need yours?

MS. ASHTON: Yes.

CHAIRMAN STRAIN: Do you have any objection to hers if that's dropped?

MR. YOVANOVICH: No, that's fine. It was the 19 that was -- referencing 19 that was the issue.

CHAIRMAN STRAIN: That leaves one item that we would change during consent. Let's move on to any others.

Rich --

COMMISSIONER CARON: Well, we also have to change it on Page 54.

MR. YOVANOVICH: Of the DRI DO.

MS. ASHTON: Correct.

MR. YOVANOVICH: Yes. And then I believe there was Page 48 and Page 60. It's really the same language, but I'll put up what's on 48. And I think that's where was the calculation of the mitigation. It's really

intended that the total cost of the mitigation be divided by the acres. We had it backwards. We had the acres divided by the total cost of mitigation so -- to come up at the per-acre price.

So I just simply, if you can read my handwriting, am reversing that to say it's -- the total cost of mitigation is divided by the impacted acres of 718 to arrive at the per-acre cost.

CHAIRMAN STRAIN: Well, I had --

MR. YOVANOVICH: And I think, Mr. Chairman, you and maybe others had caught that same --

CHAIRMAN STRAIN: Yeah, I had two notes in my cleanup, and that was one of them, to explain what it is you were trying to do by the way it was written, so that does clarify it.

MR. YOVANOVICH: Yeah. I just think we had it backwards. We were focused on figuring out how many acres was the number. We had it backwards.

CHAIRMAN STRAIN: Heidi, do you see any problems from your perspective?

MS. ASHTON: Yeah. I wasn't aware of this change. But if it's okay with Mr. Casalanguida, it's okay with me.

MR. CASALANGUIDA: (Nods head.)

MR. YOVANOVICH: And that would be on Page 60 as well, Roman Numeral XIV, because that was the EMS section.

CHAIRMAN STRAIN: It appears in the DRI as well, I believe.

MR. YOVANOVICH: And it also appears on Pages -- on Page 40 -- I'm sorry -- Page 32 and 40 of the DRI DO. Those are the two that we saw last minute, and I don't know if there are any others that we need to -- may need to respond to or not.

CHAIRMAN STRAIN: I have a couple of others. Does anybody else have any other clarifications needed on the consent-agenda items?

And, Heidi, the paper you prepared, I had a couple questions about it. And it would be on the one, two -- fourth --

MS. ASHTON: I just want to make -- I just want to make sure I get this change that he has.

CHAIRMAN STRAIN: Okay.

MR. YOVANOVICH: I can leave you-all my pages, Heidi, if you need me to.

MS. ASHTON: Okay.

COMMISSIONER CARON: What page did you say this was?

MR. YOVANOVICH: This -- well, this is Page 48 of 65 in the PUD -- and that's how it printed out on my computer -- of the strikethrough version.

MS. ASHTON: All right. I got it.

CHAIRMAN STRAIN: You got it?

MS. ASHTON: (Nods head.)

CHAIRMAN STRAIN: Okay. The last two pages of your paper --

MR. YOVANOVICH: Is this the PUD, Mr. Chairman?

CHAIRMAN STRAIN: No. This is -- well, Heidi produced a worksheet for the PUD --

MR. YOVANOVICH: Oh.

CHAIRMAN STRAIN: -- and it's titled -- it starts out, Hacienda Lakes PUD Master Use and Conversion List or SDP plat, building permits, and mostly my questions are cleanup from Heidi.

Under the BP district and some of the others where you refer to square footages, in some cases you use the word "gross"; in others you don't. I would just want to be consistent. I want to make sure that everything is referred to as gross so we don't get net leasable acres or anything like that entering into the picture.

On the first one for a hotel, it's 92,000 gross square feet. So I just want that cleanup added. Under the R/MU district, the second line of the first bullet, all uses are office, you just misspelled the word "uses." That ought to be cleaned up.

And then on the last page, the first bullet on the top after the Number 3, if no hotel in BP and hotel conversion not used in BP, add 92,000 square feet of hotel up to 135 rooms, and -- can you explain that to me? If there's no hotel in the business parks, they don't use that --

MS. ASHTON: Right.

CHAIRMAN STRAIN: -- and the hotel conversion is not used in the BP, which I think the conversion there

is from 92- of a hotel to 60,000 for BP uses, then if that isn't done, then they get to add 92,000 square feet of hotel, up to 135 rooms to the commercial district; is that what you're -- is that what that intends?

MS. ASHTON: Correct.

CHAIRMAN STRAIN: Okay.

MS. ASHTON: Because they had the -- you know, the square-foot limitation on the commercial, but they also had a hotel that they were allowed as well. And I believe the way that I've interpreted it, as well as the way Mr. Yovanovich has interpreted it, is that that's in addition to the maximum commercial.

So if they don't put -- they have three options for the hotel. It can go in the BP or it can go in Tract C, and if they decide not to build the hotel at all, then it can go into the BP as 60,000 square feet.

CHAIRMAN STRAIN: Okay. And if they decide not to build a hotel at all in the Tract C or the BP and they don't use the 60,000 in the BP, they don't get anything for it. It just goes to the wayside; is that right?

MS. ASHTON: If they don't build the hotel?

CHAIRMAN STRAIN: Right. If they don't build a hotel and they don't need the conversion in the BP, it doesn't give them --

MS. ASHTON: Then, yeah, there's no other option unless they come in with the PUD amendment.

CHAIRMAN STRAIN: Okay. So they can't up their retail/office/commercial space with any portion of the 92,000 in Tract C for not using the hotel at all?

MS. ASHTON: I don't believe that was the intent.

CHAIRMAN STRAIN: No, I don't either. I just wanted to make sure it was clear.

MS. ASHTON: So --

CHAIRMAN STRAIN: I'm fine with it.

MS. ASHTON: Yeah. So what I'm going to do is put page numbers on here so it will be 1 of 5, 5 of 5. And I did meet with some of the folks, the SDP folks, and they thought that it was helpful to help them figure out to calculate.

CHAIRMAN STRAIN: How are we going to make it part of the permanent record? The record of today's proceedings is fine, but then when someone goes to pull this up under court record or Clerk's Office --

MS. ASHTON: We can just add it as another exhibit.

CHAIRMAN STRAIN: Okay. Do you need to reference it within the document?

MS. ASHTON: Yeah. In the ordinance we'll list it as exhibit -- the next ordinance exhibit number. I don't know what we went -- I don't have the ordinance with me --

CHAIRMAN STRAIN: Okay. As long as it gets listed.

MS. ASHTON: -- today. We'll just add it as another exhibit.

CHAIRMAN STRAIN: Okay. Rich?

MS. ASHTON: And then just put a reference, "calculation worksheet attached," and we can put that on Page

MR. YOVANOVICH: My only -- my only concern about making something like this an exhibit to the document is if there's any -- any change to a word, it now puts us through a PUD amendment process that's got to go through the full CCPC hearing, and I thought this was intended to assist in the calculation.

And I don't know. It looks good to us today. If a word needs to change from, I don't know, whatever the word may be, I don't really want to go through a full PUD amendment process if it's an insignificant change to a word.

This document is very helpful, but it's not that different than what's in a typical PUD monitoring report, so I think if you were to add this to the PUD monitoring report form that's already out there, I think it would be great, but making it another exhibit to the PUD, just -- I just -- it may not be an issue, Mr. Chairman, but I'd hate to see something comes up that I hadn't thought about that could put me through a process that could take a year to fix.

CHAIRMAN STRAIN: Well, I'd hate to see you thinking about it and come up with a different interpretation. And we've talked about --

MR. YOVANOVICH: The numbers are right.

CHAIRMAN STRAIN: -- 20 hours of discussion, so.

MR. YOVANOVICH: All the numbers are right.

MS. ASHTON: I think it needs to be an attachment. I mean, talking with the staff, I mean, the feedback I did get was, we will make a mistake. I just hope it's not too bad of a mistake. But they were pretty certain that they



would be making a mistake.

CHAIRMAN STRAIN: As complicated as this document was and the hours that we've spent on it, I would rather this go in than not. And you've had plenty of time to review it. And at least you had as much time as you give the County Attorney's Office. So if you have any concerns, please state them. If there's cleanup needed, please state it now. But from my perspective --

MR. YOVANOVICH: Is this going to become standard operating procedure for all PUDs? I'm just asking.

CHAIRMAN STRAIN: If you bring another one in like this, I --

MR. YOVANOVICH: Okay.

CHAIRMAN STRAIN: -- think it will be.

MS. ASHTON: And it will be for Orangetree as well. It's just we haven't done the calculation sheet yet.

CHAIRMAN STRAIN: These conversions -- Ray, are the conversions even allowed by the LDC?

MR. BELLOWS: The LDC doesn't really address conversions, but we have used conversions in the past, not to this extent.

CHAIRMAN STRAIN: Right. This is a new animal, and I don't want to see future staff, who is probably -- can easily be different people than are here today, not be aware exactly of all this issue that went on. They certainly aren't going to read the 14 hours of public record to find out, so --

MS. ASHTON: And we have recommended that if this is standard practice that we do an LDC amendment that provides how this will be handled.

CHAIRMAN STRAIN: I think it will be a much clearer idea to do something like that.

COMMISSIONER CARON: I think -- I think we have to do an LDC amendment if we're going to continue to do these. I don't see how you get around it; otherwise, we're not reading the LDC the way we're supposed to be reading the LDC.

MR. BELLOWS: Yeah. Traditionally, the PUDs that have been adopted, the way to regulate the intensity is the square footage or the number of dwelling units. This is a little bit more unique in that we're regulating intensity based on the traffic generation. And because we've capped the traffic generation, they feel like within that range they should be able to mix the dwelling units to better reflect market conditions as long as they can demonstrate they're not going to exceed the trip-generation cap.

It's a little unique for us. It's one of the first ones that we've really -- well, it isn't the first that has a cap. It's the first that does both.

CHAIRMAN STRAIN: Well -- and I think this panel has bent over backwards to accommodate the flexibility, even from the beginning. It's changed it a lot, but there's a lot more here than any PUD I've ever seen.

COMMISSIONER SCHIFFER: Mark, question.

CHAIRMAN STRAIN: Brad?

MS. ASHTON: And, Mr. Chair?

CHAIRMAN STRAIN: Go ahead, Heidi.

MS. ASHTON: The way we would reference the calculation worksheets is on Page 25 -- this is under the SDP or plat approval where they're required to provide the master list of converted uses and the list of previously-approved uses. So I'll just say in the form attached as Exhibit blank, and then those five pages will be attached as that exhibit, if that's acceptable.

CHAIRMAN STRAIN: Yep, thank you.

Brad?

COMMISSIONER SCHIFFER: My question was if there was a conflict between this and the PUD, which would prevail?

CHAIRMAN STRAIN: Well, I would hope the interpretation that we've discussed at this meeting would prevail, because the intention is what we -- the intention from the applicant as discussed with us, as discussed in the public meeting, is what has actually come out on this document, and I would think this document would be the intention of this board. I'd hate to see someone interpret differently, and that's my concern for not having it attached.

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: Okay. We have some suggested changes. I think they're clear. Heidi's talked about them as well.

So does anybody have any other comments about the consent item for the PUD?

(No response.)

CHAIRMAN STRAIN: If not, is there a motion to approve consent subject to the changes discussed?

COMMISSIONER AHERN: I'll make a motion.

CHAIRMAN STRAIN: Thank you. Melissa Ahern made the motion for PUDZ-2006-AR-10146, the Hacienda Lakes MPUD, the motion.

Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Second by Ms. Homiak.

Discussion?

(No response.)

CHAIRMAN STRAIN: That motion was made to be consistent with the changes we've discussed this morning.

COMMISSIONER AHERN: Correct.

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries.

\*\*\*Is there a similar motion for DRI-2006-AR-10147, Hacienda Lakes DRI?

COMMISSIONER AHERN: I'll make a motion.

CHAIRMAN STRAIN: Ms. Ahern again.

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Ms. Homiak.

I assume consistent with the changes we made here this morning.

COMMISSIONER AHERN: Correct.

CHAIRMAN STRAIN: To the effect that they are in the DRI.

Discussion?

(No response.)

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

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER CARON: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 6-0 again.

Thank you very much.

MR. YOVANOVICH: Thank you.

CHAIRMAN STRAIN: Appreciate it.

\*\*\*Our last item up today is the Orangetree PUD, and that has been continued. There are some people here who have expressed concerns to make their points today because they cannot be here on October 6th. So if that's the case, I ask that you limit your discussion. We usually allow five minutes, but then again on October 6th, please don't expect to voice the same concerns again. We'd like to hear you on October 6th, but we're accommodating you if you can't be here on October 6th.

So please try to be consistent with that for us so we don't -- so we can get through this one.

Those people wishing to speak on this, if you'd all please rise to be sworn in by the court reporter.

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

CHAIRMAN STRAIN: Okay. Now you-all are discussing this today without us having the benefit of hearing testimony and the final reading of the document that would be coming to us as it's going to be revised.

So you're getting us at a bit of a loss, but we'll still accommodate the discussion. So would the first gentleman mind coming up, identify yourself to speak -- on the microphone for the record, and let us know what's on your mind.

MR. PEZZA: Hi. My name is Anthony Pezza. I'm at 1536 Birdie Drive in Valencia Golf and Country Club.

I have several concerns. The gentleman representing Orangetree, first of all, said he had conversations with the public, and this is why he wanted a delay in the proceedings till October. I'm just curious whom you had conversations with.

CHAIRMAN STRAIN: Sir, this isn't a cross-examination. You direct your discussion to us, tell us what's on your mind.

MR. PEZZA: I'll tell you what's on my mind.

CHAIRMAN STRAIN: We don't get into direct --

MR. PEZZA: Okay. In Valencia we are the big loser in Orangetree's planned escalation of 1,250 multi-dwelling units. We have been spoon-fed information, and a lot of these people in this room, as per your agenda, as per his agenda, came here today missing a day from work, and we're kind of upset, to be frank with you, that this has been tabled when they had plenty of time to amend any portion of this that they were going to amend.

To get us in this room, if there was two people here, I guarantee you there's been -- there would be no need to table this. But the fact that there's 25 people here today representing our development is -- maybe has them a little alarmed. And I'm going to just put that out there and tell you what the development is concerned about.

In 1985, as you know, there's a settlement agreement that capped this whole Orangetree at 2,100 units. Orangetree now wants to add an additional 1,250 units within Valencia Golf and Country Club, almost double what's been allowed for the entire Waterways, Water Works (sic), Orangetree. He wants to add 1,250 within Valencia Golf and Country Club on what's been approved for only 400 single-family homes. That's alarming to us.

The other thing that's alarming to us is the commercial approvals that he's asking for from 60,000 square feet to 332,000 square feet of commercial retail space. Where's that going to be? There's no site plan. There's no information for us to go by. So by the lack of information, this is why the residents have come out here in force.

A second point we want to bring up -- and this is no coincidence -- is that Orangetree has kicked out the current developer, D.R. Horton, by not selling him any more lots.

Right now we're assuming Orangetree is going to take over the building or be the general contractor in there. What we feel is we need time as a homeowners association -- because the turnover, coincidentally, is supposed to happen November 1st -- we need time to get representation here. We need counsel to review all our documents and see what our legal ramifications are, because this 1985 settlement agreement, which we are all beneficiaries of, seems to be thrown by the wayside.

Everybody who purchased in that development is the beneficiary, just like if my great grandfather died and I inherited some money, I'm a beneficiary. People don't recognize the fact that we are beneficiaries when we purchased in there.

But it seems to me that there's a lot of innuendos, there's a lot of misrepresentation going on that we need time to organize ourselves. Is it a coincidence after five years that all of a sudden D.R. Horton is not being sold any more lots by Orangetree? Is that a coincidence that the turnover date happens the same month that Orangetree is projecting this Christmas wish list? This is a wish list.

When you go from 400 single-family homes to 1,250 multi-dwelling units -- is what they're asking for -- that's a wish list. Cannot be allowed.

We have one access road in and out, which Mr. Bolt owns. He owns the lakes, he owns the roads, he owns the water for our irrigation. How the planning board allowed one individual to own so much -- he owns the land underneath our clubhouse. People that moved into this development, they're not given this information by D.R. Horton. We find this out secondhand after we're in.

There's people that moved in a week and don't know that we can't upgrade, at our cost, security camera

without Mr. Bolt's approval at our gate. We can't do anything without his approval, and the most alarming thing is, is written into the D.R. Horton bylaws is that Mr. Bolt could take over the homeowners association at any time.

It's a major conflict. We have some major questions. And, again, I'm going to go back to the fact that this is your agenda. That was his agenda. He got us here today. We missed a day of work. We're here. And the fact that this was tabled is a little upsetting.

Next meeting there's going to be 50 people in the room. There's not going to be 25 people in the room, each allowed five minutes, and we're going to get some answers. Thank you.

CHAIRMAN STRAIN: Okay, thank you.

MR. BELLOWS: Sir, may I have your name again, again, please, just for the record.

MR. PEZZA: Tony. Last name is Pezza, P-E-Z-Z-A.

MR. BELLOWS: I appreciate it. Thank you.

CHAIRMAN STRAIN: Okay. Next speaker. Why don't we just move to the next aisle back. Anybody? Next aisle after that. Ma'am?

MS. MILN: Good morning. Thank you for allowing me to speak. My name is Susan Miln. I live on Birdie Drive in Valencia Golf and Country Club.

I sent a letter out to the commissioners last night referencing my not understanding what is even going on here. I was a little bit alarmed this morning that Mr. Sanders or Mr. Saunders -- I don't -- sorry -- would even say that this was postponed without even informing us. I don't even know what's -- what's planned to start with, as well as you said you're not even aware of the whole document being brought to you, so you're in the same position we are.

CHAIRMAN STRAIN: Well, we are -- we have a document, but I was telling you -- what I was trying to relay to all of you is that the document, I believe, is going to change, and that we don't know what the changes are.

MS. MILN: You don't have the changes, okay, I'm sorry. I correct that.

The thing here that I'm concerned about is, whatever makings are in the process here, it leaves us very vulnerable, because we do not as, this gentleman stated, have an association intact.

I don't know where the builder went and when he left and how come nobody was notified, and then I'm not sure what Mr. Bolt has in mind for our community, but we don't have any defense at this point, because we have no homeowners association. And not only a homeowners association, we do not have any legal representation, as he said.

So this could take a while for us to get intact so we know actually what is going to be happening to us at this point.

I don't know how the -- how this all came about, and there seems to be a plan here put in place that would maybe be nonconforming to our neighborhood. And as a community I think that's -- that brings up many concerns. I mean, we have now over 50 percent of a depreciation in our homes to start with, and then we hear that we're going to have low housing -- low-income housing brought in, and we need some clarification as to what low housing means.

The fact that we have that one gate and no roads and no lakes and nothing belongs to us, no, we were not aware of that, but we are paying for that. We are paying a homeowners dues that is quite high. Who are we paying it to at this point? Who's getting the money? Where's it all going? We need to get our finances in order as far as a homeowners association before we approve or -- if anybody would even attempt to approve something that's going to affect us as a community.

These are our livelihoods. We've invested all this into our homes, as well as everybody else in the county, but we're in a -- we're in a bad position right now. And how is a builder allowed to just -- to just bail out and then somebody else owns us as a community? And we're paying somebody, and we don't know who we're paying. I mean, do we pay or do we not pay at this point?

I wrote some things down, and I -- at this point I suggest that, Collier County, could you please take these issues into account. It's going to cause a big -- there's a big magnitude of affect this is going to have on homes and families in our community and our children.

I don't know why this wasn't put on a ballot of some sort like the Wilson -- the building thing down there was put on a ballot. Why isn't something like this put on a ballot when it's something of such magnitude coming into a neighborhood? That's just big concerns that we have.

I don't even know what I wrote here. To Mr. Saunders, I believe -- I don't want to ask questions. It's not a cross-examination, but when was he advised of all these concerns that the neighbors had or the people had, the public? When were the decisions made to change these plans if he plans on changing them? Why were we not

notified before this morning? There is people that took off of work, or families have left home, and that's not fair to us either.

You did say that if we speak today we don't speak again. I would hope that you --

CHAIRMAN STRAIN: No. I mentioned just not to be redundant. We're hearing what you're saying today. Between now and the next meeting, if you get new information, it will be more valuable to address us with the new information than a repeat of what you just said today, that's all I'm trying to clarify.

MS. MILN: Okay. Yeah, because I do plan on reviewing the new information. I'm hoping that the new information is sent to us long before we get to the meeting. That's a little bit unfair to us, and --

CHAIRMAN STRAIN: And, you know, that's a good point, ma'am. First of all, all of you and all of your neighbors that want to come, we will definitely want to hear from you. So I encourage all of you to come to this meeting.

You will be allotted time. I don't care if there's a hundred of you in the room, we will hear you all. If it takes two days, it will take two days. But we do want the public participation. So that we're eager for.

MS. MILN: We need to know --

CHAIRMAN STRAIN: As far as documents, that gentleman right there with the receding hairline --

MS. MILN: He can't fix that.

CHAIRMAN STRAIN: -- his name is Ray Bellows, and he will -- he can get the documentation for you. But I encourage you to get the latest document so when you come you're coming here with the best and latest information.

And that's one reason that the continuation was requested. I think the applicant realized there were a lot of concerns that can't be addressed, and they need to be addressed before the public hearing, so --

MS. MILN: Yeah. But the fact of the matter is that the issues that are brought to us are vague. I mean --

CHAIRMAN STRAIN: Ma'am?

MS. MILN: -- 1,200 low income, what does that mean? You know, what does that mean to us?

CHAIRMAN STRAIN: What you said, just like a realtor, they have a disclosure on the bottom of every piece of paperwork you got. You've got to rely on the written documents, rely on the document you get from Mr. Bellows and the written word in that document as to what will be the ordinance if approved by the Board of County Commissioners.

So whatever you've heard, whatever you verbally have heard, if it isn't in that document, it's not going to happen that way. You need -- the document will be the controlling instrument. So you need to get ahold of that document, you need to read it, and then you'll understand better the issues that this board can deal with, and it is only those issues within that document.

MS. MILN: But do we not have these documents, the homeowners?

CHAIRMAN STRAIN: I don't know what you have, ma'am. No, you wouldn't have gotten them --

MR. BELLOWS: For the record, the applicant -- the county requires the petitioner to hold what we call a neighborhood information meeting where they are to provide that information to anyone who attends that meeting. That meeting was held on June 29, 2011, at 5:30 at the Collier County Extension Office.

MS. MILN: Yes, sir.

MR. BELLOWS: That's -- we try to get public input as -- in the process as soon as possible. That's why we require these mandatory -- a mandatory neighborhood information meeting. But anytime anyone has questions, if you hear about something, we always are happy to take calls and provide whatever information on about any application that we have in -- that has been submitted to the county.

MS. MILN: But the information that's brought forth to a -- our homeowners, it needs to be more clarified.

CHAIRMAN STRAIN: But, ma'am, part of --

MS. MILN: Is that possible?

CHAIRMAN STRAIN: Part of what you've got to do, especially with your own neighborhood, is get the information on your own. We cannot voluntarily provide that to everybody.

MS. MILN: But we will --

CHAIRMAN STRAIN: That's not the process. You have to ask for it. They'll provide it. It's public record. So if you just get ahold of Ray, he'll -- he can send you the latest documents. And if you want to get them sent to your HOA and they distribute them, that might be a way to do it.

MS. MILN: We don't have an HOA.

CHAIRMAN STRAIN: Well, whoever your -- okay. Whatever organization you have --

MS. MILN: You're going to send them to Mr. Bolt.

CHAIRMAN STRAIN: -- or however you communicate with one another, I suggest that you get in contact with him and start getting the documents circulated.

MR. BELLOWS: I have my business cards. I'll give it to Kay Deselem, who's the planner, and she'll hand out my business cards. And you can call, or Kay, and we can get you any information you need on this project, and we'll be glad to meet with you, show you all the plans that the applicant has submitted to us, and when we receive the revised information that was the reason for this continuance, we'll make that available also.

CHAIRMAN STRAIN: Burt, the same rule. I don't want to open cross, so --

MR. SAUNDERS: No. I certainly am not going to do that.

Mr. Chairman, maybe to expedite things to facilitate the next hearing, we'd be happy to set up a meeting out at Valencia Golf and Country Club. We can have the folks come, and we can discuss what's in the plan and what we think some of the changes are going to be. That might help answer some questions.

For example, there is no low-income housing in this -- in this plan, but there's some rumor out there that there is, and there isn't anything in the document to indicate that.

So we can answer some questions. I would need a contact person, one person that I could call, and then have that person set up the meeting in terms of who's going to be there.

CHAIRMAN STRAIN: Okay. Well, before this -- before this discussion gets over with, we'll get a contact person for you that maybe can help distribute information to the Orangetree folks.

MR. SAUNDERS: All right. Thank you.

CHAIRMAN STRAIN: Thank you.

MS. MILN: Thank you.

CHAIRMAN STRAIN: Ma'am, thank you very much.

The next person who would like to speak, sir?

MR. PAWLINSKI: Good morning. My name is Stash Pawlinski. I live on Birdie Drive also. I'll keep my comments --

CHAIRMAN STRAIN: Could you spell your last name, sir?

MR. PAWLINSKI: P-A-W-L-I-N-S-K-I.

CHAIRMAN STRAIN: Thank you.

MR. PAWLINSKI: I'll keep my comments brief, because I would like to speak again in October, but I --

CHAIRMAN STRAIN: Again, you can speak, sir. I just ask you to keep -- not to be redundant, that's all.

MR. PAWLINSKI: And I'm going to try not to be. I tentatively have joint-replacement surgery scheduled, so I just want to express a couple points.

Mr. Pezza actually got to the heart of what my concerns were. One, we're in a unique position that I hope you'll be sensitive to that our transition from D.R. Horton to whoever the next developer's going to be leaves our HOA in a very weak position, and we would like time to gather information to have legal advice so that we as a community can make plans for our future that will be helpful to us and beneficial to the community in general.

My first major concern was the fact going from the current approval of lots to 1,250. If you take all the communities together, that's a 50-percent increase on everything. And the bulk of it will be in Valencia Golf and Country Club.

I'm certain these concerns will be addressed also. But as it is right now, once the school year starts, you can come out on Randall Road and Immokalee, and sometimes you'll wait through two or three traffic lights with the current traffic waiting. So that was a concern of mine.

Not knowing the details of the plan -- and I'm certain if we have more details you can address what your concerns would be. We don't really know specifically what's going to be involved, and that would be helpful.

So, again, those are my concerns. Mr. Pezza hit to the heart of it. And, again, I know you've got a long and busy day, so I'll keep it brief, and hopefully I'll see you in October.

CHAIRMAN STRAIN: Thank you, sir. We appreciate it.

Next person who'd like to speak, please.

MR. BISH: Good morning. My name is Troy Bish at 2212 Vardin Place.

CHAIRMAN STRAIN: Could you spell your last name, sir?

MR. BISH: Bish, B-I-S-H.

CHAIRMAN STRAIN: Thank you.

MR. BISH: Mine will be short and brief at this time. My fellow neighbors have addressed some of our legitimate concerns that we have. I'm on the advisory committee and I have been for the last 18 months, for Valencia Golf and Country Club, as well as now the turnover club, getting ready for our turnover to form our own board of directors, which now the board of directors is -- D.R. Horton has been the board of directors since the development started.

With that in mind, what I'm asking -- and I don't know what the proper protocol is going to be, if Mr. Saunders has the ability today or not -- I'm looking to at least extend this. I'm not interested in an October meeting. And the reason why is because we still won't have a unified voice from Valencia Golf and Country Club. We have no organization. We have no attorney on advise for us.

So I'm looking for a November 1st turnover date. I'm looking for this meeting possibly postponed till after that, maybe even till the first of the year, where we can get our bearings and our feet underneath us and at least be a little bit organized so we can have a logical debate with Mr. Bolt and Mr. Saunders about our future plans.

Thank you.

CHAIRMAN STRAIN: Thank you, sir.

Next person who would like to speak?

MS. RAIMONDI: Good morning.

CHAIRMAN STRAIN: You might want to pull that mike a little closer to you. Thank you.

MS. RAIMONDI: My name is Kathleen Raimondi, and I'm at 4290 Eighth Street. Thank you very much for letting me speak.

I will ask to speak in October, but the reason I'm mainly asking to speak today is that I have 88 signatures, signed, in a petition to ask you to please consider this petition. Do not -- these people do not live inside of Orangetree PUD zone, but they live on the outside to the north of the fairgrounds where you see the yellow highlight.

And when the maps were given out, it looked as if we didn't even exist as homeowners. We were indicated by a line about a quarter of an inch long. So there's nothing here. It looks like we're insignificant people.

And this particular issue that I'm bringing forth to you concerns primarily the portion of Orangetree PUD that's indicated on your maps as CU, community use, which is now being occupied by a fire station and the fairgrounds.

This does not concern a fire station. It does concern the fairgrounds, which is -- the property is owned by Collier County, and if I'm not mistaken, the fairgrounds is a legal entity called the Collier County Fairgrounds, Inc., so they are a renter of Collier County, and they -- there was nothing there in the beginning. We asked, is there anything going to affect our homes, and we were told no by realtors.

They have a wonderful agricultural center where you could take classes on plants and bugs and things like that.

They have escalated activities to the point that it is a total public nuisance to the people that live north of the Orangetree PUD by that section, to the point that we are barely able to live in our homes 11 months out of the year. That means we paid for our homes, but we only have peace and sanity for about 11 months, probably ten-and-a-half.

And I would like to read the petition so that when they do revise these (sic) ordinance that they will consider why we're protesting. So if you give me that permission.

We petition the Collier County Commission, the Collier County Fairgrounds, the Collier County Code Enforcement, Collier County zoning and others, regarding the Collier County Fairground operations to, one, cease all amplified sounds, including music and voice by way of loudspeakers and any other means;

Two, cease ignoring the residents' peace, harmony, and tranquility;

Three, cease sponsoring events which have been categorized as, quote, community events, unquote, that create noise disturbances to the adjacent and surrounding residents. These events include but are not limited to extraordinary noise, including amplified music, amplified speakers, concerts, rental of the 4H animal shelter for weddings and other parties, helicopter rides, and other helicopter activity over residents' home (sic), bull and rodeo riding and demolition derbies;

Four, cease in allowing huge trucks of any size therefore -- thereof to deliver large amounts of alcohol, such

as beer, and the sale of alcohol on the premises of the Collier County Fairgrounds, as this leads to intoxication, escalating of noise disturbances, and safety risks. The Collier County Fairgrounds is not zoned for commercial uses and should not be used as such.

Five, cease the use of residential streets for entry and exit from the Collier County Fairgrounds since access is available per right and left turn lanes on Immokalee Road, and due to the consideration of the local residents on Eighth Street Northeast and 10th Street Northeast, they have very, very small children and are at risk, and with the consideration that the vehicles exiting the fairgrounds frequently exceed the local speed limit.

Six, denial of the request to the Collier County Zoning and Development Division of Collier County per Orangetree PUD for the Collier County Fairgrounds to revise the current ordinance for, A, a maximum height of 115 feet for a tower, regardless of its purpose, as the property is in the backyard of adjacent residents, and Collier County owns more advantageous lots for the purpose intended of a fire observation, which are generally located in areas that are wooded, such -- which is better suited, is located at Immokalee Road and 47th Avenue North.

In addition, an ordinance change allows a height revision to a maximum of 115 feet, is a potential precursor to constructing a telecommunication tower without the need for further homeowners' input. Fire/water towers are not generally of such height;

B, an on-site residential unit for security purposes, as this is not necessary, without the escalation of community events, increased traffic on -- involving adjacent residential homes, additional equipment which has been involved with the noise disturbances to the residences;

And, C, raw-water wells, as the Collier County Fairgrounds was never intended to operate in such a condition as to warrant drilling for water, and this will cause extreme risk to the adjacent community of residents upon their well systems regardless of how deep the Collier County Fairgrounds intends to drill for a water source;

And, D, the denial of a request to eliminate all impact fees for new structures. Without the shared responsibility, the costs will become a tax burden for the homeowners.

The purpose of this intention is so that the primary goal of Collier County is to create a county and a community where all the people and the residents are treated equal and are to enjoy the same rights and privileges among one another without undue treatment to any one group at the expense of that group for the benefit of one group and the detriment of another.

So I would like to submit this consideration.

CHAIRMAN STRAIN: Ms. Raimondi, first of all, you need to -- if you want to provide any documentation, it should go to Mr. Bellows.

MS. RAIMONDI: Okay.

CHAIRMAN STRAIN: And second of all, this is a zoning hearing on a PUD. And I understand some of the issues you've talked about, but they're not matters that are relevant to this board.

Also, the Collier County Fairgrounds is not -- although it's part of the PUD, they're not one of the owners that have opened up their section of the PUD except to do what I would have thought you would have considered beneficial, that is to establish a maximum height for a fire tower; whereas, right now they could build that fire tower to the highest structure in Collier County, which I believe is about 200 feet.

So I'm not sure how your issues apply to this board. But when you and the rest get done, I'll certainly advise all of you on how you may look at what -- the specific issues this board deals with. It's kind of like the environmental advisory board and all the different boards in Collier County. We have a certain set of rules that we have to review by, and many of the issues you just spoke about don't fall within our rules.

MS. RAIMONDI: I understand that it may not seem like it, but if these additions take place, it sort of gives the fairgrounds a blank check and the freedom of will to do more escalating. So we're asking specifically the denial of the additions to the fairgrounds to the community-use portion.

And we also would like to say that the reputation of Golden Gate Estates seems to have a negative connotation. What we would like to ask you is you consider in the ordinance is something that will enhance the area and bring people in instead of them always saying --

CHAIRMAN STRAIN: Ma'am?

MS. RAIMONDI: -- I don't want to move out there.

CHAIRMAN STRAIN: I'm going to have to ask that you limit your discussion today, and if you are -- to stay on topic. Those are not issues that are before us today. If you look at the document, you will see there are only



two changes to the fairgrounds to date that I've seen.

MS. RAIMONDI: Three.

CHAIRMAN STRAIN: Okay, three. I may have forgotten one, but they aren't detrimental changes to you, so I'm not sure what use change you see.

MS. RAIMONDI: A tower, a residential unit in the fairgrounds, and drilling for water are the three you're talking about.

CHAIRMAN STRAIN: The tower has always been there, ma'am.

MS. RAIMONDI: Well, if I'm not mistaken, the last ordinance amendment was in 2004, and it was for the purposes of educational benefit in the high schools. What you're asking for now is completely on the other end.

CHAIRMAN STRAIN: I'm going to ask that we're going to have to ask that you come back on the 6th --

MS. RAIMONDI: That's fine.

CHAIRMAN STRAIN: -- and we'll discuss it more further at that time.

MS. RAIMONDI: I would like to ask one other thing, that they consider having neighborhood information meetings all over again if they change this, because people are not given enough time to understand what this is all about.

CHAIRMAN STRAIN: The applicant will have to meet the requirements of the Land Development Code, and I'm sure they'll do that. If they volunteer to do more, that is their prerogative. We can't control that.

MS. RAIMONDI: Thank you.

CHAIRMAN STRAIN: Thank you.

Anybody else wishing to speak? Andrew?

MR. McELWAINE: Thank you, Mr. Chairman. Andrew McElwaine. I'll take two minutes. Minute one is just to quote Yogi Berra, eternity "ain't what it used to be."

There are multiple settlement agreements around the county that protect the citizens, protect the natural world, and from a conservative perspective, we're watching them all crater.

The Key Marco Settlement Agreement, Lely Barefoot Beach, and now Orangetree. These are all landmark settlements that allow development to be built at all, and there are limits that were placed as part of those developments that we're watching blow up all over the place. One turned violent against one of my staff down in Key Marco. First time in our 48 years that a staff person was subject to violence, on a gated community.

So these could get very ugly, and I really want to caution everyone about taking what was the ceiling throughout the county and watching it become the floor.

In this case this property was zoned by the County Commissioners back in 1980, '81 one unit to five acres. The Grimm remnant of Gulf American Corporation litigated that, and a 1985 settlement agreement was reached which increased it from one to five, to a total of 2,100 units all across this development.

Without that settlement agreement, there wouldn't be a darn thing on these properties had the county prevailed. Same with Lely Barefoot Beach, same with Key Marco. Without those settlement agreements, nothing would have been built in those places, or at least nothing like what's there now. So to watch these crater is very unfortunate.

And I would point out finally that, according to our attorneys, the applicant has not claimed a vested interest here, meaning no Bert Harris claim. So, meanwhile, as some of these folks have mentioned, they are third-party beneficiaries of the settlement agreement, and they do have the right to litigate that. So I would keep that in mind from a legal perspective as to who has rights here and who does not.

So with that, I will hold whatever else I may have to say for another time thank you, and thanks to all these good people for coming down here.

CHAIRMAN STRAIN: Thank you, Andrew.

Anybody else wish to speak on this matter?

(No response.)

CHAIRMAN STRAIN: Okay. I have a couple things I want to hope will help you. Well, first of all, the gentleman on the left with the gray hair, like my gray beard, I thought you had indicated when Mr. Saunders was talking of a contact person, you might be the person. And if you are, could you just come up to the mike for a minute.

We're looking -- it would be helpful if we had a contact person we could disseminate information through. And I'm sure that would help the applicant get you the information he needs to get to you. Yes, sir.

MR. WINDER: Yes, sir, I am. My name is Michael Winder. Last name is W-I-N-D-E-R. I live on 1613 Birdie Drive.

CHAIRMAN STRAIN: 1613 Birdie Drive.

MR. WINDER: Yes.

CHAIRMAN STRAIN: Okay. And if we get you information, will you be able to distribute it to the community for the most part?

MR. WINDER: Yes, sir.

CHAIRMAN STRAIN: Okay. And then that doesn't mean all of you can't receive, independently, information, but you'll have to contact Ray independently if you want it. In the meantime, Ray, if you could get anything that comes in on this project to this gentleman --

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Or Kay.

MR. BELLOWS: And Kay will be the main contact.

CHAIRMAN STRAIN: Okay.

MR. SAUNDERS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir. Thank you.

MR. SAUNDERS: If I might, I need a telephone number so I can make one call to set up a meeting.

CHAIRMAN STRAIN: I'd rather you get that in private. You don't need to publicly display your telephone number.

MR. WINDER: That's fine, sir.

CHAIRMAN STRAIN: So catch Burt on the way out, and give it to him. That would probably be better. Thank you.

Now, the other thing I wanted to mention, this is the Collier County Planning Commission. We only deal with zoning matters relative to the Land Development Code. There are whole bunches of things wrong with Collier County in a lot of people's opinions. In fact, if you know, I've written a column for years expressing how much I think is wrong with different things around here, but those are not issues of this panel.

We will not be able to weigh our findings on the presentation of this PUD on anything but the standards in the Land Development Code. So it's very, very important that you kind get a little familiar with it or at least get the document that Ray has that is the PUD.

So those items listed in there, if you have specific questions about those, we can address those. But the esoteric or esthetics or taxation or other issues involving Collier County, that is not something this board really can get involved in. We're strictly limited by the code.

So when we get back here on October 6th, if that still ends up being the date, then we need to at least hear from you, and the most effective way is to address us pursuant to those zoning ordinances. That will be a big help to us. And we do want to hear all of you, so --

Mr. Schiffer?

COMMISSIONER SCHIFFER: Yeah. One of the things they brought up is they wanted more time. I mean, essentially being stood up today, to me, which is a really negative thing in this application. Should we give them more time, allow them more time? Why, you know, convenience the applicant for two weeks? They obviously expressed concerns about fully understanding. New neighborhood meetings --

CHAIRMAN STRAIN: Well, I mean, I don't know if this board can demand more time if the applicant's met all the requirements of the Land Development Code through the public process that has occurred to date. We've either got to take it or not take it, and we can -- if we feel that the time has not been sufficient or the communication has not been good enough, our position could always be we won't accept it. But unless the applicant asks for more time, I don't know if we can demand it. Maybe the county attorney -- or, Nick, are you familiar with that issue?

MR. CASALANGUIDA: Yes. Commissioner Schiffer, if the applicant's met the Land Development Code, it's really up to the applicant. Now, typically, the county asks that the applicant spends time with the community, obviously brings a project forward that's cleaner, resolves a lot of the issues ahead of public hearings. So we encourage the applicant to meet with you. But if he meets the codes and -- he can be heard by the Planning Commission.

COMMISSIONER SCHIFFER: All right. But, I mean, the convenience of the public, especially in this case

where the applicant came down, had his time, and didn't use it, and booted it to the next meeting.

CHAIRMAN STRAIN: Well, but we've had -- we just had one -- we have the -- the first hearing up today has been rescheduled three times. So, I mean, it's not unusual to ask for a continuance, especially when the applicant goes around to either us or the members of the public and finds out they have grave enough concerns they may not even survive the day, so why don't we retool our application and talk to people about it and come back with a better document? That may be what's going on. I would hope so.

Burt, did you want to say something?

MR. SAUNDERS: Yes, Mr. Chairman. We obviously met the code requirements in terms of the neighborhood information meeting. We did have some meetings out there this summer with some of the homeowners associations. We're willing to set up another meeting. I will make that one phone call to set up another meeting so we can go through some of the issues that the public has.

But, quite frankly, we could have proceeded today, and we elected not to because we're trying to address some of those concerns.

So we're prepared to be before this board on October 6th. I'm prepared to make the phone call to Mr. Winder to set up another meeting out in the community to try to answer questions, but we'll be ready to go on October 6th.

CHAIRMAN STRAIN: Okay. Mr. Klatzkow?

MR. KLATZKOW: You have some discretion on this, Mr. Chairman. I mean, you can say that this isn't ready to go at this point in time, and you can say come back in a month, if you want, or two meetings from now, or whatever. You have some discretion.

I mean, the last thing I want to see is a room full of a hundred people before the Board of County Commissioners because this thing is half baked, okay. What I'd like to see is this thing ready to go, everybody -- everybody pretty much on the same page, because it's not going to work if I've got a hundred people in the room before the BCC because these people didn't get together.

CHAIRMAN STRAIN: And I don't disagree with you. I mean, as far as the -- not going to work. And, Burt, you've not only been a county commissioner, you've been a member of the House of Representatives, and you've been a senator, so you know how strong the public will is.

MR. SAUNDERS: Oh, absolutely, Mr. Chairman.

CHAIRMAN STRAIN: I would think with this discussion today and the lack of communication that seems to have occurred -- although I know you've met the intent of the LDC -- that it may be to your benefit to not request a continuance to October 6th, but continue -- an indefinite continuance until you have more time to understand the depths of the issues that are here.

MR. SAUNDERS: Mr. Chairman, I will meet with the representatives over the next week or so, and as I said, we'll be ready to go on October 6th. If it turns out that for some reason we're not ready, which I would not expect at all, then we can discuss that then, but we're ready to go on October 6th.

CHAIRMAN STRAIN: What's the sentiment of this board? Mr. Schiffer, you brought the issue up.

COMMISSIONER SCHIFFER: Well, I mean, the people came down, the people got stood up, the people want more time. Somehow I favor that. And I don't know what the appropriate time is, but I think to convenience the people is an important part of this.

I would like to, in new business, have a conversation about continuances and to see how we can organize that so this doesn't happen again. But obviously my opinion is that the time should be given to make sure the public thoroughly understands it, and maybe the room isn't full next time.

CHAIRMAN STRAIN: Well --

COMMISSIONER CARON: I would agree with Mr. Schiffer.

CHAIRMAN STRAIN: Okay.

UNIDENTIFIED SPEAKER: May I say one thing?

CHAIRMAN STRAIN: No, ma'am. Please, we could -- this hearing was supposed to be continued. We have -- we listened for convenience. We do want to hear your input, but we do have to keep moving on.

So, Melissa and Burt, I understand -- or, Donna and Burt -- I mean, Donna and Brad, I understand your position. I want to be careful because we routinely accept continuances for a variety of reasons. Those are really, usually, very good reasons. Honestly, this is a good reason.

COMMISSIONER SCHIFFER: And we're not against accepting the continuance. We're against the meeting

being in two weeks. That's all.

CHAIRMAN STRAIN: Okay. I'm just wondering why this differs than Hacienda Lakes, for example, or some of the other projects where they've come in on short notice, realized that things need to be modified and ask for a continuance.

COMMISSIONER SCHIFFER: Hacienda Lakes did not have a roomfull of people that came down here in good faith thinking this was going to be heard. But whatever mechanism we have, these people weren't aware that this meeting wasn't going to be heard. And to be honest with you, reading the correspondence we had, I didn't know the meeting wasn't going to be heard, as confusing as that was. So the point is, that's the big difference between Hacienda Lakes.

CHAIRMAN STRAIN: Well, the applicant still wants to go forward on October 6th. What are the feelings of this board as far as demanding that October 6th not be the date? I mean, obviously the applicant has indicated that if for some reason things aren't ready on October 6th, they can continue further.

If as -- if this board doesn't feel the applicant's ready on October 6th, we have a choice at that time if they want to proceed to just vote no on the whole thing. So, I mean, they're taking a risk, and I guess as property owners they have a right to take that risk. But what does the --

COMMISSIONER AHERN: I would agree.

MR. SAUNDERS: And, Mr. Chairman, if I might make one statement. This is sort of like no good deed goes unpunished. We came here this morning to ask for a continuance because we know that there's some neighborhood concerns that we can address, and we will address those.

We will meet with the neighborhood. We'll make sure that they understand what's in the document. We could have proceeded this morning, but we didn't want to do that. We wanted to give ourselves more time to make changes, we wanted to make sure that the hearing in front of the Planning Commission would go more smoothly, and here we are now being told by the Planning Commission members that maybe we're going to have this continued indefinitely. I don't think that that's fair.

COMMISSIONER SCHIFFER: I would like to see it continued till when they're satisfied that they understand what's happening. I mean, some of the stuff they're saying today --

CHAIRMAN STRAIN: Sir, no, you can't, please. I'm going to ask that -- no, you have to be seated.

UNIDENTIFIED SPEAKER: You're going to give the floor to Mr. Saunders?

CHAIRMAN STRAIN: No. Mr. Saunders has got the floor right now. We're trying to resolve it. Please sit down.

UNIDENTIFIED SPEAKER: All right.

CHAIRMAN STRAIN: Thank you.

COMMISSIONER SCHIFFER: But -- you know, and there is misinformation, so I don't think the public's been covered well yet. So I think the best time to come back is when the public and you are comfortable that they understand it. And if you come back with an empty room, that's the perfect solution.

MR. SAUNDERS: Mr. Chairman, we will never come back with an empty room, based on that statement alone.

We met the requirements of the code, we're willing to have an additional meeting to clarify issues, and we're trying to clean up the document. So we're ready to go on October 6th, and we respectfully request that the continuance be granted until October 6th.

CHAIRMAN STRAIN: Okay. And, Burt, I want to tell you, had you moved forward today, I think you would have had a lot of difficulty getting this passed today.

MR. SAUNDERS: Understood.

CHAIRMAN STRAIN: So the idea of you moving it to a continuance is good, because the intention is to clean it up. It needs to be cleaned up. But I also think that if it doesn't look like it's ready for prime time at the next time around, this board will certainly weigh in on that.

MR. SAUNDERS: Certainly.

CHAIRMAN STRAIN: And it may be not to your best interest to move forward if it's starting -- if it's not looking better.

MR. SAUNDERS: I understand, Mr. Chairman.

CHAIRMAN STRAIN: Okay. I don't know how we can demand -- I mean, I just don't want to get a

precedent setting here, because we have continuances as almost a routine with a lot of projects, and they're always to better the project. So I don't know if it's good to get into a process where we start demanding our own time frames based on public input because, honestly, look at the shopping center. If some of the public had their way on that one, that could have been postponed for years.

I don't think that's the right -- I think we've got to let the process work its way out. And if we disagree with it, we can express that in our vote. That's what we're here for, so --

COMMISSIONER SCHIFFER: Okay.

CHAIRMAN STRAIN: I think this applicant ought to be allowed to continue to the date he requested, and if he still hasn't got it together, then we will so render on that date.

COMMISSIONER AHERN: I agree.

CHAIRMAN STRAIN: Wow. As far as the Planning Commission goes, we voted to continue him already. Is anybody suggesting that change at this point?

COMMISSIONER AHERN: No.

COMMISSIONER SCHIFFER: No, let's not change that, but let's make sure that in that two-week period that the public is really satisfied and understands this application.

MR. SAUNDERS: It's actually three weeks --

COMMISSIONER SCHIFFER: Three weeks.

MR. SAUNDERS: -- so there's a little bit more time. And I'll make that phone call -- as soon as I get the number from Mr. Winder, I'll make that phone call tomorrow, we'll set up that meeting, and I'll rely on Mr. Winder to make sure that the community is notified as to the time and place of the meeting.

Thank you, Mr. Chairman.

CHAIRMAN STRAIN: Thank you, sir.

MR. SAUNDERS: Thank you, Planning Commission members.

CHAIRMAN STRAIN: And members of the public, I think you all know we're very concerned about this one. We have no limitation on our time. We spend time on these. The last one -- the first one you heard today was 14 hours of public time. You won't find that in any other board in Collier County for one issue. We will spend the time. We'll get it heard right.

Now, we already closed the members of the public speaking. I know other -- you have more to say. It's not going to end here today. It's going to -- it may not end on October 6th. The last one we had two different hearings on, seven hours each one. If we have to take that much time to make this come out, we will do that.

So with that, we'll end the discussion today on the Orangetree PUD, and we'll move into our regular agenda. Thank you all for the time you spent here today. We appreciate it.

Let's take a 15-minute break while the room clears. We'll resume at 10:30.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay, everybody. Welcome back from the break. We will get into the regular meetings now that we have had scheduled.

\*\*\*Well, ironically the first one up has been -- this is one of Brad's favorites. He likes continuances so well. This one has been continued from the August 4th to the August 18th, from the August 18th to September 1st, and here we are today on September 15th.

The next hearing would be on PUDA-PL2011-703, the Pine Ridge Center West PUD.

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 by the Planning Commission? I think I spoke to Mr. Mulhere, I spoke to a representative from the bank, and I think that's about it.

COMMISSIONER AHERN: Emails.

CHAIRMAN STRAIN: Emails, okay.

COMMISSIONER SCHIFFER: Yeah. Mr. Passidomo and I had a brief conversation, and I think it might have been good enough to consider ex parte, on this thing last time.

CHAIRMAN STRAIN: Okay.

COMMISSIONER CARON: Emails as well, so --

CHAIRMAN STRAIN: Okay. Anybody else?

Okay. Bob, enlighten us.

MR. MULHERE: Thank you. For the record, my name is Bob Mulhere here on behalf of Germain.

With me, Dominik Amico, who is the civil engineer on the project, and Jane Eichhorn, who is -- tries to keep us straight as we move through this process and organized.

Let's see. We had one hearing. We continued it twice. At that hearing, I guess picking up where we left off, we agreed to continue so that we would have some meetings with our neighbors, primarily the bank, but we also met -- I also met with Mr. Pezeshkan as well at Kraft Construction a few times during that period of continuance.

For the record, I had already indicated, yes, we have a recommendation of approval from staff and, yes, the project is deemed to be consistent with the Comprehensive Plan. I just reiterate that.

On your visualizer, I have a location map. And as you, I think, are all aware, Pine Ridge Road, I-75, this is within the Commercial Interchange Activity Center No. 10. The subject property's that sliver in dark right there.

Just to the east is the sister PUD, the Pine Ridge Center West, and then -- or, excuse me, East, and then just to the east of that is the existing car dealership, which was -- I think it's now called Naples Nissan.

Across the street you have the RaceTrac gas station, Hooters, and a number of interchange activity-center type uses.

Just as, again, a refresher, the subject property is labeled on there. It's that clear site, and just behind it is the Kraft building. Those buildings straddle the lot line between the two PUDs. The retail bank facility's here, the bank's office building is here, First National Bank of the Gulf Coast. I think I got that wrong last time. I want to say it right this time.

COMMISSIONER KLEIN: You might want to move that up.

CHAIRMAN STRAIN: Barry?

COMMISSIONER KLEIN: I'm sorry.

CHAIRMAN STRAIN: Oh, no. That's okay.

COMMISSIONER KLEIN: You might want to move that up just -- well, north is to the right. No, the other way. I'd like to see more of what the existing auto facility is.

MR. MULHERE: And that's right here.

So as I mentioned, the site is located within the Interchange Commercial Activity Center No. 10. The Comprehensive Plan states that Interchange Activity Centers No. 4 and No. 10 allow the same mixture of land uses as allowed in the mixed-use activity centers. No industrial uses are allowed in Interchange Activity Center No. 10. So obviously this use is consistent with that -- those provisions and limitations.

In our meetings with Summit Management Group, which is the management entity that manages these properties, as well with Mr. Pezeshkan from Kraft Construction, they do support the project. Obviously, they were the original owners and sold the property to my client, but they also had some concerns relative to the site plan, which I will go over in just a few minutes, and we've made some concessions to those concerns that would address -- and with those concessions in place, they do support the project.

Interestingly, this is not the first time that a car dealership -- a new and used car dealership has been considered for this property. Back in 2003, Mr. Wayne Arnold requested an official interpretation on a number of matters. There were actually three or four items that were part of that that was -- that request for interpretation.

But Item No. 3 asked this question: Is an automobile dealership comparable to other permitted uses and thereby deemed a permitted use in each PUD? He was asking actually for both of the PUDs.

And on the basis of that, had suggested that each PUD has predominant land uses of C4 and C5, and new car -- new and used car dealerships are permitted land uses in C4 and C5.

Also did a traffic analysis and indicated that the traffic impacts were much less than other uses permitted within the PUD, including supermarket or home-improvement superstore.

And had requested a finding from, at that time, Planning Director Susan Istenes, that the use was comparable with the foregoing because the PUD contains that language that says if the planning director finds that to be the case, then that use would be allowed.

And Susan Murray -- Susan Istenes, I'm sorry, responded that -- just let me get to the germane point. The information submitted by the petitioner, including a narrative in trip-generation comparisons reveals that the use may be compatible given the development restrictions imposed in the PUD ordinances, however, does not demonstrate that they are comparable in nature to the uses permitted in the PUD.

That is why we're here today with the PUD amendment. If it would have been administratively approved, we wouldn't have to be here. But the Ms. Istenes opinion at that time in 2003 was, hey, it may be compatible, but it's not like the other uses in the PUD; therefore, you can't just administratively do it. She doesn't say it, but obviously the next understanding would be that you actually have to amend the PUD to get there.

As I said, we continued so that we could have a meeting with the bank, which we did have on August 19, 2011. And we have also, since that meeting, been in communication with the bank in terms of electronically primarily in terms of offering certain conditions.

At that the meeting was Garrett Richter; Tracy Coghill, senior vice president and legal counsel for the bank; Ken Moran from Germain; myself; Dominik Amico; and Jane Eichhorn.

We had prepared a site plan, which I'll share with you, a conceptual site plan that was intended to allow us to have discussion. That was one of the things that was recommended, that we at least come up with a conceptual site plan so that we could have some discussions with the bank officials.

Thank you, Ray.

MR. BELLOWS: It's upside down.

COMMISSIONER KLEIN: Upside down.

MR. MULHERE: As usual, sorry.

And we did that. And we also met with, again, Kraft Construction to go over the site plan with them as well. Just let me go over some of the characteristics.

As had been discussed, I think, at the original hearing, in this area here we've agreed to a Type B landscape buffer with Type C plantings. We have also agreed -- and I'll probably repeat this when I go over all of the issues. But in our meeting with Kraft, we agreed to the same kind of landscape buffer here.

This is a portico-share-type facility that would allow drive-through traffic for service -- to be intake through the service facility. It's entirely enclosed. It doesn't look like it here, but the facility is entirely enclosed. These spaces that you see on the site plan just represent locations for actual service vehicles.

The car wash we had located here. We've agreed to relocate that to the west side of the building so it won't affect any of our neighbors, and that also will be fully enclosed.

We also prepared an architectural rendering to show that the building will be -- and the caveat here is that we don't know which car dealership ultimately will locate here. They all have slightly different requirements in terms of design, but we will meet the architectural standards of the county, which include treatment of the overhead doors.

While this shows two overhead doors here and here, we'll only have one, because this was the car wash, and we'll be moving that to the west side of the building.

This will need to be glazed such that it doesn't appear to be an overhead door and have architectural treatments to that effect. And that came from staff as well, that comment.

One of the principal concerns that we heard from the bank -- we heard a number, and I'm going to go over those. But one of the principal concerns that we heard was that there was a concern that -- and, remember, we had initially agreed that there would be no used car sales only, so it will be a new-car dealership. That was a principal concern expressed by all of our neighbors that it not be, you know, a used-car dealership. And we've already agreed to that.

The second issue, I think, of primary concern is not site related so much as it is a concern over the potential impact of a new-car dealership on this site to the value of the office building that the bank owns.

I think they had put on the record that they were of the opinion that this would be Class A office only within this. Obviously, the PUD allows for -- as you've seen and I put on the record before -- a whole bunch of uses that are C4 and C5, many of which are completely and wholly different from Class A office.

But as -- with respect to that, we did go and obtain a prospective letter of appraisal from Integra Realty Resources. I think that's been distributed to all of you. We did provide that to the bank officials as well as Mr. Passidomo representing the bank.

It was prepared by Michael P. Jonas, MAI and CCIM. We have heard from bank officials that they disregard this appraisal because they were not the entity they got to select who would conduct the appraisal. We would dismiss that. We paid for it. We hired a professional appraiser. A professional appraiser follows the course of action. We told the appraiser, go and do your job and let us know what, if any, would be the impacts in terms of value.

And as can you see from this appraisal, the conclusion is that there will be no negative impact from this use.

Other items that were discussed and that we've agreed to, as I indicated, the use is limited to a new-car dealership. We also agreed to -- one of the other concerns that were raised was the -- apparently the bank has had some experiences -- some less than desirable experiences with the existing dealership, which we really neither can comment on nor do we have control of. We do have control of -- over the dealership that we intend to construct, and we will be good neighbors, and we will be available to address any issues that they raise.

Specifically, one of the concerns was this idea of having car carriers using Kraft Road. And at first we thought, well, we could limit that to a location on the site, but actually Mr. Germain suggested that we could do that on -- actually off site, at an off-site location and then drive the cars to the site, and I think he does that in some other locations as well.

So there's a cost associated with that, but that would, I think, eliminate the concern of having these car carriers blocking traffic on Kraft Road or becoming a concern. So we would -- we would do that off site.

We've also agreed -- and I think the PUD already stipulates and requires that there be no amplified sounds or announcements. All the service doors will be kept closed and only open for ingress and egress, and we will use architectural treatments to diminish the perspective of those service vehicles. They will be treated as required by the code.

There are -- we've agreed to, as I mentioned before, to provide a Type B landscape buffer width with Type C plantings, which is substantial, and we would -- we've agreed to do that along the eastern property line and the property line adjacent to Kraft south.

And we've agreed to move the car wash function, which will be fully enclosed, to the west property between the building and what would, in the future, we presume, be a preserve area, but it's undeveloped at this point in time.

I'm happy to answer any questions that you have. I think that concludes my presentation. I believe I've addressed all of the issues. As I said, this is consistent with the Comprehensive Plan. It's an appropriate use. We have a staff recommendation for approval, and we'd appreciate the same from the Planning Commission.

Thank you.

CHAIRMAN STRAIN: Okay. Are there questions from the Planning Commission members? I have a few.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: Can you -- first of all, that first picture you put up with the buffers, can you -- do you have copies of that to pass out? Because we got the last one, and I didn't see the --

MR. MULHERE: This one?

CHAIRMAN STRAIN: Yes, that one. I didn't have that for some reason. I think you sent it to us, but --

MR. MULHERE: We did.

CHAIRMAN STRAIN: -- my color printer decided it didn't like color anymore, at least the colors you did, so -- thank you.

During your presentation just now, was -- the buffer on Kraft Road and the buffer facing the Kraft building to the south, were those supposed to be similar or identical buffers? Because they're not called out that way on this plan.

MR. MULHERE: They're not on this plan. We presumed that there may be some further changes. We would make those changes. We also presumed we'd come back as part of a consent item and we would make any additional changes that might --

CHAIRMAN STRAIN: Okay. But that didn't answer my question.

MR. MULHERE: Yes, they are the same, I'm sorry.

CHAIRMAN STRAIN: Okay. Even though this says they're not, they are?

MR. MULHERE: They are intended -- that was an agreement that we had just last week reached with Kraft.

CHAIRMAN STRAIN: Okay. So half of your project's going to be buffered like the buffer along Kraft Road, and the other half has got the buffers as indicated on this drawing?

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Okay. I had made notes of other stipulations. I want to make sure they're still accurate from one of -- one of our other meetings.

I heard you say no amplified sound of any kind. You're going to be a new-car dealership, but I think we discussed the percentages, because I didn't want to get into the same thing we're into like food where alcohol and food is mixed, and all of a sudden you're a bar when no one intended you to be a bar.

MR. MULHERE: Yes, you're absolutely correct.



CHAIRMAN STRAIN: What is the percentage of new cars then that you'd --

MR. MULHERE: Sixty-five percent new, thirty-five --

CHAIRMAN STRAIN: Always would retain a minimum of 65 percent new cars?

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: Okay. The design for the loading and offloading is going to be now -- it was at one time discussed to be internal to the site, but now you're going to do it all off site; is that right?

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: No vehicle parking along Kraft Road.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: You're going to -- the use is limited to Tracts B and E only?

MR. MULHERE: That's correct.

CHAIRMAN STRAIN: You're going to have a finished facade on the north and east frontages?

MR. MULHERE: That is correct.

CHAIRMAN STRAIN: You're going to have no collision shop on site.

MR. MULHERE: That is correct.

CHAIRMAN STRAIN: The repair shop bays are to be closed except for entering and exiting.

MR. MULHERE: Yes, sir.

CHAIRMAN STRAIN: Okay. And I think that's all the notes I've made.

Ms. Caron?

COMMISSIONER CARON: Single story.

CHAIRMAN STRAIN: Whatever the height -- yeah, do you have a -- what's your -- I can't remember what the standards are, but it will be single story, right?

MR. MULHERE: Yes.

CHAIRMAN STRAIN: Why don't we do the -- in your development standards section -- well, no. This is --

COMMISSIONER CARON: I have a question on this plan while you're looking up whatever you're looking up.

The -- it looks like this plan shows -- Bob, are you paying attention?

MR. MULHERE: Yeah. I'm sorry.

COMMISSIONER CARON: It looks like this plan shows parking on the roof of that building.

MR. MULHERE: Right. And thank you. I tried to -- I went over it too quickly.

COMMISSIONER CARON: Yeah, you tried to squeeze it by.

MR. MULHERE: No, no, no. There's no intent. There's no intent for that.

COMMISSIONER CARON: Okay. Thank you.

MR. MULHERE: This actually is depicting the service bays internal to the building.

COMMISSIONER CARON: Internal.

MR. MULHERE: And it does -- it is very -- you're -- several people have said that, so --

COMMISSIONER CARON: Well, it's because we have those issues other places, so --

MR. MULHERE: Correct. We have no intent of putting any parking on the building.

The PUD would allow, in this location where this building is, a three-story building, and if we moved it up further, it reduces it to one. We are agreeing to a single-story building. I just wanted to -- that, to me, should be just a condition.

COMMISSIONER CARON: It is a condition for your building, the entire building, to be single story?

MR. MULHERE: Yes.

COMMISSIONER CARON: Yes, okay. Thank you.

CHAIRMAN STRAIN: I just made a note, the car dealership and accessory structures on Tracts B and E will be limited to single story.

MR. MULHERE: (Nods head.)

CHAIRMAN STRAIN: And you're going to have no rooftop parking.

MR. MULHERE: Yes, sir.

CHAIRMAN STRAIN: So we have about a dozen stipulations to discuss with anybody who is going to be speaking against or for this project.

Anybody else on the Planning Commission? Go ahead.

COMMISSIONER SCHIFFER: Mark, you said there is one there where you said there'll be no parking along Kraft Road.

CHAIRMAN STRAIN: They volunteered that, so I put it down.

COMMISSIONER SCHIFFER: Yeah. Just to make it clear, don't you -- we don't want them on Kraft Road. In other words, I don't want to confuse that with the parking spaces that are along Kraft Road.

MR. MULHERE: Within the Kraft Road right-of-way or Kraft Road easement. I mean, that was raised by --

COMMISSIONER SCHIFFER: No. I'm not debating the thing. It's just the wording of it, to make sure that nobody looks at this plan and sees parking on the side --

MR. MULHERE: On Kraft Road.

COMMISSIONER SCHIFFER: -- along Kraft Road. So I think "on Kraft Road" would be better.

CHAIRMAN STRAIN: Yeah, that's a good point.

COMMISSIONER CARON: Yep.

CHAIRMAN STRAIN: So no vehicle parking along Kraft Road right-of-way or easement.

MR. MULHERE: Yeah, or you could even say "on Kraft Road."

CHAIRMAN STRAIN: No vehicle parking on Kraft, yeah.

Okay. Anybody else?

(No response.)

CHAIRMAN STRAIN: Thank you. We will hear from staff, if they have anything to add to any previous comments they made.

MS. DESELEM: Good morning. For the record, Kay Deselem, Collier County zoning. You do have the staff report. There is -- last revised 7/18/11. And I won't belabor the issues other than to say that staff is recommending approval of the request, finding it consistent with the Growth Management Plan.

We have provided findings of fact in the staff report to support our recommendation.

CHAIRMAN STRAIN: Any questions of staff?

(No response.)

CHAIRMAN STRAIN: Thank you, Kay.

Ray, is there any registered public speakers?

MR. BELLOWS: We have two registered speakers. The first one is John Passidomo, to be followed by Wayne Arnold.

CHAIRMAN STRAIN: Okay, thank you.

MR. PASSIDOMO: Good morning.

CHAIRMAN STRAIN: Good morning.

MR. PASSIDOMO: Mr. Chairman, members of the planning commission, my name is John Passidomo. My address is 821 Fifth Avenue South in the City of Naples.

Our firm represents First National Bank of the Gulf Coast. The bank's corporate headquarters and bank grand facilities face the site of the proposed new and used car dealership and share the entry road into what currently constitutes an upscale office park with it.

We gratefully acknowledge the Planning Commission's efforts in encouraging the petitioner to share concept plans and preliminary exterior elevations for their proposed car dealership with us.

And as Mr. Mulhere has been very candid in sharing with you, they are of a generic nature. This is a speculative project. There is no car dealership that has been identified, and the plans have to accommodate whomever the market may bear.

The bank needed those plans to assess what they have always assumed would be irreconcilable land-use incompatibilities in the office park resulting from the introduction of the proposed car dealership as a permitted use in it.

The bank has since reviewed those plans, met with the petitioner to address the bank's comments, questions, and concerns, and retained Wayne Arnold to provide them with the professional planning opinion concerning functional and land-use compatibility.

As a result, the bank has come to clear conclusions as to what they feel they need to do to protect their reasonable interests.

Mr. Arnold will testify at the conclusion of my introductory remarks. It occurred to me, however, that before Wayne speaks it might be helpful to you to share the bank's perspective on the question of compatibility. That perspective was shaped by the bank's 2007 decision to locate the corporate headquarters in this office park.

At that time the park contained the corporate headquarters of one of Southwest Florida's most prominent companies on one third of it.

Bank officials enthusiastically bought into the idea of an upscale office park as illustrated --

COMMISSIONER KLEIN: Upside down.

MR. PASSIDOMO: Why am I not surprised -- an upscale office park as illustrated on the developer's master plan for the property shown here for their own corporate headquarters on another one third of it. And the property acquired by the bank are what is depicted on this master site plan as Parcels C & D.

The bank knew, of course, that there was a car dealership going in outside the park but adjacent to and east of their property. They accounted for that fact in the pricing of their offer to acquire the land, and they designed their corporate headquarters to face the entrance road and other anticipated office buildings in the park and turn their back on the car dealership to the east.

Sometime after completing construction of their facilities, the bank was approached by the petitioner, told that the petitioner had Parcels B and E as shown on the developer's concept plan for the office park under contract and asked for letter of no objection from the bank to permit a new and used car dealership on Parcels B & E. The bank expressed serious concerns and refused to give the letter.

The bank was surprised to later learn that the petitioner nonetheless closed on its purchase of Parcels B and E. Until the bank received the concept plans for a layout of the new and used car dealership last month, the bank had heard nothing more from the petitioner.

We respectfully submit that there are three ways to assess whether the proposed rezone to permit a new and used car dealership on the property is compatible. The first, is it compatible with permitted uses in the activity center? The second, is it compatible with permitted uses authorized under the original PUD? And, third, is it compatible with the upscale office park which actually exists on the PUD property today?

The latter, of course, is the perspective First National Bank brings to this question. We think under these facts and circumstances, it is the appropriate way to assess compatibility. When you do so, we believe you come to the inevitable conclusion that even if -- frankly, especially even if you look at the petitioner's concept plans and preliminary elevations, you come to the inevitable conclusion that a new and used car dealership is an irreconcilably incompatible land use in an upscale office park.

We, therefore, ask for your recommendation of denial. Thank you.

Mr. Arnold will follow my comments, and I'd be happy to respond to any questions you may have.

CHAIRMAN STRAIN: I might ask you some questions first. Anybody have any questions of John?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: And, John, the biggest problem I have is that this site could have a supermarket on it. I mean, there is some uses when they brought the property that would be worse than -- in compatibility on all three accounts than this, so --

MR. PASSIDOMO: Commissioner, they bought into that. They understood that. What they want to do now is to fulfill the vision that has been presented to them and that they have implemented through the creation of their corporate headquarters here. They fully acknowledge that there are other uses that are permitted here, and that's why we suggested that when you look at this from a perspective of what is compatibility in an activity center, is a car dealership compatible? We readily acknowledge it is. Is a car dealership compatible with other permitted uses in the PUD? We readily acknowledge it is.

But when you look at what is there on site now and what was represented to the bank when they acquired the land, a used -- a new and used car dealership is not compatible with the upscale office park that exists today.

COMMISSIONER SCHIFFER: And what was represented to the bank when they acquired the land then?

MR. PASSIDOMO: What you see right here, Mr. Commissioner.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: John, I'm -- you didn't get this from a public record, did you?

MR. PASSIDOMO: No, sir.

CHAIRMAN STRAIN: Okay. Because the PUD doesn't reflect that plan. The PUD just says you can have these uses, and you know the zoning enough to know that we're bound by the PUD and the Land Development Code. We can't enforce that plan. We can only enforce what the PUD and Land Development Code allow us to enforce.

This is the first time I've seen this plan, and I agree with you, it's a nice plan for a business park. And it's -- as you say, maybe it's considered an upscale business park. But I didn't find that reference in the existing PUD as something we weigh in on. We weigh in on compatible based on what zoning regulations allow.

And Brad's point was one that I had taken a look at, because you've got auto supply stores as an allowed use, you've got food stores, home furnishing stores, hardware, paint, glass and wallpaper stores. Those to me would be more of a problem for you, I think, than a dealership.

Now, I understand a dealership's a problem because of this plan, but how do you suggest that we can use this plan as an element of our zoning decision when this isn't the PUD plan nor it is consistent necessarily with the -- or inconsistent with what could be on that property?

MR. PASSIDOMO: Mr. Chairman, it wasn't proffered for that purpose. We're not suggesting for a second that you don't enforce the PUD. We're simply asking you not to make the PUD incompatible with what exists in the upscale office park today. And the plan is proffered for the simple proposition that this is what was represented to the bank.

The bank officials had been in this community for in excess of 35 years. They had the opportunity to choose any location for their bank headquarters. They chose this one because this was what was presented to them. This is what they bought into.

We're simply saying we fully acknowledge that there are a long list, a potpourri of uses that are permitted that could go into this property. We accept that. We're not challenging that. We're simply saying, don't make this situation worse.

CHAIRMAN STRAIN: Well, when your bank bought into this knowing that they're wanting it as a presence for their corporate location and they were kind of relying on it, did you include this as a condition of your contract or agreement when you purchased the property?

MR. PASSIDOMO: I didn't represent them, Mr. Chairman, but, no, they did not.

CHAIRMAN STRAIN: Okay. Thank you. I guess we'll hear from Wayne next.

MR. PASSIDOMO: Thank you.

MR. ARNOLD: Good morning. Thank you. I'm Wayne Arnold with Q. Grady Minor & Associates.

And, Mr. Strain, I'll pick up sort of where Mr. Passidomo left off. And you questioned the document that's up there, whether or not that was part of the public record. Let me put a couple of documents on the visualizer that actually are part of your public records.

CHAIRMAN STRAIN: Sure.

MR. ARNOLD: This is a copy of the record plat for the project that encompasses both PUDs, both the Pine Ridge Center and the Pine Ridge Center West, and it highlights each of the development tracts that were also depicted on the exhibit that Mr. Passidomo showed you.

And I'm showing this to indicate that these projects were always planned to be developed together, especially when the ownership was singular.

I'll show you another document. It's part of our water management district permitting. And it doesn't look exactly like the concept plan that John had, but this also looks like the Site Development Plan that was approved that encompasses both PUDs.

The concepts that we've worked on as a company for the project over the numerous years has always depicted this to be developed as a common sort of development scheme. We also have always looked at each of the pods to be office-related developments.

Another thing that we did, I took the plan that Bob had shown you that was the conceptual site plan, and I realize that they've made some revisions to that. But I put that in the context of an aerial photograph so we can see what's going on. And I think that aerial -- if you want to take it even further out, when we get to that in a moment, it will show you the connection to Livingston Road.

But one of the highlights on this is, it's on the plat, it's on the site plan, and it's in your PUD that you're going to have interconnections to each of the parcels south or -- sorry -- east and west. The access to the east over to Whippoorwill exists, and it's platted access easement through the Pine Ridge Center PUD.

You'll see the two bank buildings respect that access easement. Their parking's internalized on that access drive. Do not rely on that for parking and ingress/egress for crossing those public ingress/egress easements.

If you look at the site plan that's been offered for the car dealership, you'll see that they require the use of this access easement as it continues to the west. It's their immediate parking in front of their proposed dealership. It's a huge point of conflict for allowing the motoring public to what's going to eventually connect Livingston Road to Whippoorwill Lane to have to have all their customers, all employees, go back and forth between what's presumably their outdoor sales area and their showroom and service area.

I think that's a huge point of conflict, and it's one of the components of functional incompatibility that Mr. Passidomo spoke about and that I've identified in looking at this from a planner's perspective.

It's helpful that they've been willing to relocate elements of this, such as the car wash, but I think what John was speaking to is that inserting a car dealership into a PUD where three-fifths of the site have been developed as office-type uses creates an incompatibility, and it's not something that's been intended.

I mean, you have no obligation to amend a PUD to add another use. And, yes, there's a whole bunch of uses in there; many of those probably would never ever get developed. And I think given the development scheme of trying to respect the ingress/egress easements, those parcels need to be developed as two separate projects or certainly one project that can respect the access easement and not require the use of it for employee parking and customer parking.

I wanted to show you one other exhibit that's a public record. This is the proposed master plan for the project that's immediately west of the Pine Ridge Center West PUD. It's in for review by Collier County. I'm only showing it to highlight the fact that it also interconnects with and is proposed to connect through to the Baldrige PUD over to Livingston Road.

I also want to point out that one of the uses that's proposed in this PUD today, as staff is reviewing it, is another car dealership. So we have the opportunity now to have car dealership potentially at Pine Ridge Center West, and now immediately to the west on this proposed PUD as well.

I think it highlights that this is an opportunity to have sort of this leap frog effect of -- and sprawl effect of more car dealerships. I'm not sure that's what we envisioned for our corridors. And while a car dealership may be allowed under the Comprehensive Plan, it doesn't mean we have to insert one into a developed PUD. To me that's the big difference. It's very different than asking for an interpretation, for instance, before any development's commenced as a potential use.

But now that you have essentially an office park that has developed, is that a compatible land use? And I've determined that it's not.

And I know that when I first heard about this project, I thought, oh, it's in the activity center, you know. What's the big deal. But when you start looking at it from the perspective of one of the office tenants, it is a big deal.

And I think that we can look at a car dealership and we look at other commercial uses. I mean, I've done this a lot. I mean, almost every project that we bring through the process, we have concerns about massage parlors, tattoo parlors, even smoke shops or whatever you want to call them. There are land uses, that even in a commercial setting, you-all deem not to be necessarily acceptable in all locations, and I think we have an opportunity here to continue to do the right thing by not allowing the car dealership.

To me, one of the comments that Bob made about the offloading, that's a unique thing to me. I'm not used to hearing off-site offloading of the vehicles and then driving them there. But what I first thought of was immediately that identifies that if you go back to the site plan, it's such a tight site, it didn't work. You couldn't get an auto transport truck around the radiuses. And I understand they were conceptual plans, but it also highlighted the fact they probably did need to offload in the road or in the public-access aisle or something that posed another conflict and another incompatible relationship for the office buildings that are there.

One of the things that also to me stands out is that we have a variety of commercial districts. And if commercial was commercial, we'd only have one district, but, in fact, you don't have commercial car dealerships, for instance, until you get to the C5, I believe, as a permitted land use now. It's a conditional use, I think, in C4. And if I'm wrong, Bob, you probably know the answer about if it's permitted.

But my point is that we're distinguishing commercial uses by the variety of commercial land uses and commercial zoning districts that we have. So I think it's fair to say that this is one of those uses that isn't permitted throughout your commercial districts, and you can distinguish it from other land uses.

So I would ask you to find that this is an incompatible land-use relationship that they're offering and that you would deny the request to amend the PUD.

CHAIRMAN STRAIN: Any questions of Wayne?

COMMISSIONER SCHIFFER: One.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: Wayne, if you follow that access drive around and go behind the existing car dealer, is -- and I think you bring a good point with how this access drive is the front drive of the -- if we zoomed in close to that, what would we find behind that dealer? Is there parking on that, or is it purely -- it looks to me like they're using it as a parking access drive, not as a private drive through the -- which -- and you're right, in front of the banks, the bank has treated it totally different. They've landscaped it, islands, and it works good. But does it work good on the rest of the link to Whippoorwill?

MR. ARNOLD: I believe, Mr. Schiffer, that the Nissan dealership is not supposed to be parking on that access easement. I think you'll see from the aerial there are some parallel spaces adjacent to it that appear to still have the travel lanes free and clear for that.

I think the other highlight is that they're not using their access easement to cross it to operate their business facilities on a daily basis. I don't know what the status of those vehicles may be in the back. They could be employee parking. I really don't know. They could be stored vehicles there waiting to be maintained. I have no idea.

But I think the point is, those were intended to be interconnected access easements linking Whippoorwill to the west.

And I'd also point out to you that, you know, this parcel is the last parcel in your interchange activity center. The parcel to the west, as you go through here, that I showed you on the pending plan -- and that's obviously subject to change. But I think one of the reasons that they may qualify to ask for a car dealership is reliance on obtaining a car dealership in the Pine Ridge West PUD, because if you read your Comprehensive Plan for infill, you qualify for the highest intensity use on a parcel that's adjacent to you.

And if you can make a case that one of the higher-intensity uses may, in fact, be an auto dealership, then they could ask for an auto dealership on that parcel as well.

COMMISSIONER SCHIFFER: Thank you.

MR. ARNOLD: But I think it highlights, if you're going to have to interrupt an access easement to run your business operations, it certainly doesn't seem to be a safe or compatible land-use relationship.

COMMISSIONER SCHIFFER: Okay. Thank you.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Wayne, let's start by putting on the plat that you started with. The tracts that are on the parcel in question -- I can't read letters -- is that Tract A and B and then to the south is C?

MR. ARNOLD: They're Tracts B and E that are the subject tracts.

CHAIRMAN STRAIN: B and E, I'm sorry.

Okay. The reason I ask that is the PUD calls out three areas, Area A, Area B and Area C. How do those areas compare to the references we keep bringing up as Tracts E and B?

MR. ARNOLD: I believe they're the same.

CHAIRMAN STRAIN: E and B is A, B and C?

MR. ARNOLD: Maybe I'm not following your question, Mr. Strain.

CHAIRMAN STRAIN: Well, did you originally lay this out for the prior -- for the current owner of the property since you did -- I mean, is that -- were you the original engineer or --

MR. ARNOLD: Yes, we were. We were working for Kraft at the time.

CHAIRMAN STRAIN: Okay. Well, when you did Kraft's PUD and you have their permitted uses listed by Areas A, B, and C for this particular PUD, what tracts correspond to Areas A, B, and C in the PUD to the plat that you produced?

MR. ARNOLD: I'll have to go back and pull my PUD master plan, Mr. Strain.

CHAIRMAN STRAIN: Well, that's important for the uses that are involved, because Tract Area C had a series of uses, Area B had more intensive uses, and Area A was strictly open space and stormwater management.

MR. ARNOLD: Uh-huh.

CHAIRMAN STRAIN: And I'm just trying to relate the PUD to the plat so we know what tracts -- uses we're talking about where. How did staff -- maybe Kay, or whoever did this one, how did you guys correlate this?

Kay, let me ask -- let me see if staff can enlighten us as to how they decided which uses were allowed where in the original interpretation.

MS. DESELEM: For the record, pardon me, Kay Deselem.

We have recognized in the ordinance that's amending this PUD that they're amending Area C and Area --

CHAIRMAN STRAIN: Okay. But where is Area C, Kay?

MS. DESELEM: Area C is that area closest to Pine Ridge.

MR. BELLOWS: This is Area A.

MR. MULHERE: Could I?

CHAIRMAN STRAIN: Go ahead.

MR. MULHERE: The PUD as it reads allows all the uses in one area also in the other area, so we only have to amend C. And if we amend C, it's also allowed in the other.

CHAIRMAN STRAIN: I know that. I just want to make sure that the areas we're talking about -- we keep referring to Tracts B and E. I want to make sure Tract B and E has some correlation to the PUD.

MS. DESELEM: It's confusing because it's platted differently than it's referenced in the PUD document.

CHAIRMAN STRAIN: Okay.

MS. DESELEM: Ray is pointing to the area that is A, and that's B, and C.

CHAIRMAN STRAIN: Okay. So Area B already has the southern part of it with buildings on it?

MS. DESELEM: Yes.

CHAIRMAN STRAIN: Okay. So the applicant is not requesting that the uses in Area B all be changed, just the portion that's unbuilt at this time?

MS. DESELEM: Yes.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Okay, thank you. Back to Wayne. Can you put the aerial where you've got the site plan, the current proposed site plan on -- back on. Ah, there you go.

Wayne, when you were proposing a dealership for this site, where were -- how were you going to address that easement?

MR. ARNOLD: First of all, I was not proposing a dealership for the site. It was simply a question of --

CHAIRMAN STRAIN: Okay. Well, when you wrote the letter to Susan Istenes asking her to allow a dealership on the site --

MR. ARNOLD: Yes.

CHAIRMAN STRAIN: -- how did you expect that dealership to fit on there?

MR. ARNOLD: I don't know. I never did a conceptual layout for the site for a car dealership.

CHAIRMAN STRAIN: Okay. Can you put the Baldrige PUD back up.

MR. ARNOLD: This is actually a conceptual plan from, I believe, a project that's called Brynwood Center. But it references the Baldrige as an adjacent PUD.

CHAIRMAN STRAIN: The name -- the title on this is --

MR. ARNOLD: The title's actually to the left of the page there, Mr. Strain. It says --

CHAIRMAN STRAIN: Okay. See where you show the interconnection up on top with the Pine Ridge Center West interconnection?

MR. ARNOLD: Yes.

CHAIRMAN STRAIN: See the interconnection where the words "Baldrige PUD" are on the bottom close to that one? If this dealership were to move that interconnection on the Pine Ridge Center West to the south, it would be in line with the one to the west side of whatever this PUD's called; would that not be true? Otherwise, this winds through the site kind of like you're making note that this other one would have to wind through the site if they were allowed to build the dealership.

So in one way we could straighten it out by requiring them to put an interconnection to the south of the dealership's site and then have a continuous through road over to Kraft Road, then back up and around that way and -- or we follow this one. But not knowing what's in this site, that could easily end up being as much of a snake-like configuration as we could have with the Pine Ridge Center West PUD.

I'm not sure that by moving that easement they're doing anything wrong. They haven't suggested that but, I mean, that may be a solution to the easement issue.

MR. ARNOLD: Could be, except then you disrupt the flow of that east/west easement through these two PUDs that it's currently built, and you have reliance from, at least the bank property owners, that they have an access easement in that location. Now you would, you know, move that south, I think is what you're describing, which now you end up with a larger zigzag pattern across at least these parcels.

I'm not sure it -- I'm not sure there's any perfect solution, Mr. Strain, to getting traffic east/west through all of these projects, but at least we have an existing access easement that's been built and stubbed out for the future connection to the west.

CHAIRMAN STRAIN: And I don't think you change any of the zigzag quantities. Instead of making a left at this property line, you make a left at Kraft Road and then a right. Here you'd make a -- you'd come out and you'd have to find your way to make another left and a right to get out to the far west end of this other PUD.

So otherwise you'd go straight from Kraft Road all the way over to that interconnection for the Livingston Road PUD, and then up Kraft Road and around by the bank. I mean, I'm just trying to understand why that's any more negative than the one you're suggesting is negative here.

MR. ARNOLD: Well, the reason I'm suggesting what they have is a negative situation is that they're relying on using that access easement to put cars in it for their customers and employees to back out into it and cross it. So you've got to look at your cars that are out in the parking lot.

CHAIRMAN STRAIN: And I don't necessarily disagree with you. I'm just trying to see if there's any solution; that's all.

MR. ARNOLD: All right.

CHAIRMAN STRAIN: Okay. Thank you, Wayne.

MR. ARNOLD: Thank you.

CHAIRMAN STRAIN: Any other questions of the Planning Commission of anybody?

COMMISSIONER SCHIFFER: Bob Mulhere a second.

MR. PASSIDOMO: Mr. Chairman, with your indulgence, can I expand on two questions that you posed to our witness?

CHAIRMAN STRAIN: Sure.

MR. PASSIDOMO: The first is, there was a question about the 2003 request for interpretation. We tried to make the point early on that we're not quibbling with the fact that a car dealership is compatible in an activity center, and a car dealership is compatible with other C4 and R5 uses that may be permitted under the PUD.

Our point, obviously, is that a car dealership isn't compatible with an upscale office park. But reflect on the time that request was made. It was 2003. It was before the office buildings were built. After that period of time, a decision was made to do what was represented to you on the concept plan prepared by the developer and bought into by the bank.

The second thing is, a lot of discussion on functional compatibility. We understand that, we appreciate it, and we respect the fact that the commission is doing due diligence to go to questions of functional compatible, but we also listened carefully. When was the last time that you saw a car dealership that would offload cars neither on site nor on the adjacent public right-of-way? Doesn't that tell you all you need to know that we're trying to put a square peg in a round hole? That either -- if you're going to abide by that condition, if they're going to -- and Mr. Mulhere was great to say, we're going to do it. The fact is, he doesn't even know who will be the ultimate user there, and certainly Mr. Mulhere isn't going to do anything in the future.

MR. MULHERE: At all.

MR. PASSIDOMO: But if they do abide by that condition -- if they do abide by that condition, that tells you all you need to know, that a car dealership doesn't work here.

Thank you, Mr. Chairman.

CHAIRMAN STRAIN: Okay. John, I've got -- I've just got one question.

MR. PASSIDOMO: Yes.

CHAIRMAN STRAIN: With the stipulations that were talked about and the effort that the applicant's gone to try to mollify any concerns you have, including, like you suggested, moving -- they're only moving the offloading off site because they figured that would relieve another concern, I would assume.



Where is -- let's forget about the site plan you were shown by whoever sold you the parcel. That's a matter between you and those people, whoever they may be, because it's not a zoning document.

Where are you hurt by this car dealership? I'm trying to understand that. I mean, I think we have people come in and they have concerns on a variety of projects, and we try to mitigate those concerns. And in this particular case, a lot of the issues that you started out saying were possibly something that might be wrong I think they've tried to address. Which ones are left? Which is on the table?

MR. PASSIDOMO: Mr. Chairman, that's why we've gone to pains to suggest to you at the outset of my introductory remarks and with our expert testimony's conclusion, these things can't be resolved by trying to resolve functional compatibility.

And with all due respect, we don't think they moved the loading off site as an accommodation to us. We think they moved the offloading off site because it doesn't fit. Mr. Arnold can elaborate on his testimony, but you can't get there from here. You cannot make that turn off of Pine Ridge Road coming east, make that turn onto the central access way, and maneuver through. It just doesn't work.

So there's nothing that could be done to mollify us, and we think that the exercise the Planning Commission went through was a worthwhile exercise to serve your purposes with the intention of finding something that is functionally compatible. We reject, with all due respect, that premise.

We do not believe you can have an -- a new and used car dealership in an upscale office park. We didn't share with you the master site plan for any purpose but to share with you what we bought into and what exists there today. That is what exists there today, and that is what we think is the proper test of compatibility; not an external one, but an internal one; not a macro one, but a micro one in looking at whether or not a car dealership, in whatever form, could conceivably be compatible with an upscale office park. We submit that it cannot.

CHAIRMAN STRAIN: Well, when I asked you that question a month ago, why didn't you just tell us that so these people didn't have to go to all this -- and we didn't have to go all these continuances, and we could have just voted on that meeting?

MR. PASSIDOMO: Mr. Chairman, I was very clear in telling you at that time in response to your inquiry that we went into this with the absolute assumption that these were irreconcilable incompatibilities. We were shut down and didn't have access to looking at what the petitioner was proposing to do.

We welcomed a chance to look at it, but we went into it with a healthy degree of skepticism. I thought I made that very clear. It was a fair question. We tried to respond to it in a fair way. But the fact is, what that concept plan has proven to us, and I hope has proven to you, is that you can't make these two things compatible.

CHAIRMAN STRAIN: Well, had I understood it as clear as you've made it on this one with the new plan that you showed that you relied upon, I think we would have maybe approached it differently, but I appreciate you letting us know. Thank you.

MR. PASSIDOMO: Thank you, Mr. Chairman.

Mr. Mulhere?

MR. MULHERE: I'd just like to have an opportunity to rebut on a few items. I don't know that I heard really -- I heard the major issue now is compatibility, not necessarily value. I know at one point from the bank's perspective it was value. So we put into the record an appraisal that indicates from a professional appraiser that there is no negative impact from value. I haven't heard anything that rebuts that.

Now it's compatibility. Number 1 -- I'm going to read again from the letter from 2003. Citing changing conditions we -- it's suggested that we now have a compatibility issue that didn't exist before because the bank wasn't there. Well, I'm citing the changing conditions that argue it is compatible, because the car dealership that's immediately adjacent to it wasn't there either. Things have changed. Things always do change.

Regardless, Mr. Arnold said in 2003, whether the bank was there or not, that use was permitted within the PUD. It says, limitations exist in each PUD which more than adequately address any compatibility issues associated with an automotive dealership. Okay?

Now, an office building was allowed then, and the argument was made then that that is compatible with all the uses in the PUD, that a dealership is compatible with all the uses in the PUD, that was the argument that was made.

Now that one of the uses that is built is built, the argument's made that it's not compatible. I'm sorry. Those are conflicting opinions, conflicting professional opinions.

Another paragraph: Based on the location of the properties, their permitted uses, and the development standards, we believe a positive determination can be made that the automotive dealerships are comparable to other permitted uses and deemed permitted uses within the PUD.

So I don't believe that an adequate argument has been made that this is incompatible. It's the same argument that was made before. The only difference is we now have one of the uses that's allowed within the PUD constructed.

If I could talk about the access issue for a moment. We had met with staff. We talked about that. And, yes, the access would -- is platted here and would continue here. We've also had preliminary discussions with Kraft Construction who would prefer to see that access on the southern terminus here, I think which you had suggested. And they are amenable to that, and that would be something that would be developed and created through either a vacation of the existing easement or establishment of a new easement at the southern point here between Kraft and the car dealership, proposed car dealership that would allow for the interconnection, and we'll have to work with, of course, the adjacent property owner as well.

Either way, the continued access from this PUD and the PUDs to the east will be provided for. And it's not uncommon. There are many examples where there are easements that exist with uses on both sides of the easement. This is not going to be a -- you know, a major arterial roadway.

So, I mean, that happens all the time. We will have to design the site. We've met and we had preliminary discussions with Mr. Casalanguida who actually suggested -- and we even designed a preliminary plan that located the easement to the south. Right here. It's tortuous regardless. You're coming off of Whippoorwill, you're heading through the Nissan dealership where there's parking already -- parallel parking on that easement, then heading north, then going through the retail bank of the bank office, then heading back south, then heading through the car dealership property.

So it's just a little bit further to the south than it presently exists, and it would make sense.

CHAIRMAN STRAIN: Did you and I ever talk about this?

MR. MULHERE: I don't think so.

CHAIRMAN STRAIN: I don't think so either, so that was my own idea, too.

MR. MULHERE: Yeah, that's it, yeah.

CHAIRMAN STRAIN: Boy, dangerous. Thank you.

MR. MULHERE: So, again, respectfully, there is no compatibility issue here. There is no diminution of value here. The use is appropriate. It's already been deemed to be appropriate on property immediately adjacent to this, to the bank's site.

I'm happy to ask (sic) any other questions.

The other point is that we are -- you know, this is an opportunity. There will be, minimally, 25 new jobs created by this. Potentially up to 50, which I think is important in this day and age.

CHAIRMAN STRAIN: Okay. Anybody have any questions? Ms. Caron?

COMMISSIONER CARON: I just wanted to talk about this potential of moving to the south and what that actually gains anybody as far as interconnection is concerned.

I'm not understanding why sending people traversing back to the south there makes any sense at all. I mean, it is -- once you get onto the PUD, you're east and west. It's a straight shot through to the next --

MR. MULHERE: There is an opportunity -- I'm sorry. I didn't mean to interrupt. I apologize.

COMMISSIONER CARON: Go ahead. I mean --

MR. MULHERE: There is an opportunity -- there is an opportunity to create a connection from this point here. Potentially that might -- and I don't -- you know, I don't know whether this is feasible or not, but there might be a straight shot. You might even have both easements remain in place so you have multiple points of ingress and egress.

But we -- we're not suggesting that we would vacate that easement unless there was an appropriate reason to do so. We will -- we understand the easement exists. It's platted.

COMMISSIONER SCHIFFER: Mark?

COMMISSIONER CARON: Do you know -- I mean, I want Nick to weigh in on this as well -- whether that's even --

MR. CASALANGUIDA: I believe I was outside when the swearing in took place, so I don't know if that has to happen, so --

CHAIRMAN STRAIN: Do you want to swear him in in, Terri?

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

COMMISSIONER CARON: If anybody needs to be sworn in.

MR. CASALANGUIDA: I appreciate that, ma'am, thank you. I'll let my mom know, too.

We're looking at our Whippoorwill Lane. That's the existing connection you have. Right now it's platted easements that's there, and the connection that goes to this project is down here.

So as Commissioner Strain pointed out, right now there is a plan to do something like this. Now, whether you took that curve and put it over here is not much of a difference to us.

In our opinion, this is meant for really local circulation. It's not really meant for Whippoorwill folks to be coming up, although they will have the opportunity to use that. What it's meant to do is there's banking, drugstore, lunchtime, Starbucks. It's as these folks in here need to use services back and forth, they will, and, of course, the public can as well, too. But we knew when this was being proposed in the original beginning that it was not going to be designed as a through public road originally intended that was going to be here. It was not possible. So the best opportunity for us was to make sure that these uses, as they interacted back and forth, would have the ability to stay off the main road, as well as some public travel as well.

COMMISSIONER CARON: Okay. So the plan is not to go from Whippoorwill essentially straight across all the way?

MR. CASALANGUIDA: That was the original plan from -- that was done a long time ago. They showed easements or proposed reservations this way. When the Kraft site came in, they eliminated that, when these folks came in, so you know, you abandon --

COMMISSIONER CARON: But right from just south of the Nissan dealership where the road is now, right there, it's not the plan to go straight across --

MR. CASALANGUIDA: No, ma'am.

COMMISSIONER CARON: -- from there?

MR. CASALANGUIDA: These are all access easements now.

COMMISSIONER CARON: I know what's there now, but --

MR. CASALANGUIDA: No, we have no plan to do that.

COMMISSIONER CARON: Okay.

MR. CASALANGUIDA: So you'd either be doing this, or you'd be coming across here and there. So the S curve or the curve that you have here is either on this parcel at one location or down in here. So I think they're equal in terms of providing that benefit.

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: Yeah. I was just -- I was going to say the same thing. These are just interconnects for convenience within that corner. If you did go from Livingston to Whippoorwill, you're eligible for a ticket taking the shortcut through a parking lot, so --

MR. CASALANGUIDA: They're not parking lots. I mean, they've designed it as such here. These are public-access easements. So, you know, if you've got a resident here who wants to get to their bank or to Starbucks, they can certainly -- if Pine Ridge, you know, 10, 20 years from now is carrying 60,000 cars a day, and they say, I don't want to deal with that traffic, they can certainly make that move. It will be slow and arduous, but it can be done.

COMMISSIONER SCHIFFER: Right. But it is a way to interconnect parking lots only.

MR. CASALANGUIDA: It's not a roadway. It's not a public roadway. It's meant as an interconnect.

COMMISSIONER SCHIFFER: Right. And that's a key point. I think the bank designed it above and beyond its expectation by keeping all parking and everything off of it. It certainly looks nice and works for them, I guess, but --

MR. CASALANGUIDA: Yeah. And the dealership did as well. I mean, they did some parallel parking. But for all intents and purposes, it's not going through their lot, and we asked them to do that.

COMMISSIONER SCHIFFER: And actually, to do that straight through at the bottom, the bank would have to cooperate with you. And not being an odds maker, you know, that might not be the easiest negotiation.

CHAIRMAN STRAIN: Okay. Anybody else?

Kay?

MS. DESELEM: Just briefly. Kay Deselem.

I just wanted to note that the documents that you've been looking at today, the one that's entitled "Concept Plan" and the one that's entitled "Auto Dealership Facility Proposal Preliminary Exterior Elevations," those were provided by the applicant for information purposes. They're not part of the PUD documents. There's no proposal in the ordinance itself to amend the existing PUD master plan.

So staff has not evaluated these for consistency and compliance with the LDC or any other documents, nor have we reviewed it for consistency and compliance with the existing PUD document that's being amended. So there could be changes to these, just so you know.

MR. MULHERE: I think our -- we tried to capture all the conditions in the text and, no, we're not -- we know we have to go through a Site Development Plan process.

CHAIRMAN STRAIN: Okay. Kay, one of the documents in our package was a Covenant of Unified Control, and it says that the undersigned do hereby swear or affirm that we are the fee-simple title holders and owners of record of property commonly known as Kraft Office Center, LLC, and Germain Real Estate Company, LLC. Those are the two owners of the entire PUD, of this west center PUD? Is that how it's supposed to be reading?

MS. DESELEM: I'd have to go back and verify that for sure. Perhaps, Heidi -- since the County Attorney Office also reviews that covenant, she may want to jump in, but I have to go back and look at the documents.

MS. ASHTON: Mr. Williams reviewed the PUD. I'm assuming that he made that determination.

CHAIRMAN STRAIN: Okay. Well, the reason I'm asking is the bank was sold a business park, and I'm just wondering if one of the underlying people that have consented to this Covenant of Unified Control or to this sale of this parcel were the same ones that the bank bought its property from.

MR. MULHERE: I believe that may be the case, yes.

CHAIRMAN STRAIN: Okay. Thank you.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Ray, are there any other public speakers?

MR. BELLOWS: No other speakers.

CHAIRMAN STRAIN: Okay. We'll close the public hearing and entertain discussion and then a motion. Anybody?

COMMISSIONER KLEIN: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER KLEIN: I'd just like to weigh --

CHAIRMAN STRAIN: Absolutely.

COMMISSIONER KLEIN: -- in on my experience in commercial real estate.

Approximately two months ago when this was coming up, I did drive and spend about 45 minutes around the entire Whippoorwill and all the buildings there.

I do not see any reason why we should not favor a car dealership there. There's already a car dealership there now. There's a bank. There is some offices. And it's not purely an office park.

I don't see any way where the people who are -- Mr. Passidomo and his clients are hurt by having that use.

CHAIRMAN STRAIN: Okay. Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Well, I have -- I can read the notes we made so that someone could then decide if they want to make a motion to stipulate or to deny. It's strictly up to whoever makes the motion, but I can at least get it to all of you if you want to go that direction. So let me read what I have made notes on.

And, Bob, if there's something here that is inconsistent with what we've discussed, let me know.

First, there will be no amplified sound of any kind. Second, it would be for a new car lot, but the new cars would have a minimum of 65 percent of the capacity. Third, there will be no vehicle parking on Kraft right-of-way or the easement. Four, there will be limited use to platted Tracts B and E only. Five would be add -- they're going to add landscape buffers, a Type B with a Type C plantings to the east and south frontages, the front along Kraft Road, and it would be the south property -- the south line, wherever that ends up falling.

The finished facades on the north and east -- there will be finished facades on both the north and east sides. There will be no collision shop on site. The repair shop bays would be closed except for entering and exiting.

Cars will be delivered off site -- on an offsite location and delivered to the site so there will be no truck

deliveries of cars.

The car dealership and accessories to that car dealership use on Tracts B and E will be limited to a single story. There will be no rooftop parking. And the easement that -- there will be an additional easement of equal capacity, size, and terminology that exists today between Tracts B and E also placed on the south side of -- and I think that's the southernmost tract, which I think is B -- whatever that southernmost -- the larger tract is so that it lines up better with the PUD that may be planned for the immediate west area.

Those are the notes that I made on the project. Does anybody have any clarification or correction needed to the notes?

(No response.)

CHAIRMAN STRAIN: Okay. Is there a motion either one way or the other on this from the Planning Commission?

COMMISSIONER KLEIN: I'll make a motion that we approve.

CHAIRMAN STRAIN: Subject to those stipulations?

COMMISSIONER KLEIN: Yes.

CHAIRMAN STRAIN: There's been a motion made.

Is there a second?

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Second by Ms. Homiak?

Discussion?

COMMISSIONER SCHIFFER: Just discussion -- I mean, I would actually like to vote against it, but I can't because of the uses that are in the PUD. It's too bad when the bank bought the property and saw how it was developing that they didn't go back and, as a condition of sale, remove those negative uses such as the supermarket, general merchandise, but they didn't, and black and white on the page is black and white.

CHAIRMAN STRAIN: Ms. Caron?

COMMISSIONER CARON: Yeah. I will be voting against the motion, and I'm voting against it because I think that the site right now is not functional. They have had to take now and do off site their car-carrier deliveries, because it is obvious from this plan -- and no matter how you shift it, there's just not room to get those trailers in.

And a game of, well, we'll drive them in from off site, I think, will end up being an issue and a problem down the road, because I don't think that will happen. I think you'll end up having trailers parked on Kraft Road until they can quickly try to get them unloaded, and I think it's going to create problems for the bank and the office buildings that are around there.

I don't think the site is appropriate. It's -- and I can tell you right now by looking at this plan, if that easement goes straight through, the parking of cars the way they do it at auto dealerships will not allow that to be a functional corridor any longer.

You know, I watch it and I live with it at the corner of my road every day. I know that what is said in hearings and what happens on the ground are two different things.

CHAIRMAN STRAIN: Okay. And from my part, I have tried to see where the damages may be on the part of the bank. I honestly was hoping they would be able to challenge something to a point where there's a damage, but they even acknowledge that it's compatible. They've acknowledged -- with the PUD uses.

And the compatibility issue was strongly emphasized a number of times by the -- one of the applicant's representatives, as well as the -- Susan Istenes acknowledging it was compatible. It just wasn't comparable, and they had to go through the -- add it to PUD process, and I think that's what they've done.

There's been no diminution in value of the bank's property, which I had talked to one gentleman with the bank, and he was concerned about that. I can't see where that is now happening.

So I don't know how this is a negative other than the perspective of what they bought under and what they were shown when they bought, and that isn't necessarily a zoning issue for this board because that isn't the plan that the PUD portrayed.

So with that in mind, I would have to support the motion.

And anybody else?

(No response.)

CHAIRMAN STRAIN: If not, all those in favor, signify by saying aye.

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLEIN: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER CARON: I'm opposed.

CHAIRMAN STRAIN: Motion carries 5-1.

Thank you all, and we will be taking an early break for lunch, and I will have to leave. I've got one hour to be where I've got to be -- or it started one hour -- almost a half an hour ago, so I won't be back after lunch.

Ms. Caron, it's all yours. What time did you want to return from lunch?

COMMISSIONER CARON: No problem. We'll be back in an hour.

CHAIRMAN STRAIN: Okay. So we'll resume the meeting at 12:45. Thank you all.

(A luncheon recess was had, and Chairman Strain is absent for the remainder of the meeting.)

VICE-CHAIR CARON: Welcome back everybody to the September 15th Planning Commission meeting.

\*\*\*And we will move on to our next petition, which is VA-PL-2010-1654, resolution -- a variance resolution located at 4750 18th Avenue Southeast.

Oh, I'm sorry. I thought you-all got sworn in before. It wasn't a mass swearing in. We have to swear in everybody, please.

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

VICE-CHAIR CARON: Thank you. And ex parte. We can start down here, Melissa, and --

COMMISSIONER AHERN: None.

COMMISSIONER SCHIFFER: We had a cordial conversation during lunchtime, bumped into each other. Nothing to do with this hearing, but just in case anybody saw.

VICE-CHAIR CARON: Yes, he did eat at the table. I didn't even realize what you were here for.

Go ahead.

COMMISSIONER HOMIAK: No.

COMMISSIONER KLEIN: None here. I've been gone for nine days.

MR. BENNETT: Good afternoon. For the record, I'm Larry Bennett. Address, 241 East Yeomans Avenue in LaBelle. I'm here representing Lane Bryant Development. They were the contractor that built the building that has the setback issue with it.

And the property is a 2.6-acre tract that's about 180 feet road frontage and 660 feet deep. This building -- it was a 30-by-60 building -- is about halfway back on -- it's around 300 feet or so from the road.

And the -- the setbacks in this area are 30 feet for the side setback. This building wound up having the closest corner at 23.43 feet for the side lot line.

I wanted to tell you a little bit about how it happened. It was not an intentional act to violate setbacks. It was the contractor's failure to get it laid out properly. He actually used -- there's an existing home on this property, and he used the location of the existing home and just pulled a string line from the side of the existing home and went back about a hundred or so feet to where the new building was going not realizing that the existing home was not sitting parallel with the property line. It was skewed somewhat. So when he went back a hundred feet, why, that pushed him over closer to the side lot line.

And it's a steel building, preengineered steel building. So he poured the slab, and then the next inspection he actually gets is when the building's complete. You know, it's not like a conventional masonry home where you've got a tie beam inspection and the roofing inspection and all that. So he actually had the building erected by the time he got the spot survey that showed that the setbacks were wrong.

But the site is heavily wooded. The adjacent properties are vacant, and they're also heavily wooded, so there's a pretty good buffer in there of trees and vegetation between the actual building and the property line itself.

The building's been completed, although I'm sure it probably doesn't have a CO at this point, because once the spot survey was sent to Building Department, of course, the setback issue was caught.

So it's basically six feet -- about six-and-a-half feet closer to the property line on one end than it should be. The other end is slightly farther away by almost two feet. The other end is about 25 feet from property line instead of

30.

We reviewed the staff's report that the staff prepared. I believe it fairly represents what happened and what situation is out there, and we certainly concur with it.

I'll be glad to answer any other questions if you have them.

VICE-CHAIR CARON: Thank you. Does anybody have any questions right now? Go ahead, Melissa.

COMMISSIONER AHERN: Did the contractor erect the building without getting the spot survey approved? Is that -- because generally that's why you have a spot survey, so this doesn't happen.

MR. BENNETT: That's my understanding. He's a contractor from Lee County. That's no excuse, but --

COMMISSIONER AHERN: They don't require spot surveys.

MR. BENNETT: That's right. Typically, you know, when you pour a slab for a steel building, the steel building's delivered to the site, and you go right ahead and erect it. And it was when he actually ordered the next inspection, which in the case of that steel building was a final, then they said, well, where's your spot survey, and that's --

COMMISSIONER AHERN: So he's probably used to using final surveys as opposed to spots.

MR. BENNETT: Yeah, and that's what happened to him.

COMMISSIONER AHERN: And one more question. Is this just primarily used as a shed? There's no other facilities or anything in there?

MR. BENNETT: That's right. That's correct.

COMMISSIONER AHERN: Okay.

MR. BENNETT: Storage building, a garage, that type of thing.

COMMISSIONER AHERN: Thank you.

VICE-CHAIR CARON: Go ahead, Brad.

COMMISSIONER SCHIFFER: Pretty much a similar question. So he did not have a spot survey and continued to build? He went all the way to the finish line and got a spot survey?

MR. BENNETT: Yes, sir, that's what happened.

COMMISSIONER SCHIFFER: Thank you.

MR. BENNETT: Of course, with a steel building, and a fairly small one at that, it was only a few days before the steel was erected and the building was basically completed.

COMMISSIONER SCHIFFER: And then maybe to follow. So he's not going to have a shop or anything that's going to be particularly loud inside this thing?

MR. BENNETT: Not to my knowledge. As far as I understand, it's just a garage/storage type of facility.

COMMISSIONER SCHIFFER: Okay.

VICE-CHAIR CARON: It's just a storage?

MR. BENNETT: Yes.

VICE-CHAIR CARON: Okay. Anybody else?

(No response.)

VICE-CHAIR CARON: Okay. Staff? Nancy.

MS. GUNDLACH: Good afternoon, Commissioners. I'm Nancy Gundlach, for the record, principal planner with zoning and land development services.

And staff is recommending approval of this petition. And I have not received any complaints about the shed.

VICE-CHAIR CARON: Nancy, would you put any stipulation on here that -- first of all, that it can't encroach any further, and that if anything happened to it, then it has to be replaced, it has to move into the correct position? I mean, there are no stipulations.

MS. GUNDLACH: Yeah. We typically don't do stipulations for variances.

Ray, is that something that's normally covered within our code?

MR. BELLOWS: Variances can have stipulations. Typically it's limited to the encroachment shown on the survey.

VICE-CHAIR CARON: But usually it says that.

MR. BELLOWS: Yes. I haven't seen this resolution. Let me look at it real quick, see if it's on there. If not, we can add that.

MS. GUNDLACH: I'll look as well.

VICE-CHAIR CARON: Oh, I guess it says as shown on Exhibit A, so I guess that covers it.

MR. BELLOWS: Yes.

VICE-CHAIR CARON: Okay.

MR. BELLOWS: Now, some variances you might have other conditions like additional buffering or whatever.

VICE-CHAIR CARON: Yeah.

Mr. Eastman first, and then Brad.

MR. EASTMAN: Nancy, I was just curious to know if the immediately-adjacent property owner had given a no-objection letter, the one where the shed is closest to their property.

MS. GUNDLACH: No, we have not received any no-objection letters.

MR. EASTMAN: Have they consented or been informed or weighed in on this at all?

MS. GUNDLACH: They are legally required to be informed, and they have been informed.

MR. EASTMAN: And made no complaint?

MS. GUNDLACH: No complaint.

VICE-CHAIR CARON: Go ahead, Brad.

COMMISSIONER SCHIFFER: Well, I'm ready to make a motion, so I move we forward VA-PL2010-1654 with a recommendation of approval.

COMMISSIONER KLEIN: Second.

VICE-CHAIR CARON: Motion by Mr. Schiffer, second by Mr. Klein.

All those in favor?

COMMISSIONER AHERN: Aye.

COMMISSIONER SCHIFFER: Aye.

VICE-CHAIR CARON: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLEIN: Aye.

VICE-CHAIR CARON: Anybody opposed?

(No response.)

MS. GUNDLACH: Thank you, Commissioners.

VICE-CHAIR CARON: You're on your way.

MR. BENNETT: Thank you very much.

VICE-CHAIR CARON: Next time ask your clients to use a local contractor, and then they'll know the rules.

MR. BENNETT: And a surveyor.

COMMISSIONER SCHIFFER: Yeah, that's what I was going to --

VICE-CHAIR CARON: Yeah, thank you. And a legitimate surveyor, thank you.

COMMISSIONER SCHIFFER: Should hire you on the front end.

MR. BENNETT: There you go.

VICE-CHAIR CARON: \*\*\*The next item is boat-dock extension, BD-PL2010-1473, and it's for a boat-dock extension up in Little Hickory Shores.

MR. TURLEY: Yes, ma'am.

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

VICE-CHAIR CARON: All right. Ex parte by anyone?

MR. TURLEY: Good afternoon. My name's David Turley, for the record, and I'm representing Greg Orick, owner of Naples Barge Rental, LLC, property owner of record.

He has indicated that he wanted a single-family boat-dock lot, or has a single-family boat-dock lot, and is zoned for single-family residence and is allowed two boat slips.

The water depth in there is pretty shallow, so we needed to go an extra 25.5 feet beyond the allowed 20 feet to gain adequate depth for mooring and installing boat lifts.

That is a little -- that's a little better drawing of what was supplied in the packet. You can clearly see that they pretty much all align along that shoreline, and they are all designed perpendicular for that particular reason, because it's zero lot line in there. And it was rezoned in 1999, Resolution 99-236, in order to accommodate these single-family-home boat docks.



Those lots are so small that nothing can possibly build on them with the exception of a residential dock. I know the property owner does have it listed under Naples Barge Rental, LLC, but he has sworn to me and to us and guarantees that that lot is only used for his personal purposes and no commercial activity whatsoever.

VICE-CHAIR CARON: Okay. That's a very important point. And, remember, you are under oath for him at this hearing.

MR. TURLEY: Yes, ma'am.

VICE-CHAIR CARON: Because that's a very important issue and was certainly something I was going to bring up, because these are personal and not -- this is not a commercial lot, and this man owns a barge rental company, and I'm concerned.

MR. TURLEY: That was one of our concerns. I mentioned to him maybe he should change it in his name, but for legality purposes and investment purposes, it's -- like most of those lots in there are owned by multiple companies, LLCs. I've done some research across the street and so on and so forth, and I don't think there's one of those that is actually owned by a single individual. So it's interesting how that's been treated up there.

VICE-CHAIR CARON: Go ahead, Mr. Schiffer.

COMMISSIONER SCHIFFER: Yeah. And he realizes that rent to private parties to take essentially --

MR. TURLEY: Yes, he does.

COMMISSIONER SCHIFFER: -- private boats is a commercial activity?

MR. TURLEY: Yes, he does.

COMMISSIONER SCHIFFER: Okay. The problem I have is that we didn't really have a document that we're used to that would show the topography of the water underneath these lifts. And when I look at the section, I kind of get the feeling that you could move it in a little bit more. In other words, you don't have to go as far as you are to hit the water that you need.

MR. TURLEY: Well, that --

COMMISSIONER SCHIFFER: And the concern is, one of them is rather wide, and we really don't want too, you know, large a draft in the waterways there.

MR. TURLEY: Well, that particular craft is about -- an average 25-foot vessel, and with twin outboards, it's going to need at least possibly maybe two to two-and-a-half draft. And when you install a boat lift, that takes up another 10-inch beam --

COMMISSIONER SCHIFFER: Right.

MR. TURLEY: -- aluminum beam, plus the bunks. So you're adding almost another 20 inches to the depth in order to be able to install that lift --

COMMISSIONER SCHIFFER: Yeah.

MR. TURLEY: -- to support that vessel.

COMMISSIONER SCHIFFER: And actually what I usually do is go three foot, one foot, so four feet is what I look for. And in that case, from this section, I still think that you could pull it in tighter.

Do you have any document that shows -- and I can't read that, unless Ray can zoom in a little bit better on the dock. Yeah, flip it, Ray. So -- come on out. See if you can get it even bigger, Ray. Can you?

MR. BELLOWS: Closer?

COMMISSIONER SCHIFFER: Yeah. What we're trying to do is read the numbers along the side. Okay. So see what I'm saying? You're -- you've got pretty deep water. You're six feet --

MR. TURLEY: It drops off drastically there. On the side elevation, that elevation that was supplied to you is not a very -- that's not to scale to start with, and while I -- I guess Agnoli, Barber, and Brundage, they figured, well, you know, instead of having a very large piece of paper and trying to draft that on there -- but if you notice about the wing area of the dock itself, it's a minus 162, and then just at the head of the slip, which would be -- it's two point -- a negative 2.67.

And usually we're allowed up to a minus 4 feet, or 4.5 feet for water depth with DEP, Army Corps, and -- but, there again, as I was saying -- stating, we need an additional 20 inches below the hull for the cradle beam and the bunks to pick up those vessels.

COMMISSIONER SCHIFFER: Okay. I mean, most people say a foot, but we'll go with 20. So to the best of your belief, this thing could not be closer to the shore.

MR. TURLEY: Not much more.

COMMISSIONER SCHIFFER: Well, that's not absolute.

MR. TURLEY: No, no. We might be talking maybe a foot.

COMMISSIONER SCHIFFER: Kind of the same answer I had.

MR. TURLEY: We might be talking a foot.

VICE-CHAIR CARON: That's good. What is with the flipper there, this decking?

MR. TURLEY: That bow access platform?

VICE-CHAIR CARON: Yeah. No one else along the shoreline needs that, and I don't know why we need that excessive decking there. It should just come out as a straight finger pier.

MR. TURLEY: Well, that was basically primarily for accessing these backwater boats. You access those from the bow. And in my case, I'm semi handicapped, but -- no, I mean, to access --

VICE-CHAIR CARON: But that's not what's shown, and that's not what you talked about in the report either. That 25-foot boat wasn't a --

MR. TURLEY: Well, and then --

VICE-CHAIR CARON: The pontoon boat.

MR. TURLEY: Well, what was described in the application, that 4-foot dock is actually, from piling to piling, 3-foot-six. This is the way this particular individual builds these docks. That's 3-foot-six.

Now, when you install the controls, or these lifts and the motors on the lifts itself, that will take up almost an additional 18 inches of space, so now you're limiting it close down to 2-foot passage where the -- let's see. Can I do this?

VICE-CHAIR CARON: There's a hand-held mike you can use and get around to where -- yeah, where you need to.

MR. TURLEY: Right -- usually right in the front is where the motor's, kind of, and controls are for these lifts, and that area between there with the GEM remotes and the motors, it will restrict it down, like I say, almost 18 inches to 2 feet, which makes passages very narrow.

VICE-CHAIR CARON: How's everyone else managing to do it?

MR. TURLEY: Well, a lot of the docks on the other side are 5 feet. The dock just to the west has an incredible wraparound that -- on both sides, here and back around -- the canopy of the mangroves is obscuring this. But they have an actual wraparound where I can only go part of the way because of the excessive decking. That decking area is only about 32 square feet on one side and 34 square feet on the other side, which isn't -- it's half of possibly the little desk here.

VICE-CHAIR CARON: Okay. Any other questions? Do you have -- Barry, Karen?

COMMISSIONER SCHIFFER: I just have one.

VICE-CHAIR CARON: Yeah, then back down.

COMMISSIONER SCHIFFER: David, are you the contractor for the dock, or what is your --

MR. TURLEY: I used to be once upon a time. I had to retire because of physical problems, and Greg's -- Greg Orick, Sr., and I were partners.

COMMISSIONER SCHIFFER: Okay.

MR. TURLEY: And so Greg, Jr., took over the business, and he's the actual contractor.

COMMISSIONER SCHIFFER: Okay. And you're working for him and --

MR. TURLEY: I do his permitting.

COMMISSIONER SCHIFFER: And you're the poor guy that has to come to these hearings?

MR. TURLEY: Sure. Well, it was pretty much similar to Hickory Harbor when I did that one, so he asked me to do this.

VICE-CHAIR CARON: It looks like the -- that wing portion is going -- going to force you to cut into the mangroves; is that true?

MR. TURLEY: No, that's not correct. The mangroves are behind that area.

VICE-CHAIR CARON: So what is that white that is covering half of that?

MR. TURLEY: That is an old aerial, and from the angle it was shot at, that was the canopy of the mangroves at the time. That's -- the mangroves are depicted -- on the Submerged Resource Survey, there's a picture of the mangroves on an adjoining lot to the east and that -- the mean high water line is just behind that piling. Those pilings -- these pilings are set right on the corner here, and this canopy here is just -- it's minimal. I don't even think it exists

right now, because everybody does a lot of trimming in there.

VICE-CHAIR CARON: Okay. Any other questions?

(No response.)

VICE-CHAIR CARON: Staff report?

MR. SAWYER: Good morning, Commissioners -- actually afternoon. Mike Sawyer with zoning services, growth management.

We did prepare a staff report after reviewing the project. Date on that is August 19th. Here to answer any questions you might have.

VICE-CHAIR CARON: Have you been out there to the site?

MR. SAWYER: Honestly, on this one I did not make it to this site, no.

VICE-CHAIR CARON: Do you -- as staff, do you think it's necessary to have that flipper portion at the -- it doesn't seem that anybody else has a dock configuration like that.

MR. SAWYER: That was one of our review comments on the first submittal. The response that we got back from David was that that was necessary to access flat boats or possibly a pontoon in the future. So it was indicated to staff that that was necessary to be able to access those types of vessels.

VICE-CHAIR CARON: Boy, that just is making me even more nervous about whether this is a commercial operation or not --

COMMISSIONER SCHIFFER: It's unloading and loading.

VICE-CHAIR CARON: -- for loading and unloading, because I certainly can step off a regular deck onto a flat bottom or pontoon boat without, but if I were going to have a commercial operation, I would want to make it as safe as possible for the public. So that's just --

MR. SAWYER: As far as the ability to use this particular dock facility for any type of commercial, clearly you can't do that according to any of the resolutions --

VICE-CHAIR CARON: Right.

MR. SAWYER: -- or by the underlying zoning district itself. So if that were to occur, it would be actually a fairly easy case to be made with code enforcement.

VICE-CHAIR CARON: Providing I have a case officer up there at the time and watch them take off with their --

MR. SAWYER: Point taken.

VICE-CHAIR CARON: I mean, I'm just trying to prevent an issue, and -- or a potential issue here.

MR. SAWYER: Again, we did have a comment on our first review --

VICE-CHAIR CARON: Yeah.

MR. SAWYER: -- as far as ownership --

VICE-CHAIR CARON: Yeah.

MR. SAWYER: -- and it was explained again similar to what David said initially. It is owned by his business. He is the sole proprietor of that business. That's where the connection is. We tried to make it as clear as we could also with the staff report, that it is just for personal use.

VICE-CHAIR CARON: Okay. Mr. Schiffer?

COMMISSIONER SCHIFFER: I do have one.

Mike, looking at this aerial photo, there's one concern. Obviously something must be out of alignment, because there is a boat in his backyard.

MR. SAWYER: Again, that's coming off of the property appraiser's website, and as you know, those aerials do tend to be skewed.

COMMISSIONER SCHIFFER: But to fix that, the boat that we're seeing in his backyard is probably his boat. In other words, this thing is skewed to the left. No, it's skewed to the right.

MR. SAWYER: Perhaps David can address that. I'm not sure I'm able to at this point.

COMMISSIONER SCHIFFER: Okay. Then, Dave, can you come back up.

MR. TURLEY: No. That was a derelict houseboat that was brought in just before Christmas of last year, and it was reported to code enforcement. Code enforcement came down, and they had that houseboat moved. This --

COMMISSIONER SCHIFFER: But whose dock is he on, your --

MR. TURLEY: No. This is on -- the name's Drew True. That's on Boat Dock Lot 7, I believe.

COMMISSIONER SCHIFFER: But the documents here show you have an existing dock, a very small one.

MR. TURLEY: There was an existing dock, and it was removed in December.

COMMISSIONER SCHIFFER: Okay. So it would not show up in this photo when Santa painted -- put his boat there?

MR. TURLEY: No, okay.

COMMISSIONER SCHIFFER: Okay. Let me ask a question. Is -- and I am concerned about the length being excessive because, remember, this is an extension, you know, a la gift here. Would it be a problem if you did cut those wings off but you could run the five-foot dock up to where you now show the 4-foot dock, so that would give you the ability to put the controls out of the way and not have that, and then that would -- maybe the boats could come further in, and we could take a couple feet off the back of it or something.

We're kind of precious with the footage on these extensions.

MR. TURLEY: No, I understand that. I understand what you're talking about.

To me -- this -- that little wing area is -- does have a railing on it for all kinds of particular reasons, people falling off, going off the back end on your -- it's not intended, by any means -- the railing's there for safety purposes and also to help restrict any type of a commercial use of the dock.

COMMISSIONER SCHIFFER: Well -- but if you said it has a railing, then your statement that you use it to enter and exit the boat doesn't mean -- you have to hop the railing to get to the boat?

MR. TURLEY: The railing -- well, you're stepping off -- this -- well, it's not there.

COMMISSIONER SCHIFFER: Maybe put your -- you have one sheet, 1 of 1. It's shaded. It kind of shows you a dock.

MR. TURLEY: Yeah.

COMMISSIONER SCHIFFER: Put that one there.

MR. TURLEY: This railing comes all the way down the walkway to the back side of this winged area and back to the bow of the boat. So that allows approximately 5 feet from here to here to access the bow of what -- right now he has a 22-foot Pathfinder, which he can fit on that side, and he has a Gheenoe that fits on this side that's only 17 feet.

But the access would be from here as well as here for the bow. But, there again, like -- to try to put the lift up further, it just -- you wouldn't have clearance to lower the --

COMMISSIONER SCHIFFER: Well, again, your section shows that you have pretty deep water back in there. Well, what I think we're missing that we normally have is a topo underneath, topography of the bottom of the water underneath the dock, and we don't have that. We have the edges.

MR. TURLEY: That's not depicted very well. The mean low water line on the aerial and from the survey is actually to the back of -- this would be this area here would be actually the bow of the boat, which it's only 1.62 minus, and -- minus 1.62.

These lifts, depending on the vessel -- the one for the shallow boat is moved considerably further forward on the west side. It's moved up about 5 feet further than the other lift to the larger boat, which is depicted on the side elevation.

VICE-CHAIR CARON: But if you didn't have that decking there, you could do the same thing on the western edge as well. You could move that boat up a --

MR. TURLEY: You could do that, and you wouldn't have any access to the -- that deck area is in the 20-foot allowable area.

VICE-CHAIR CARON: I'm just thinking it makes more sense to do a straight 5-foot pier and take out that decking area, move the boat up. That means you're encroaching less into the setback.

MR. TURLEY: Well, there are no setbacks.

VICE-CHAIR CARON: Well, I don't mean setback. I'm sorry. I mean into the extension area. You wouldn't need as great a variance here. And it doesn't harm anything. You can still get on and off both of the boats and --

MR. TURLEY: Well, for safety purposes, that's the only reason that was put there. The docks on the north side have wraparounds almost completely. And I know you can't see that from the aerials, but -- and on average residential docks where you have a normal 80-foot waterfront and you can go out 20 feet, you have a total wraparound for safety and loading.

VICE-CHAIR CARON: Right, I understand, but these are not typical lots.

MR. TURLEY: No, no exactly.

VICE-CHAIR CARON: They're meant for little boats that you can access, by a --

MR. TURLEY: Yes, ma'am.

VICE-CHAIR CARON: -- little finger pier and get on and off and go out and putt-putt around the backwater and fish. I mean, that's what they're meant for. So I don't know.

Mr. Schiffer is our architect slash engineers.

COMMISSIONER SCHIFFER: Our plan reader here, but -- and here's the problem I have, is the section and the plan have very little to connect the two together.

MR. TURLEY: No, they don't.

COMMISSIONER SCHIFFER: One we do have is, it says, wing dock area at an 8-foot dimension, and we have that on both plans, so let's assume that's the given.

MR. TURLEY: Right, on both sides.

COMMISSIONER SCHIFFER: And what it shows outside the edge of the wing dock area, it's probably 3 feet of water based upon -- you know, it's 2-foot, 2.67, but it's down -- heading fast towards 4, okay? I mean, and maybe it's 2.8 or -- you know, but it's getting close to 3 feet at the end of that winged area, which is -- remember, this is not where the lift is. The lift does need deeper water.

But is the boat going to be 3 feet -- drawing 3 feet of water at the point of -- at that point, the --

MR. TURLEY: No, of course not.

COMMISSIONER SCHIFFER: Okay. So here's the way we can get out of this real easy. In other words, you can have the wings if you push this whole thing back 3 feet, because essentially your argument's going to be that the wing is in the allowable 20 feet.

MR. TURLEY: Yes.

COMMISSIONER SCHIFFER: So, you know, the wings are out of it. Could you just push the wing assembly and the rest of the assembly 3 feet landward and make it work? You can take a second and think. But if you do that, then you're out of the woods. The wings, yes, we could talk about them, but they're in the allowable 20 feet. You don't have to come here to get, you know, approval of the wings, and -- but it would push the lift and everything about 3 feet forward. Would that be acceptable?

MR. TURLEY: Possibly. I've waded out there and, truthfully, this -- the side -- I need to get that actually done to scale to actually show you the water depth in reality.

This just doesn't -- oops, I'm sorry. This to me doesn't work. When I submitted to Army Corps and DEP for riprap, that did not depict the slope of the bank whatsoever.

COMMISSIONER SCHIFFER: What does that mean to me?

MR. TURLEY: Well, I wanted to put riprap in to protect the shoreline. This -- well, this --

VICE-CHAIR CARON: Don't you have oyster beds there? So you couldn't do riprap, could you?

MR. TURLEY: This particular -- where's that aerial? Getting back to the aerial, this section here has been used as a boat ramp for the last 30-plus years that I know of. I know the guy that used to own the dock. His name was Jimmy Lawhon, and everybody in that neighborhood's been using this. They pushed shell, gravel, you name it, down there. And just about -- actually, more than 20 feet past the mean high-water line is not even knee deep, and that's why -- possibly I could get my surveyor to go ahead and redepict it on an actual scaled survey as opposed to just what he's shown here.

COMMISSIONER SCHIFFER: Well, I think if you could take the Sheet 1 of 1 and have him put topography on that underneath the dock, I think we'd have a better understanding of what's really going on here --

MR. TURLEY: I could do that.

COMMISSIONER SCHIFFER: -- and then come back. It would be quick.

MR. TURLEY: I can do that.

COMMISSIONER SCHIFFER: Okay. Then can I make a motion to continue this to a later date?

MR. TURLEY: Sure.

COMMISSIONER KLEIN: Second.

COMMISSIONER SCHIFFER: That does conflict with my earlier opinion in this meeting.

COMMISSIONER HOMIAK: We'll have to talk about it.

VICE-CHAIR CARON: A motion to continue by Mr. Schiffer and second by Mr. Klein.

Is everybody in favor of that?

COMMISSIONER HOMIAK: Aye.

MR. BELLOWS: Do we have a date certain?

COMMISSIONER SCHIFFER: If you want to.

VICE-CHAIR CARON: Yeah. I think you can do that by our next -- by our next meeting; is that possible?

MR. TURLEY: Oh, yes, ma'am.

VICE-CHAIR CARON: I mean, if it's not, tell us now.

MR. TURLEY: Oh, no, it's -- I can have it this afternoon. I can have them go down and survey it and actually give you a scaled --

VICE-CHAIR CARON: Then I think, Ray, he can come back at the next meeting.

COMMISSIONER SCHIFFER: Yeah, I'm good.

VICE-CHAIR CARON: And that will be good.

Thank you. We appreciate it because, as Mr. Schiffer stated, these extensions are precious --

MR. TURLEY: Yes.

VICE-CHAIR CARON: -- and we don't do more than we have to do --

MR. TURLEY: I can understand.

VICE-CHAIR CARON: -- either in extensions or decking, so thank you very much.

MR. TURLEY: Thank you.

VICE-CHAIR CARON: I appreciate it.

MR. TURLEY: Thank you.

VICE-CHAIR CARON: And that brings us --

MR. SAWYER: Excuse me, Commissioners.

VICE-CHAIR CARON: Yes, I'm sorry, Mr. Sawyer.

MR. SAWYER: Just for clarification, you're just looking for elevations on that plan, or are you actually also requesting that he pulls the dock facility in?

COMMISSIONER SCHIFFER: No. If he shows us the topography and proves his point -- or it may prove our point.

VICE-CHAIR CARON: But, yeah, if it proves our point, then yes, we'd like to see that it gets pulled in.

MR. SAWYER: Okay. I just wanted the clarification.

COMMISSIONER SCHIFFER: No shove yet.

MR. SAWYER: Understood. Thank you, Commissioners.

VICE-CHAIR CARON: Thank you.

And now we are on to -- our old business has been continued, which was the Watershed Management Plan, so everybody's aware of that.

And under new business I'm going to make you wait.

COMMISSIONER SCHIFFER: Okay.

VICE-CHAIR CARON: And we'll go to public comments since Mr. Nance has been here all day. He has public comment, and we'll go from there.

MR. NANCE: Yes, thank you. Tim Nance. I just wanted to make a public comment on an item that was not on the agenda. It was earlier, but it was continued, and that was the Master Mobility Plan.

Through work in the Golden Gate Estates area community we've been very keenly interested in the Master Mobility Plan for -- from the very early part of it, and I'm actually very glad that this was continued for you because you are, of course, going to be a very, very important commission going forward with the discontinuation of any state oversight with the closing of the Department of Community Affairs. You know, we're going to be on our own, and I think this Master Mobility Plan is going to be very, very important.

What I -- all I would like to do today is to point out a few things that I think will help you ask questions and put this into perspective, because the Master Mobility Plan has actually been kind of an evolutionary thing in my view, and I want to just tell you a little bit about it today to bring you back into it and give you a couple -- suggest that you might want to review a couple things before you see the next presentation.

I have already seen the presentation that you were going to see. It was presented August 25th at the Golden

Gate Community Center. And, frankly, as a citizen who's interested in the work product and to understand what the Master Mobility Plan is suggesting and how it might be used in the future, I was very disappointed in this meeting, because it was basically just a presentation of glossy exhibits, and it really didn't get to the meat of the matter.

Let me review very quickly -- and I promise I won't try to hold you here. But the master mobility started as a federal grant to the county in response to House Bill 697, which was a federal -- piece of federal legislation that required all local comprehensive plans to include a section in the traffic element that indirectly reduced greenhouse emissions through direct reductions in vehicle miles traveled. That's where we started.

And it was a grant -- I think one very interesting thing for you to consider is looking at the original grant, which is an activity worksheet in a -- it had several projects. The grant was actually Project Activity 6, and it was in the amount of \$473,000. It was an Era grant.

And in the original grant, it included \$175,000 in developer contributions, which I inquired about, but to this day I have never been given a satisfactory answer or which developer was interested if they gave the money or not. But there was an original indication there was going to be a \$175,000 DCA.

The grant was applied for in June of 2009. The Master Mobility Plan was -- has been presented as a phased plan. And if you look at the website, you'll see that the initial Phase I, which was a data compilation phase, was completed in May 2010, and basically what it did was it overlaid all our existing plans and programs that we had, including things like the Growth Management Plan, the AUIR, the Rural Land Stewardship Area Program, East of 951 Horizon Study, and on and on and on, bridge studies, congestion management, and so on and so forth, and a plethora of environmental studies. That was completed in May, just over a year ago.

Since May and running to the present, we have been in Phase II, which was the development of the Master Mobility Plan itself. And if you'll go on the website, you will see it presented. And it says, reading directly off the website, the Master Mobility Plan will be a single unified planning document.

It goes on to say it will revolve around the following master plans and concept, and it goes on to list four master plans, including an infrastructure master plan, which is supposed to provide direction on infrastructure-producing redundancies; a land-use master plan, which is supposed to locate public services, private residential, commercial, and industrial development; a mobility master plan, which is supposed to include multimodal transportation; and a wildlife crossings and habitat preservation panther plan.

All through the limited time that we've had public comment, I have yet to see any of these four master plans. And if you have in this body, I would certainly be interested, because to my knowledge nobody has ever seen any of the work product that's been advertised that was going to be produced.

It goes on to say that following the creation of these master plans would be signed memorandum of understanding, or MOUs, that documents the commitments of the Collier County Government agencies and primary stakeholders.

It goes on to say further that it will culminate with the adoption of the above plans and agreements and basically lead to changes in the Growth Management Plan and the Land Development Code.

I think that's very profound for something that we don't even know what it is.

The public involvement has been very limited. Initially the public involvement was highly restricted. As late as the summer of this year there were no plans for allowing the public to attend any of the meetings. Several groups, including the Golden Gate Estates Area Civic Association and the Conservancy of Southwest Florida, strongly objected, and after days and days and days of pressure, some of these meetings were finally opened up to the public, so that within the last six months, we are to go through the development -- the final development of all these master plans, memorandums of understanding, leading to adoption of these things in December of this year.

I think that's fairly shocking myself, and I -- I've just been inquired (sic) as to where the work product is, and I haven't seen anything resembling any of the work product that they described they were going to be producing ever vetted in the public or anywhere else. I just haven't seen that happen.

Finally, the Master Mobility Plan will enter Phase III, and Phase III is to develop language for changes in the Growth Management Plan and to develop language for changes in the Land Development Code. That is supposed to be done following the -- hypothetically, I guess, following the adoption of the Master Mobility Plan, and these changes in the GMP and the LDC are supposed to be completed no later than June 30, 2012.

The consultants that have been hired to generate the changes in language in the GMP and the LDC is WilsonMiller. Under the scope of work, it defines their work as, to provide assistance in the development of potential

amendments to the Growth Management Plan and the Land Development Code and goes on to say the consultant will be responsible to develop revised language.

Several things that you can look at to guide yourself -- and I don't expect you to take my testimony at face value. You can consider it. But I think you should review the Board of County Commission tape from July 28th, '09. It's Item 10A. It starts at time six minutes and 52 -- six hours and 52, I guess, and I think you should review what was told to you on February the 3rd of this year, Item 11A, starts at 52 minutes, when you will see that the consultants describe the Master Mobility Plan, which started out as a federal grant to limit gas emissions, as a comprehensive buildout study for the county extending out to the year 2085. That's what Mr. Perry testified to you before.

And I just wanted to bring these things to your attention, because I think that there are many, many questions that the public has not had a chance to ask. The presentations recently in the county have gone away from question-and-answer forums to so-called workshops and breakout sessions and so on and so forth where the people present statements, and then they let the public walk around the exhibits, and we don't ever get a forum where somebody can ask a question and get an answer to the public. And I think that's unfortunate.

So I hope you'll look over the history of this before you get the next presentation. I think you'll be surprised at what is not presented, and I would be amazed if you didn't have very, very serious questions over where this is going, how it's going forward, how it morphed into what it is today, how it started out to what it was and became a comprehensive buildout study that really hasn't been publicly noticed or vetted to the public or anybody else.

It's been highly limited, and it's been done in a very, very quick timeframe. I can't imagine that we're going to start changing the language to the GMP and the LDC, things that we've worked on for decades, and we're going to do this in six months without much input.

So those are my concerns. I actually did a petition before the Board of County Commissioners in March of this year in which I brought up what I thought was a very, very serious conflict of interest between the consultant, WilsonMiller, who was charged and hired to write language for our GMP and LDC when that language was intended to regulate their largest customers.

That suggestion was not received very well. They accused me of having a vendetta against WilsonMiller, which I certainly don't. I think WilsonMiller's a marvelous engineering firm, probably one of the best in the country, but I do not think they should be writing the language that regulates their customers.

So thank you for your time, and good luck with -- I'll see you on October the 6th.

VICE-CHAIR CARON: Thanks, Tim. And just -- go ahead, Brad.

COMMISSIONER SCHIFFER: No. I just have -- Tim, could you go back on some of those dates on --

MR. NANCE: You know, I'll give you those dates if you'd like. I just wrote them down because I thought it might be handy at some point. You should look at the original grant. The original grant is very interesting for you to read.

But the Master Mobility Plan originally went to the BCC on 7/28/09. It was Item 10A. And if you look on the archive videos, it's time six hours 52 minutes through seven hours and nine minute.

And February 3rd of this year was Mr. Perry's testimony to you. It was your Item 11A, and the time was 52 minutes through approximately one hour and 24 minutes. And my petition before the Board of County Commissioners was on March 8, 2011. It was Item 9C, of course, very early in that, and you can see my discussion on those items.

But it's a huge project. It's got ramifications that are tremendous, and I -- I think there are many, many people that are uncomfortable because they don't know how this information has been generated, how this language will have been arrived at, and what use it may have or what it's intended for or unintended for going forward.

So it's -- I think it's got some huge ramifications with planning going forward.

VICE-CHAIR CARON: Thanks, Tim.

MR. NANCE: Thank you very much.

VICE-CHAIR CARON: We really appreciate your input. And I'm not even sure when that plan is supposed to be coming back to us.

MR. BELLOWS: The Master Mobility Plan? There will be an update on the October 6th meeting.

VICE-CHAIR CARON: Oh, there will be on October 6th --

MR. BELLOWS: An update.

VICE-CHAIR CARON: -- that's for sure.



MR. NANCE: It was my understanding that they were going to present to you the same PowerPoint that was presented in the public meeting.

VICE-CHAIR CARON: Public forums. Yeah, okay. All right.

MR. NANCE: Thank you.

VICE-CHAIR CARON: Thank you very much.

And now we'll go on to Brad's new business.

COMMISSIONER SCHIFFER: Well, I just want to talk about continuances. Mark certainly gave a great speech about the value of continuance. We all know that. The problem is when we have a room full of citizens, you know, the republic; they're the precious people. The citizens got burned by coming down today.

So how do we prevent that? When do people know? What happened yesterday, or what happened the day before, or what happened the day before that everybody couldn't have been notified that they wanted more time?

MR. BELLOWS: A continuance, if it's given early enough by the applicant and providing reasons, we provide that to the Planning Commission. And if it looks like it's a legitimate reason, we can continue. But since the Planning Commission decides a continuance, we don't tell anyone for sure, because it has to be decided by the Planning Commission.

COMMISSIONER SCHIFFER: But we've taken -- I bet if you went back quite a while, a decade or so, a 100 percent we would allow people a continuance. So can't we come up with some -- here's the thing. What ground rules do we need to have to prevent what happened today?

MR. BELLOWS: Well, there are many reasons for a continuance. If it wasn't advertised correctly, it couldn't be presented, so that -- we could get the notice out and provide notice in time. But if it's an issue where they were trying to address maybe a Planning Commission concern that's up -- then you would be deciding whether that is. But if they continue it the day of the hearing, there's nothing that we could do about that. If they provide us enough lead time where we could get the word out, notify the clerk, or the --

VICE-CHAIR CARON: I think today was a little different in that I'm not sure there was an organized group that you would have known to notify --

MR. BELLOWS: That's correct.

VICE-CHAIR CARON: -- even -- no matter what. And I do think in the long run the continuance will be a good thing for whatever happens out there, whether it's accepted or denied or something in between.

So I think it absolutely did in the long run help the public. Yes, it was a burden that some of them had to take days off and spend some time. But in this particular instance, I think it's really going to help them.

And we had no one to notify. As they got up and testified today, they don't even have a formal homeowners association that could have sent them the information.

COMMISSIONER SCHIFFER: Okay. Then let's come up with a process that they can check on. We -- with the Internet and all that stuff today, there's no excuse to not have them have access as to whether it's going to be heard.

You know, fellow commissioners here came without the paperwork stating that they knew it wasn't going to happen. I'm looking forward to going home and seeing those three emails I got from Kay to see how you could derive that from that. When I read that, I didn't derive that from that.

But anyway, so why can't we come up with a policy or procedure where if -- I mean, obviously the chairman didn't bring his papers. I don't think Donna said she did.

COMMISSIONER AHERN: I didn't.

COMMISSIONER SCHIFFER: So the point is, we know. How do we prevent them from -- you know, couldn't they look on something or couldn't we post something somewhere where people could check the agenda and we tell them and warn them to -- so that they can prevent taking a day off from work and coming here?

MR. BELLOWS: We do have procedures in place when there's adequate notice and we can put it in -- contact John Torre, put a notice out an item's been rescheduled.

When it's the day of the meeting or a day before the meeting, there's really not much time, especially if you don't have contact people. If we were working with a specific group over time and had contact people, that would be part of the notice. We would notify them that there's been a requested continuance.

COMMISSIONER SCHIFFER: But with the tools we have today -- we could even have an app for this. With the tools we have today, you can --

MR. BELLOWS: No, I agree.

COMMISSIONER SCHIFFER: There should be a place where they could notice -- it could be a caution symbol that this has been continued. And people will learn to be wise enough -- just before I take the day off or before I drive -- and, you know, first of all, these guys don't live very close. I mean, they had a 35-, 40-minute ride.

MR. BELLOWS: And I think the way we've handled it in the past, too, is we allowed them to speak like we did today so they can get their comments in, and it was part of the record.

COMMISSIONER SCHIFFER: Well, most of them were speaking about how mad they were that they drove down and we weren't having the hearing, so --

MR. BELLOWS: Yeah. Many times we don't continue the item until the public has a chance to speak, and then the applicant has the alternative to continue at that time if they see that they're not addressing -- or haven't been able to address their comments. That's one process. Let the process go through, present it, have the applicant present, and then continue the item to allow them to address concerns; however, they knew up front they had some concerns, at a short notice though, and then put in a late request.

Now, there is definitely a way to address that through electronic -- our website, and --

COMMISSIONER SCHIFFER: So let's establish that once you know that a continuance has been requested or -- I mean, if everybody was certain enough that this was going to happen today that they didn't bring their paperwork, then that must have meant it wasn't going to happen.

MR. BELLOWS: You know, we could --

COMMISSIONER SCHIFFER: -- and make a notice so you can do that.

Then -- now the other part of the question. I think we should provide notice. You can figure that out.

The other part is, should we have a deadline when somebody can continue it? I mean, is there something magic that happened yesterday that couldn't have happened last Friday or Monday, or --

MR. BELLOWS: Since I don't know the events leading up to the decision, I can't tell you why they decided at that time to continue, but I think a petitioner has every right to say somebody's contacted me the day of the meeting. They can't control when somebody alerts them to an issue.

But we do charge them extra if they continue the day before, the day -- and the day of the meeting.

COMMISSIONER SCHIFFER: Well, what do you mean by that? What -- is there --

MR. BELLOWS: There's a penalty charge, a fee assessed for a last-second continuance.

COMMISSIONER SCHIFFER: And that's what happened in this case?

MR. BELLOWS: Yes.

COMMISSIONER SCHIFFER: And what -- is that something that somebody would try to avoid, or is it a courtesy fee or --

MR. BELLOWS: I'd have to check to see what the exact amount is.

COMMISSIONER SCHIFFER: I mean, is it thousands of dollars --

MR. BELLOWS: No.

COMMISSIONER SCHIFFER: -- or, you know, a couple of stamps, or what is it?

MR. BELLOWS: I'll have to check. I don't recall what the fee is offhand.

VICE-CHAIR CARON: But these projects are fairly fluid.

Go ahead, Melissa.

COMMISSIONER AHERN: I was going to say, part of the issue, too, when -- like today, I mean, you could notice -- you could put something online, but you're basically saying there's a potential this could be continued, because until we vote to continue it -- so, you know, as someone who may be interested to come here to speak, I would be -- I would be really skeptical, yeah, about not showing up, because odds are if I didn't show up, then the continuance would be denied, and -- so, it's -- I don't know that there's a magical answer.

I know in this particular case one of their issues was with Collier County Utilities looking for something additional at the last minute. So, you know, it's not just issues with the public. So I'm not sure that -- you know, there's only so much we can do, I think, to control the situation.

MR. BELLOWS: Yeah. One option -- today the applicant looked like they almost decided, well, we can do a presentation today, get the public comment, then continue. They -- it seemed like that was one of the things they were considering.

But since Mark offered to let them speak early in the meeting, then that seemed to allay that concern.

VICE-CHAIR CARON: I think we have to be careful about wanting to make that process, you know, perfect for everybody. This is probably one of the few times I've ever seen in the past seven years a roomful of people show up and then something got continued and a few of them were actually upset. Most people get the fact that if there's a continuance, it's probably to their benefit.

COMMISSIONER AHERN: Right.

VICE-CHAIR CARON: So, you know, again, I just don't see it as historically having been a huge problem for us. You know, there were some people that were upset today, but I think --

MR. BELLOWS: There's never going to be --

VICE-CHAIR CARON: -- unbalanced.

MR. BELLOWS: I've conducted these meetings for 22 years, and there's going to be times you can get notices out, put the signs up on the wall "This item's been continued" so nobody sits in the audience. But on the last second, when there's an issue that comes up, there's very little we can do other than --

COMMISSIONER AHERN: And most people aren't going to go to the website the morning of or the night before, or wouldn't even know where to try to go.

MR. BELLOWS: But we can certainly look into that and come up with some options. Certainly, I would like to take better advantage of our ability to use the web-based communication.

COMMISSIONER SCHIFFER: You know, the one thing we obviously don't want to do is deny them to speak. I mean, if we said it's continued and we voted not to continue it, that would be horrible. But point is that obviously in this case everybody knew it was going to be continued, so it would have been nice to notify them.

But maybe the point is that it doesn't happen that often that it's worth addressing. So I guess we'll see -- if it happens again, we'll have the conversation again.

VICE-CHAIR CARON: Yeah. But I think certainly however we can use the web is a good thing, if --

MR. BELLOWS: Well I'll definitely look into that --

VICE-CHAIR CARON: I mean, why not?

MR. BELLOWS: -- and make -- see if we can come up with some proposals for you and bring it back on later agenda, say, this is some of the things we can consider.

VICE-CHAIR CARON: Go ahead, Heidi.

MS. ASHTON: Thank you. On this one, too, in particular, I think I got the notice late Wednesday that the applicant was going to request a continuance, so it doesn't really become official, as Ms. Ahern said, until you vote on it.

VICE-CHAIR CARON: Right.

MS. ASHTON: So I would caution you, because I have had instances where I was told things were going to be continued and then they weren't. So I'd just caution you on adopting a procedure that says, you know, don't come.

VICE-CHAIR CARON: Yeah, I agree.

COMMISSIONER SCHIFFER: Yeah. But, Heidi, in -- to that, everybody knew it was going to be continued. They didn't bring their paperwork. We couldn't have heard it today. So, I mean, you're right, somebody could take advantage of that and yank it the other way, which would be the worst case. That would be much worse than the inconvenience.

But anyway, let's just try to -- and, Ray, I guess it could be -- in the processing of it if it looks like it could be continued, let's, you know, get the guy to request it pretty far out. And you could even take it -- I mean, how far out could you even move it off the agenda?

MR. BELLOWS: Like with the Master Mobility Plan, we got notice early that that was going to be continued to the October 6th meeting. We took it off the agenda. We had time to do that.

COMMISSIONER SCHIFFER: Right.

MR. BELLOWS: So when there's enough lead time, we can do those things, or if it was advertised, we have to note that it's being continued to a later date, so it's listed in the agenda so somebody who knows it was advertised, they look at it, they see what happened.

COMMISSIONER SCHIFFER: So that's the time to catch it.

MR. BELLOWS: That is, but there's nothing -- like in this case, if they have a last-minute issue that they became aware of, we can't say, no, you are going.

COMMISSIONER SCHIFFER: How far out -- how far out was that that you could change the agenda? Is

that a week? Is that two weeks? What is that?

MR. BELLOWS: You get your agendas mailed to you or sent to you a week -- Wednesday the week before the meeting.

COMMISSIONER SCHIFFER: So, essentially, just about a week --

COMMISSIONER AHERN: Wednesday?

COMMISSIONER SCHIFFER: Yeah, we don't --

COMMISSIONER AHERN: Friday.

MR. BELLOWS: Sometimes Friday.

COMMISSIONER SCHIFFER: But, anyway, let's just say about a week before the meeting would be the time that you should encourage people to continue things so that it could be handled that way, and a lot of hearings are handled that way. And then that would prevent the public from being -- you know, they would have plenty of lead time.

MR. BELLOWS: Yeah. And one of the things that we try to do is plan with the people and have meetings early enough in the process, and that is why we require the neighborhood information meeting. And I was a little puzzled -- and I am going to follow up with Kay, so -- which people showed up at that meeting back then and why wasn't the word spread more.

And this wasn't the only NIM that they had. This project's been around for a number of years. There have been NIMs going back two to three years, so I'm a little puzzled why so many people didn't seem to have any idea what was going on with this, since there's been three or four NIMs held for this project.

COMMISSIONER AHERN: We can't make people show up.

MR. BELLOWS: Yeah.

COMMISSIONER AHERN: And, you know, generally those type of things people don't show up for, so --

MR. BELLOWS: Yeah. But evidently somebody lit the fire under them recently and got something going --

COMMISSIONER AHERN: Exactly.

MR. BELLOWS: -- and I'm sure that's one of the factors for -- the applicant wanted a continuance.

COMMISSIONER AHERN: Right.

COMMISSIONER SCHIFFER: But one thing you said, I mean, maybe multiple NIMs puts people to sleep. It doesn't teach them more. It makes them think, oh, I've heard that before and it didn't happen.

MR. BELLOWS: That could be it.

COMMISSIONER SCHIFFER: So that's probably more dangerous.

MR. BELLOWS: I talked to a couple of those individuals, and they thought that things had changed from the NIM to this meeting, and that wasn't the case.

VICE-CHAIR CARON: All right. I need a motion.

COMMISSIONER AHERN: So moved.

COMMISSIONER KLEIN: Second.

VICE-CHAIR CARON: Second, all right. We are adjourned.

Thanks, K.D., and thanks, Terri, and thanks staff.

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There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 1:52 p.m.

COLLIER COUNTY PLANNING COMMISSION



MARK STRAIN, CHAIRMAN

ATTEST  
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on Oct 6<sup>th</sup> 2011, as presented ✓ or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT REPORTING SERVICE, INC.,  
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.