

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY PLANNING COMMISSION
Naples, Florida, November 3, 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
Brad Schiffer
Paul Midney
Melissa Ahern
Karen Homiak
Diane Ebert
Phillip Brougham
ABSENT: Barry Klein

ALSO PRESENT:

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

CHAIRMAN STRAIN: Good morning, everyone. Welcome to the Thursday, November 3rd 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. Roll call by the secretary, please.

COMMISSIONER HOMIAK: Mr. Eastman?

MR. EASTMAN: Here.

COMMISSIONER HOMIAK: Mr. Schiffer?

COMMISSIONER SCHIFFER: I'm here.

COMMISSIONER HOMIAK: Mr. Midney is walking up the stairs.

COMMISSIONER MIDNEY: Here.

COMMISSIONER HOMIAK: Ms. Ahern?

COMMISSIONER AHERN: Here.

COMMISSIONER HOMIAK: Mr. Strain?

CHAIRMAN STRAIN: Here.

COMMISSIONER HOMIAK: Ms. Homiak is here.

Ms. Ebert.

COMMISSIONER EBERT: Here.

COMMISSIONER HOMIAK: Mr. Klein is absent today.

And, Mr. Brougham? Sorry.

MR. BROUGHAM: Present.

CHAIRMAN STRAIN: Okay. Addenda to the agenda. Ray, do we have any changes?

MR. BELLOWS: I have no changes.

CHAIRMAN STRAIN: Any changes from the Planning Commission?

(No response.)

CHAIRMAN STRAIN: Okay. Planning Commission absences. Our next meeting is November 17th. So far on that date, Ray, I believe the only thing scheduled right now is the mobility plan, is that correct, on the 17th?

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: Okay. If there is any continuations from today, they will continue to the 17th as well, and we would hear those first up. So at least we have another day we can move to if we need it.

Planning Commission absences. Does anybody know if they're not going to make it on that day?

(No response.)

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

Approval of minutes. September 29, 2011, the AUIR. Is there a motion to modify or approve?

Phil?

COMMISSIONER BROUGHAM: I have one very minor change. My first name is spelled with two Ls, for the future.

CHAIRMAN STRAIN: There's no L in Brougham.

COMMISSIONER BROUGHAM: No, there isn't. But on the first page it says "Philip," and my mother named me Phillip with two Ls, so --

CHAIRMAN STRAIN: Okay. Well, I'm sure we'll make that change. Thank you.

No other change. Is there a motion to approve?

COMMISSIONER HOMIAK: Motion to approve.

CHAIRMAN STRAIN: Made by Ms. Homiak. Seconded --

COMMISSIONER BROUGHAM: Second.

CHAIRMAN STRAIN: -- by Mr. Brougham.

All those in favor, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Motion carries.

With the exception of the correction that you're probably going to say for October 6, 2011, Mr. Brougham, is there any other changes anybody see in that -- those agenda -- or those minutes?

COMMISSIONER BROUGHAM: No.

CHAIRMAN STRAIN: Okay. Is there a motion to approve?

COMMISSIONER HOMIAK: Motion to approve.

COMMISSIONER MIDNEY: Ms. Homiak again. Mr. Brougham, you second?

COMMISSIONER BROUGHAM: Second.

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries.

And those are 7-0 both times.

Ray, BCC report recaps?

MR. BELLOWS: Yes. On October 5th the Board of County Commissioners heard the DRI and PUD rezone for Hacienda. That was approved 4-1.

CHAIRMAN STRAIN: Okay. Any changes to our stipulations? You're looking at Bob.

MR. BELLOWS: Yeah. Trying to look at Kay to see if she can remember. Doesn't look like there were any changes.

CHAIRMAN STRAIN: That's good. We had several dozen, if I'm not mistaken, so -- okay, thank you.

COMMISSIONER SCHIFFER: Mr. Chair?

CHAIRMAN STRAIN: Yes, sir.

COMMISSIONER SCHIFFER: One thing.

Ray, a question on that meeting. There was some input on getting interpretations made by the director, that the commissioners wanted those sent to them also. Do you remember that --

MR. BELLOWS: In regards to staff clarifications and --

COMMISSIONER SCHIFFER: Correct.

MR. BELLOWS: Yes. We are putting together a program to get current and historic staff classifications, what you formerly referred to as a stealth code.

COMMISSIONER SCHIFFER: Correct.

MR. BELLOWS: We're trying to put those -- even though they're online now, we are going to bring those to the Board of County Commissioners for their review and confirmation.

COMMISSIONER SCHIFFER: Okay. Well, I was going to ask you to send them to us. But better than that, send us the link to the online where we can keep an eye on them that way.

MR. BELLOWS: Okay.

COMMISSIONER SCHIFFER: Thank you.

MR. BELLOWS: You're welcome.

CHAIRMAN STRAIN: Ray, speaking of those items, we used to get any clarifications issued by your office when Susan Murray was there. Every time she issued one, she sent copies to us. We haven't gotten any since you took over. Does that mean you haven't done anything?

MR. BELLOWS: Well, I did -- I did an official interpretation for Mediterra PUD. I'll have that forwarded to

you.

CHAIRMAN STRAIN: Thank you.

MR. BELLOWS: And as part of the program of bringing those things to the Board of County Commissioners, we also put that on their consent agenda so they could see a copy of that, since it wasn't appealed to the board, that OI.

So that's going to be our new policy is to bring those things to the board, but we will copy you on all of those in the future, too.

CHAIRMAN STRAIN: Okay. But the OI is different than staff clarification.

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: What Brad was asking about, are you proposing to give both to the board or just one of those?

MR. BELLOWS: Yes, both.

CHAIRMAN STRAIN: Okay. Staff clarifications are a shorter, more informal abbreviated response to things.

MR. BELLOWS: Yes. And it may be that it's not sponsored by a private entity, which an OI typically is, that it may be something staff has asked for clarification on, and we will do the research, and we've put it up in a formal memo. And that formal memo will now be presented to the Planning Commission, as well as to the BCC.

CHAIRMAN STRAIN: Okay. And I had just as soon you when -- not as -- it's not being presented for debate. Those are staff-approved actions, I would assume. I mean, are we going to be now in a position, or is the BCC going to be in a position to second guess everything that staff has been previously allowed to do administratively?

MR. BELLOWS: Well, in regard to staff clarification, it's just to -- it's not changing the intent of the code. It's just maybe providing a little more clarification to the intent. And, basically -- which is an interpretation is also providing that kind of clarification in regards to a specific code provision.

But if the board has questions about it, we'd pull it off the consent and talk about it.

CHAIRMAN STRAIN: I know. And our code was written so that there were some administrative duties that could be performed by staff without public meetings to make the process more expeditious.

MR. BELLOWS: That's correct.

CHAIRMAN STRAIN: If we fall back and now revert from that position, I'm just curious as to what the intent of this presentation has -- what format it's supposed to take. Because if we start debating everything that you are now responsible for doing, I'm not sure that's going to help anybody. But I just wanted to express that. I'm not sure what the intent is.

MR. BELLOWS: Yeah. I think some of those details we're still going to work out with the attorney's office and with the board when we bring back the first set of clarifications.

CHAIRMAN STRAIN: And in the past -- and I think it's back two or three years ago when Joe Schmitt was here -- we had asked Joe Schmitt to come up with a list of things that we could provide to staff to do administratively above and beyond what they currently do.

You know, it's been several years, and every now and then we bring that up. We've still not ever had that list of proposed ideas. Are you still working on that?

MR. BELLOWS: Well, we've had a turnover in our Land Development Code amendment staff, and I believe they are looking at those things as part -- and working with our --

CHAIRMAN STRAIN: Administrative code?

MR. BELLOWS: Yes.

CHAIRMAN STRAIN: Is Nick not coming today?

MR. BELLOWS: His books are here, so I assume he'll be here.

CHAIRMAN STRAIN: Yeah, okay. With that we'll move on to chairman's report, kind of the discussion we were just having.

I'd like to let the audience know what today's meeting is -- how it's going to transpire. After these brief introductions, we will go into the -- I'm sorry. Diane? Oh, Nick just showed up?

COMMISSIONER EBERT: Yeah.

CHAIRMAN STRAIN: I'm so glad he was able to get up this early. Good morning.

MR. CASALANGUIDA: Good morning, Mr. Chairman.

CHAIRMAN STRAIN: The way it works, ladies and gentlemen, is that we will soon go into our advertised public hearings. The first item up is a continuation of the Orangetree and a finalization of that for today's meeting. That will be heard as both approval or denial and consent at the same time.

Normally what happens, we hear an item and it comes back two weeks later on the consent agenda. The Orangetree item's been in front of us three times, so we're going to wrap it all up today in some manner or form.

The second item up is the NABOR building, and that is a conditional-use application or change. And then the last item up will be the Alico Land Development, Inc., the mining issue on the border of Collier County and Lee County.

We will take a break every hour and a half, and we will take lunch close to 12 o'clock. We usually look for convenient times to break. Speakers are asked to limit their discussion to five minutes with the exception of -- provided by the chair.

So that's where -- anybody that would like to speak, you need to make sure you're registered or put a slip in with Ray; however, we're a little more informal here. I will always ask if anybody else has any comments after the last presenter is up who is registered.

***So with that in mind, let's move directly into the advertised public hearings. The first one up is PUDZ-2003-AR-3608, and that's the Orangetree PUD.

All those wishing to testify on behalf of this item, please rise 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? Anybody?

COMMISSIONER EBERT: Yes.

CHAIRMAN STRAIN: Ms. Ebert?

COMMISSIONER EBERT: I have -- I have talked with a few residents from out in Orangetree.

CHAIRMAN STRAIN: Okay. Anybody else? I received an email from Shirley Cothran, which I've shared with the applicant this morning. We had a discussion on that. We'll be discussing it as the meeting goes on. That's the only disclosure I have other than those that I have provided over the past two meetings.

And so with that in mind, Burt, it's all yours. Hopefully we can finish this today.

MR. SAUNDERS: Thank you, Mr. Chairman.

For the record, Burt Saunders with the Gray Robinson Law Firm. And Matt McLean and Bob Mulhere are with me here today representing the petitioner. And Steve Lowits (phonetic) is on his way from Fort Lauderdale. He should be here any moment.

I want to start off by thanking a few people. I know this is a petition that's going to be voted on here. But I want to thank your county attorney and your staff, Heidi Ashton and Kay Deselem, for really going a long way to help us make sure that we got all the changes into these drafts that the Planning Commission has been reviewing. And so your staff has really, really worked very hard on this.

I want to highlight just a couple quick items, and then Bob Mulhere is going to go through the detail. I think we can go through this very quickly this morning.

Just a couple things that we've talked about and added to the document. One of the big issues was the internal security issue. We talked a little bit about that at the last meeting. We have a document now that shows where sub-gates will go, and Orangetree Associates will pay for those gates to be installed at the appropriate time, and there's timing for that. So that was a big issue for the residents there.

Another big issue was the issue of recreation areas. We've identified on another exhibit where the recreation areas will go for the new R3 development so that the existing recreational areas will not be impacted by this.

There was concern about separate homeowners' associations, and we've -- we're attempting to add language -- and I think we'll do that this morning -- that shows where new homeowners' associations will be created for the R3 area, again, to limit the impact on the existing homeowners' associations.

We have language restricting or eliminating carports in the R2 district, another big issue for the residents out there.

We have language dealing with the minimum square footage size for residents in the R2 area. That's going to be a minimum of 1,250 square feet.

We also have language dealing with the setback in the MU district for three-story buildings from the

Waterways area. That's a minimum of 560 feet setback before there can be any three-story buildings.

And we also have language in there dealing with the new access points, when those will be available for construction traffic. We've got that language in there.

And so, Mr. Chairman, with that, I think those are the -- were the highlights. I want to thank the residents we've continued to meet. Troy Bish is here, I believe, and we've continued to meet with Troy to go through some of these changes to make sure that we've addressed everything. I think we have a petition that is far superior to the petition that we initially presented, and that's to the credit of the Planning Commission and to your staff for making sure that we've eliminated as much impact as possible on the existing residents.

And I think we have something that the -- that Planning Commission can positively review this morning.

With that, I'd like to turn it over to Bob Mulhere so we can go through the individual changes.

CHAIRMAN STRAIN: Good. Thank you.

MR. MULHERE: Good morning. For the record, Bob Mulhere. Did you want to -- we have some typos and things like that. There's some minor changes. Did you want to go through it briefly page by page?

CHAIRMAN STRAIN: Yeah, we'll do it as we normally do.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: We'll take a chunk of pages at a time, because we're at the last review. The draft we received from the County Attorney's Office has a red highlight that shows the changes as a result of the last meeting which had summarized all of the changes from the prior meeting.

So we should be down to a minimal amount today. And I do want to thank Heidi Ashton for her work on this. The document is done really well. It was clear. It was certainly helpful to see it the way you laid it out, Heidi.

And, Jeff, for your department to handle these that you have taken on, it sure has been a help to this board, because we no longer have the applicant making the changes as they understood them, but it's your office that's doing it, and it has proven to be a big help. So thank you both for that.

The first part of the document is the introduction, list of exhibits. So we'll move past that, and we'll start at section one.

MR. MULHERE: Well, just for the record, I just wanted to say that there needs to be some -- we just need to check the pagination and also the footer so that it incorporates the total number of pages in the document. It's off. And it's just -- we'll work on that.

CHAIRMAN STRAIN: Well, I think when you accept the review, that will all hopefully come back into play.

MS. ASHTON-CICKO: Yeah. The ordinance, just for the record, is going to change slightly between what you're seeing now and what the board's seeing, because the red highlight shows changes from the document that you saw, and now I have to go back and compare it to the last ordinance that's been adopted.

So some of the language you will see slight changes, not in the text that's going to remain, but in things that are strikethrough and underline.

CHAIRMAN STRAIN: And that will just clean it up. I think we understand that.

MS. ASHTON-CICKO: Okay, yeah.

MR. MULHERE: And just one substantive change on Page double I. One, two, three, four, five -- six items down, Table 2-D should be Table 2-C.

CHAIRMAN STRAIN: Okay. Well, let's take the first ten pages, because they're the -- few amount of changes on those.

Anybody have any questions from the Planning Commission on the first ten pages? Or, Bob, do you have any changes other than those shown, which is the -- you did add the absorption schedule that was asked for. It's an estimated absorption schedule, which is fine.

MR. MULHERE: Yeah. On that Page 7, just the very first column that says current/NA, the numbers need to be tabbed over. It's just out of order with the column -- columns.

CHAIRMAN STRAIN: Yeah. And I don't think those kind of issues are too concerning. Let's stick to the zoning issues.

MR. MULHERE: All right. No problem.

CHAIRMAN STRAIN: You and Heidi can work out the typos.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: Nothing else on 1 through 10 -- and by the way, some of the -- if you -- any of the issues you've brought up -- and I know in talking with Burt that there were a couple of issues that we wanted to correct where they need to be inserted as we walk through it, would you let me know?

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: I'll certainly point out the ones I have. And one of them is -- and I want to read it to you. It's from Shirley Cothran, who apparently has been working with Matt --

MR. MULHERE: Yes.

CHAIRMAN STRAIN: -- back and forth on a number of issues. She had one outstanding issue. She said basically on the positive side, the applicant's team seemed to be very responsive to the comments from the public. Then she says, I was able to read the one-page document of changes, and here is my remaining concern.

Is there language somewhere in the document that will require any residential development in the MUU area to have its own recreational amenities, especially a swimming pool, and include whatever timing language is agreed to for the BGCC multifamily residential, which I believe that's gone except for in the MUU.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Below is a more-detailed explanation as to why separate amenities in the MUU area for the residents is important. And I think we all know what -- why it's important.

So as we go through the document, if you see a place to address that issue, point it out.

MR. MULHERE: Okay. I guess there's -- my thought is that there's a couple places. One is that we have an exhibit that shows where recreational facilities are going to go generally, and we could add that on the exhibit, and the other thing is, we can, actually in the MU district, make a narrative statement.

CHAIRMAN STRAIN: I just think a narrative statement referencing the MU district -- because your site planning isn't even broached in that area because it's still a utility site. So just the fact that something's going to be there would acknowledge that the people there aren't going to be using facilities elsewhere in the project.

MR. MULHERE: We'll add it to that when we get to it, so --

CHAIRMAN STRAIN: Okay. Let's move up to Page 20. Does anybody have any question --

COMMISSIONER EBERT: I have one on --

CHAIRMAN STRAIN: Ms. Ebert.

COMMISSIONER EBERT: -- Page 11, 4.05.

And the guesthouse, in the '91 redo of this, that was supposed to be deleted. I can give Heidi where they just said the whole thing was to be deleted for guesthouse. I see you've added language after it, but that was originally supposed to be deleted, and I can give the information to Heidi.

MR. MULHERE: Yeah. I don't -- Ms. Ebert, I don't -- the language that you have here that's not struck through is the language that is in effect today. So what was supposed to happen in '91, I'm sorry, but I have no clue of.

COMMISSIONER EBERT: Okay.

CHAIRMAN STRAIN: The '91 PUD or DRI was modified. Each successive modification -- we have to fall back on the last successive modification as the vested modification for them to operate under. So that would be what we refer to.

Anybody have any questions through Page 20?

MR. MULHERE: On Page 14 -- again, I -- this is not a typo, so I'm going to put it on the record. But we just need to add, under maximum accessory structure height, Mr. Chairman, you wanted us to make sure we had a column that listed maximum accessory structure height, which we've done, but I think we probably need to add the term "zoned" there, and that was my only comment on those pages.

CHAIRMAN STRAIN: And it will be on Pages 14 and -- oh, 15's already got it. You just seemed to skip it on 14.

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: Okay. Moving through. We're through Page 20. Okay, then through Page 30.

MR. MULHERE: Page -- I'm sorry. Excuse me, Page 20, on No. 14, which is eating and drinking establishments where we've provided some restrictions. We feel it would be appropriate to add, at the end of that, after the words "Immokalee Road or Oil Well Road, as the case may be" because of the MU. We're making the same commitment to any commercial along Oil Well Road in the MU, that the outdoor dining would be between Oil Well

Road and the commercial structure.

CHAIRMAN STRAIN: Yep, that's a good clarification, and it's -- works better that way. Thank you.
Okay, Ms. Homiak.

COMMISSIONER HOMIAK: I had -- on Page 21 in my notes from last time I had that we took out No. 40, social services.

MR. MULHERE: Well, one --

COMMISSIONER HOMIAK: I know you made the change, but I had it crossed out.

MR. MULHERE: Well, I think what's left is --

CHAIRMAN STRAIN: I think there was -- I think -- previously didn't you have it 8322 through 8399?

MR. MULHERE: Right, we did.

CHAIRMAN STRAIN: And when you do that you include some uses that were intentionally supposed to be out. So by dropping the distance between 8322 and 8351, you eliminated those, and then the remaining was to stand. So I think we did take some of it out, but only those specific numbers.

COMMISSIONER HOMIAK: I guess I didn't understand that. I had it all crossed out. Okay.

CHAIRMAN STRAIN: Well, you're always better to start with them all crossed out and then work your way forward from there. They start with everything in, so it's kind of a happy medium.

Through Page 30, anybody?

MR. MULHERE: Page 27.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And this change will occur in a few places, Mr. Chairman, but we might as well -- this is the first, I think, that it comes up. It's Footnote No. 2.

I went back and looked at the Estates Shopping Center PUD. I couldn't find an exhibit. I'm not saying it wasn't there. At least what I downloaded, I didn't see an exhibit that showed location of dumpsters.

CHAIRMAN STRAIN: No. There is an exhibit that shows locations, but the way it's located is a distance from the northern property line.

MR. MULHERE: What we did, we had said 35. We've increased it to 50 feet. And we've said that -- so this would change to read, "Except that dumpsters, recycling, and refuse areas shall maintain a minimum setback of 50 feet from residential." So --

CHAIRMAN STRAIN: Well, how -- your buffers are what, 25, 30 --

MR. MULHERE: The buffers are -- yes, and also there's a wall -- landscape buffer and a wall --

CHAIRMAN STRAIN: Okay.

MR. MULHERE: -- in every location, and a wall around the dumpster area.

CHAIRMAN STRAIN: In the Estates zoning district, because of the lower level of background noise in the Estates, one of their plans actually had dumpsters in an area in front, in the parking lot surrounded by a wall and vegetation. Well, at first I thought that was kind of unsightly thinking it may not be a good place to put it, but it's better than up against the residences. I didn't say anything at the meeting, but I went out and tried to find places that have done it, and there are some.

MR. MULHERE: Yeah, there are.

CHAIRMAN STRAIN: And they do them well. You don't even know they're there, so you've really got to look for them. So I think the intention was to make sure that these are not back behind the buildings where they're going to ricochet the sound off the buildings and disturb the neighbors that are close to there.

MR. MULHERE: Well, that's why we thought 50 feet. That's more than the setback in the back, you know.

CHAIRMAN STRAIN: Yeah, but that -- I'm just trying to -- Kay, do you have any idea how we worded that Estates zoning document for the shopping center?

MS. DESELEM: For the record, Kay Deselem. Right off the top of my head, no, I don't recall.

CHAIRMAN STRAIN: Okay.

MS. DESELEM: I just -- it's there somewhere, but I don't recall.

CHAIRMAN STRAIN: Okay. Thank you.

MS. DESELEM: We can look it up maybe -- ah, he has it.

CHAIRMAN STRAIN: Well, this thing has been like a piece of Scotch tape stuck to your hand. We can't seem to get rid of it, so today we want to get rid of it, so I don't want to --

MR. MULHERE: If somebody could look while we're going over the other stuff.

CHAIRMAN STRAIN: Maybe, Kay, you could take a look.

MS. DESELEM: Sure.

CHAIRMAN STRAIN: We did specifically address that. Now, unless the board took it out, it should still be there.

MS. DESELEM: I don't recall that the board made that kind of a change.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: I may have just missed it. I did look through it. I didn't see it.

CHAIRMAN STRAIN: Well, I had thought it would be simple to find, so I didn't follow up on my own, so -- I should have, so -- okay. So we're through Page 30. Anybody else? We'll come back to the dumpster issue.

How about through Page 40?

Bob, I have one on Page 37.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: And this is, by the way, the MUU district, so the reference to the recreational facility --

MR. MULHERE: We would add that as G --

CHAIRMAN STRAIN: Maybe add it here, right, right.

MR. MULHERE: -- under development standards, that the MU district shall have its own recreational facility -- facilities.

CHAIRMAN STRAIN: I'll let you work the language out with the County Attorney's Office.

MR. MULHERE: Okay.

CHAIRMAN STRAIN: 10.03(e), I just want to make sure that we're talking about in that panhandle section that the use that's going to be allowed in there is only residential. And you went from 45 feet down to 35 feet, which matches the residential height allowed in Waterside. But I want to make sure -- and I think the concern was -- they didn't have any noisy commercial operation up against their southern property line.

MR. MULHERE: And I think we can add to E, "and that no commercial structures shall be allowed within that 560 feet."

CHAIRMAN STRAIN: That would be great. Thank you.

Okay. We're through Page 40.

MR. MULHERE: On Page 38, we have a request within the MU district where the -- it's the only place that multifamily is going to occur. It's the only place for the previous R4 standards. Under the multifamily minimum square footage, the client had thought that there might be an opportunity for some one-bedroom units if we do multifamily. There's not a strong market, but there is some market for that. And as a result, we thought we should have at least 750 square foot in that area.

We discussed that with the Vanderbilt Country Club (sic) representatives, and they did not have an objection to that.

CHAIRMAN STRAIN: Vanderbilt Country Club.

MS. ASHTON-CICKO: What page are you on?

MR. MULHERE: I'm sorry. Excuse me.

CHAIRMAN STRAIN: Valencia.

MR. MULHERE: Valencia Golf and Country Club.

MS. ASHTON-CICKO: Bob, what page are you on?

CHAIRMAN STRAIN: Page 38.

MS. ASHTON-CICKO: Thank you.

MR. MULHERE: Page 38.

CHAIRMAN STRAIN: So what you're suggesting is your minimum floor size on the bottom row of that table --

MR. MULHERE: On the right-hand side.

CHAIRMAN STRAIN: -- on the right-hand side will be 750.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Now, the MUU is the area that's surrounded by schools on both sides that's currently

utilities site, and we have a small panhandle to the north that is separated from the -- okay.

MR. MULHERE: And that's going to be low.

CHAIRMAN STRAIN: I understand what you're saying.

MR. MULHERE: It seems that -- you know, you could have a teacher or something like that or -- you know, there is some market for one-bedroom units.

MS. ASHTON-CICKO: So the whole bottom line will be changed to --

MR. MULHERE: No.

CHAIRMAN STRAIN: No, no, just the multifamily structures on the far right side. And that's only in the MUU district that's currently being used as a utility site.

MR. MULHERE: Right.

CHAIRMAN STRAIN: So it would be a mixed-use application only in that one parcel -- one parcel. Parcel is isolated from all the rest of the residential in the project, so --

Okay. Anything else through Page 40? Kay?

MR. MULHERE: Do we want to --

CHAIRMAN STRAIN: Kay?

MS. DESELEM: If I may jump in again. Kay Deselem, for the record.

Ray and I looked through the Estates shopping center ordinance, and we didn't find any written text referencing the dumpsters --

CHAIRMAN STRAIN: No. This is what we did.

MS. DESELEM: -- but we do have the master plan that's on the visualizer. Hopefully it won't catch fire or do anything weird today.

The dumpsters are shown with a "D" on the master plan. So they actually did show the locations on the master plan.

MR. MULHERE: No wonder I couldn't find them.

CHAIRMAN STRAIN: Yeah. The only ones that were of a concern were the two to the north on the side of the main building, and that's why we produced this as an exhibit to the master plan so that they had to be located up against the building and not closer to the property line.

MR. MULHERE: Yeah. I think with the 50-foot setback that's where they're going to be. That's why we put that in there. But we -- if we want to add 50 feet and along -- and adjacent to the building or -- I think that 50-foot probably really gets it. It separates us quite a bit from the residential border.

CHAIRMAN STRAIN: Yeah. I think that will do. And you have a wall in there as well?

MR. MULHERE: We have a wall, and then there's a wall around the refuse, the dumpster.

CHAIRMAN STRAIN: Okay. Thank you, Bob.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Let's move on to Pages 40 through 50.

COMMISSIONER BROUGHAM: Mark, I have one on Page 42.

CHAIRMAN STRAIN: Go ahead, Phil.

COMMISSIONER BROUGHAM: Down under Item 7 where we've added language regarding the construction entrances, I still have some concerns there. I mean, as I read this -- question. It says, prior to the issuance of building permits in the R3 District, one additional future access point to either Oil Well Road or Randall Boulevard shall be constructed, blah, blah, blah, blah. That leaves it optional as to where you place that entrance. And won't there be a lot of construction activity prior to the issuance of a building permit per se?

MR. MULHERE: There would be infrastructure just building the road alone to get in there.

COMMISSIONER BROUGHAM: Well -- stormwater facilities --

MR. MULHERE: Yep.

MR. BROUGHAM: -- et cetera, et cetera, et cetera. There's going to be a lot of heavy equipment coming in and out of those sites prior to the issuance of a building certificate.

MR. MULHERE: Yeah. It's either -- I guess the earlier of that would be either SDP or plat. Those would be the earlier approvals that would allow site improvements, so --

COMMISSIONER BROUGHAM: What is the earliest?

MR. MULHERE: SDP or plat.

COMMISSIONER BROUGHAM: My intent is that we have a construction entrance identified specifically and that that entrance be open and functioning prior to the movement of heavy equipment, bulldozers, flatbed delivery vehicles, dump trucks, and so forth and so on.

MR. MULHERE: Right, I understand that. I guess I -- there's two points to that. One is, is there really a harm in having the flexibility of which one we choose? As long as it's in -- open and operating --

COMMISSIONER BROUGHAM: Not necessarily. But consider the -- it depends on where you start construction versus where the entrance is as to how much landscape you're going to travel.

MR. MULHERE: But then -- that's right, but then we have to build a road further in at our expense.

COMMISSIONER BROUGHAM: Okay.

MR. MULHERE: But from my perspective -- I do understand -- your primary concern to me is that that construction entrance be in place before we bring in construction vehicles.

COMMISSIONER BROUGHAM: Absolutely.

MR. MULHERE: And -- so I think if -- my point was going to say, if we -- instead of saying prior to the issuance of building permit, prior to the issuance of any SDP or plat that allows for site improvements.

COMMISSIONER BROUGHAM: Okay.

MR. MULHERE: You know, then that would cover it.

COMMISSIONER BROUGHAM: That makes me feel better.

MR. MULHERE: Got it covered.

COMMISSIONER BROUGHAM: Because one of the major complaints in any new development, if there are existing residents present, is the movement of heavy equipment up and down the roadways and the noise and the dust and everything else that goes along with it.

MR. MULHERE: Matt's got a concern, so I want to --

MR. McLEAN: For the record, Matt McLean.

My concern on that is we're going to have to go through the platting process to create that entrance, and in order to create that entrance, it will be quantified and codified through the plat process, and we don't -- at that time, once it's platted, then you would build it. I'm afraid that we're trying to --

COMMISSIONER BROUGHAM: Get the cart before the horse.

MR. McLEAN: Exactly.

COMMISSIONER BROUGHAM: You folks are the experts. My intent, as one commissioner, is that we want -- I would like to see some commitment that you're going to have a construction entrance in operation prior to heavy equipment coming in and out of that development.

MR. MULHERE: We could just word it that way.

MR. CASALANGUIDA: "Concurrent with," Commissioner, I think would be the word.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: Okay. And I think the County Attorney's Office could make sure it's worded correctly as it goes through the process.

COMMISSIONER BROUGHAM: Thank you.

CHAIRMAN STRAIN: Okay. Anybody else through Page 50? On Page 43?

MR. MULHERE: Yeah, Page 43. That's where I was at.

CHAIRMAN STRAIN: First of all, No. E, I know you guys were striving to meet the concerns of -- expressed by the public, but that sentence will not work, I believe, for enforcement purposes for county staff. It's very vague. It doesn't have any way of monitoring it, and I don't think it's possible for it to work.

So I would suggest that -- I know what the intention is. But if a road's damaged, the road is damaged, and code enforcement can always be called to enforce -- and bring transportation if they need to on any particular damage anywhere on the project.

To try to tie road damage to a specific act in a -- one single residential district is going to be impossible to do accurately. So I'm not sure that sentence should stay in here. It really makes the document vague. My suggestion is to drop that sentence.

But in the other hand, I did notice in the sentence this little R-2 with the upper script, little 2. I could not figure out what you meant. I went through this document looking for a footnote to reference 2. And then in the 11 --

8-and-a-half-by-11 little blurry page that is our master plan, someone pointed out to me -- I think it was the county staff -- that there's an area that has a little 2, subscript 2 on it, which is clearer in this than it is in our document.

I would suggest that you change that subscript 2, or the upper script, to a capital A and make it as big as the 2 so it's R-2A. Then it's going to be clearer. Because in the future, I don't know how many -- I don't think that's going to get caught.

MR. MULHERE: Yeah, that makes sense.

CHAIRMAN STRAIN: Okay.

MR. SAUNDERS: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. SAUNDERS: Back on that language, obviously we have no problem deleting that language from the document, but I will make a commitment to work with the homeowners' association to come up with some contractual arrangement to take care of the fact that -- if we do cause some damages to the roadways, the developer's willing to, obviously, pay for that. So we'll negotiate something with the homeowners' association to clarify that.

CHAIRMAN STRAIN: Okay. And I think that it would behoove staff to remember this discussion so that when it goes before the Board of County Commissioners that something's worked out between the applicant, the HOA, and you guys that can be effectively enforced if it -- to the extent that code enforcement may not already do it.

If you already have an opportunity through code enforcement, all the public needs to know is that's how they've got to proceed with it, and that might accomplish it. But let staff look into that.

Nick's shaking his head, so --

MR. CASALANGUIDA: It's a private road. It would be civil. So it couldn't be code. If you're not going to put it in the PUD, then there has to be some sort of contract in place, because it becomes --

CHAIRMAN STRAIN: Okay. Well, I think they're willing to work that out before the BCC hearing, and I think that's an ample time to get it done. And the Board of County Commissioners, I'm sure, will be all ears, so --

COMMISSIONER BROUGHAM: Mark, and that would be a condition as we move this forward then?

CHAIRMAN STRAIN: Yeah, that will be one of the stipulations.

COMMISSIONER BROUGHAM: Because it was a concern of the residents at the last meeting.

CHAIRMAN STRAIN: I know, but that language will get everybody in trouble. It won't help anybody in the end the way it's written, so --

MR. MULHERE: Mr. Chairman, I have a couple of changes --

CHAIRMAN STRAIN: Okay.

MR. SAUNDERS: Mr. Chairman, just for a clarification. This would not be a condition of the approval this morning. We're going to make the commitment to negotiate an agreement. We'll have that ready before the Collier County Commission, but that agreement should not be a condition of approval.

MR. BROUGHAM: Okay.

CHAIRMAN STRAIN: No, no, it's not. The agreement's simply going to be a reference.

COMMISSIONER BROUGHAM: But I used that word, so --

CHAIRMAN STRAIN: Yeah. No, we're just going to reference that you're going to try to -- you're going to accomplish that before the board meeting and present your findings to the board.

MR. SAUNDERS: That's correct.

CHAIRMAN STRAIN: That's all we're looking for.

Did you have something else, Bob?

MR. MULHERE: Yes, No. 9. Just for clarification purposes, we'd like to add the change -- change it to read "additional security sub-gates." So we're really talking about not the main-entry gates here, but the gates within the project.

And at the -- at the -- on the second line after the word "operational," I think we want to add, "and cost of installation shall be borne by the developer." Anyway --

CHAIRMAN STRAIN: Okay.

MR. MULHERE: -- within that sentence we'll make it clear that the cost shall be borne by the developer.

MS. ASHTON-CICKO: I don't think the word "sub" is necessary.

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: I was just going to bring that up.

MS. ASHTON-CICKO: Can you read the sentence again, Bob?

MR. MULHERE: Yeah. The way I proposed it --

MS. ASHTON-CICKO: Uh-huh.

MR. MULHERE: -- without the "sub"?

MS. ASHTON-CICKO: Yeah, please.

MR. MULHERE: Okay. "Additional security gates as designated in Exhibit E shall be in place and operational, and the cost of installation shall be borne by the developer prior to the issuance of the first certificate of occupancy in the" RC -- "in the R3 district of this PUD."

CHAIRMAN STRAIN: Brad?

COMMISSIONER SCHIFFER: You could write that better. I mean, must -- instead of the word -- just put at the beginning of the sentence, "the developer shall construct."

CHAIRMAN STRAIN: Could you pull your mike closer to you.

COMMISSIONER SCHIFFER: I mean, you could write that a little better by just putting "the developer shall construct additional security gates."

MR. MULHERE: Separate sections.

CHAIRMAN STRAIN: Anybody else through Page 50?

MR. McLEAN: Just to clarify on that No. 9 one there. Again, Matt McLean. I just want to make sure that if we're going to rewrite that with Heidi on that with reference to the -- to our client installing and paying for all those sub-gates, we want to make sure that there's not language tying to the requirement of installing both main gates at Oil Well Road and future Randall entrance before our first CO within the R3, because as the development progresses through there, you're not going to build both of those additional entrances to Oil Well Road and Randall immediately. You'll build them as they wrap around.

CHAIRMAN STRAIN: Well, you might want to tie the construction of those gates to the road system, if that's a better way to do it, than the COs in R3, because you're going to have them up there for construction entrance anyway. And if you're going to build the road for vehicle entrance of any kind, at the point that you're going to -- before you -- maybe before you get a final acceptance on the road.

MR. MULHERE: That would work.

CHAIRMAN STRAIN: Nick, does it matter?

MR. CASALANGUIDA: No.

CHAIRMAN STRAIN: Okay. Heidi?

MS. ASHTON-CICKO: I'm not clear on what the change is.

CHAIRMAN STRAIN: Okay. On No. 9, they're talking about the timing of when the security gates would be going in, and I think for those gates -- for any gates on the new road system, they would go in at the time their new road comes in for its acceptance.

MR. MULHERE: As opposed to the certificates of occupancy triggering it.

CHAIRMAN STRAIN: Right, because you can't get a CO without a road access. So the road's actually going to be first, so -- and that would be better timing for a gate than when you're looking at the buildings. You can't have a gate without a road, so it's a Catch 22.

Does that work? You're clear now, Heidi?

MS. ASHTON-CICKO: I'll have to check it, but, yeah. Are the two gates -- are the two new gates going in in the new roads only or some --

CHAIRMAN STRAIN: No. There's two gates going in, I believe, on -- are those existing roads where your two sub-gates are going to go.

MR. MULHERE: Yeah.

CHAIRMAN STRAIN: That's why I referenced to the new roads --

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: -- because that would clarify the timing of those gates. And on the --

MS. ASHTON-CICKO: Okay. I understand.

CHAIRMAN STRAIN: Okay. The two black dots on the north and south.

MS. ASHTON-CICKO: Okay.

CHAIRMAN STRAIN: So what would be the timing of the two red dots?

MR. McLEAN: The timing on the two red dots would be prior to the first CO within the R3 district.

CHAIRMAN STRAIN: We need to make that paragraph reflect that then, because you've got two different timings for two different sets of gates.

MR. McLEAN: Correct. That's why we're trying to include the sub-gate language with respect to that. So we just need to define both of those, the sub-gate timing and the main-gate timing through that.

MR. MULHERE: Internal and external would work.

MS. ASHTON-CICKO: I'll clarify the language.

CHAIRMAN STRAIN: Okay. Are you comfortable with it; are you comfortable with what we're asking?

MS. ASHTON-CICKO: I understand what's being asked, yes.

CHAIRMAN STRAIN: Okay. That's critical, thank you.

I did notice -- and if you could slide this exhibit over to the right a little bit -- you've taken the R22, which will be R2A, and you've duplicated it over to the left, which previously wasn't done on the previous master plan. Is your intention that you intend to minimize -- or set your minimum standards for building size at 1,250 square feet in that area as well?

MR. MULHERE: That's correct. The -- in the meetings with the applicants that was requested, and we agreed, and so that's why we revised -- all of the exhibits will be revised to show a larger -- the entire area that's hatched on that exhibit.

CHAIRMAN STRAIN: Okay. And in this master plan you're going to change that upper script 2 to A as well.

MR. MULHERE: Correct.

CHAIRMAN STRAIN: Now, those areas are platted, because I did look at your layout. So you've already verified then that this isn't going to compromise your platting that you've done to date?

MR. MULHERE: Yes.

MR. McLEAN: Yes, that's correct. Those areas are platted, and those additional hatched areas are the lots which our client currently owns, and they're comfortable with the additional restriction of the minimum of 1,250 square feet.

CHAIRMAN STRAIN: Well, that's good, and that's quite a bit above what you -- your previous minimum. Okay.

That takes us through Page 50. Let's go to the end of the document. Anybody have any remaining questions up through the end of the document?

MR. MULHERE: Page 51. The Planning Commission -- I think it was the Planning Commission, but anyway -- there was a requirement to identify in a document that there would be a specific homeowners' -- or homeowners' association for each of the -- for the new residential area.

And what we've proposed was to add a Paragraph E that would read, the R3 area, as identified on the master plan, will include homeowners' associations specific to their residential development, or to the resident -- that residential development. So the R3 area as identified in the master plan will include homeowners' associations specific to that residential development.

We can work with Heidi if there's, you know, something about that language that needs to be adjusted. But the idea is to have some language in here that identifies that there will be a separate homeowners' association.

CHAIRMAN STRAIN: Okay.

MR. MULHERE: And the only other change that I had, that I wanted to talk about, was the R2A section that you already discussed.

CHAIRMAN STRAIN: Okay. Go ahead.

MR. MULHERE: That's it, just that, you know, we kind of already talked about it, that --

CHAIRMAN STRAIN: Okay.

MR. MULHERE: -- that we'd expanded this area at the request of the residents.

CHAIRMAN STRAIN: Any other questions from the Planning Commission?

COMMISSIONER SCHIFFER: I just had one.

CHAIRMAN STRAIN: Go ahead, Brad.

COMMISSIONER SCHIFFER: And on Page -- ooh, I don't know which page it would be. It's your 3 of 4 in your buffer drawings.

MR. MULHERE: Yeah.

COMMISSIONER SCHIFFER: You did add that note, which is what we requested, but you didn't -- it's not in red, just out of -- if that's a problem. I mean --

MR. MULHERE: Oh, I don't think so. We added the note, but I don't think Heidi could get it to amend -- we did this probably. We did this for her, I would think.

MR. McLEAN: The exhibits, we have those as auto CAD files, which we corrected. You're correct, they're not red, but they were added per your direction.

COMMISSIONER SCHIFFER: Is there any other notes in the buffers than that?

MR. McLEAN: No. Just -- there's a note on each one of those which basically reflects that, and we included a location map in front of that as Exhibit --

COMMISSIONER SCHIFFER: Okay, good. All right. Thanks.

MR. McLEAN: -- C, I believe.

CHAIRMAN STRAIN: Okay. That's all the questions from Planning Commission?

(No response.)

CHAIRMAN STRAIN: Any wrap-up presentation from county staff?

MR. MULHERE: Oh, sorry.

MS. DESELEM: No, sir. Our recommendation remains the same. For the record, Kay Deselem. And we are accepting of all the changes.

CHAIRMAN STRAIN: I was just going to ask, they have no problems with your recommendations at this point?

MS. DESELEM: (Shakes head.)

CHAIRMAN STRAIN: Ray, are there any registered speakers?

MR. BELLOWS: No one has registered for this item.

CHAIRMAN STRAIN: Would anybody here to discuss the Orangetree application like to come up and address this? Go ahead, sir. Let's take the gentleman in the back first. He was fastest with that right hand.

MR. BISH: If I could, could I come over to this?

Good morning. My name is Troy Bish at 2212 Vardin Place in Valencia Golf and Country Club. I'm going to use this mike because I'm going to reference a couple things on their blowup again so we can discuss some of the latest things they just discussed.

On the interior security gates that were in negotiations with the Orangetree Associates, these two dots -- again, they're going to show as black on yours, orange on this one.

This first one here is within a residential area that's already completed. This gate in the back, this road, we don't need this gate until this road is getting ready to be tied in.

This first gate, with their language they have, they have these gates not going in until there's a first permit pulled in this new section over in here.

This infrastructure we already discussed and we know that they're going to come in and develop this R2A area along -- as well as along the Birdie where there are existing homes at this time.

So what we're requesting is that this gate be installed or money appropriated to the homeowners' association to be installed when this R2A is ready to be -- pull its first permit, for security purposes.

CHAIRMAN STRAIN: Just out of curiosity, if the R2A is within the area that's already built, which is the R2 --

MR. BISH: Right.

CHAIRMAN STRAIN: -- what security are you increasing for your existing area by gating them in like that?

MR. BISH: Well, because of the growth that's expanded in here -- I don't know how many homes they're planning in here. I think they have a little bit of flexibility with the homes they've got coming in here.

But this pre-existing -- because of the security concerns that we have at the first -- at the main-entrance gate that's existing now with the guard -- there's going to be some changes made there -- but this new interior gate, we would prefer that just with the additional construction traffic that's going to be coming through there and be able to monitor who's coming through and who's not coming through, keeping it separate from the golfers that we have no control over at this point. So --

CHAIRMAN STRAIN: You guys currently don't monitor the golfers when they come in?

MR. BISH: No, no.

CHAIRMAN STRAIN: Okay.

MR. BISH: So what we're looking for is -- when the first permit, if they attack this area first to develop, which -- in talking with this group, that seems to be one of their main things because the infrastructure's already in place. So it's going to happen a lot sooner than this R3 area over on this side.

CHAIRMAN STRAIN: Okay. Well, the applicant's going to have an opportunity to rebut after you-all get done speaking, and then we'll see what we have to -- how we're going to address that.

MR. BISH: That's fine.

The only other concern that we're having at this point, they have raised this R2A to 1,250 square-foot minimum. We're still requesting, as far as compatibility with the existing homes in this area, to be a minimum of 1,500 square feet, and especially over in this -- these cul-de-sac lots over off Birdie.

Existing homes already on Birdie wrapping around range anywhere from 4,400 square feet to a minimum of 1,500 square feet. We'd like the language to indicate that the remainder of these cul-de-sacs in this Birdie would be compatible with the existing neighborhood that's there now and be a minimum of 1,500 square feet.

The square footage they've put over on this side, we don't have an issue with. There's going to be a separate homeowners' association. So the R3 side of the development, the homeowners at this time don't have an issue with the square footage they're putting on except for this area right here. This street right there, when this goes in, because it's going to be out the back door and across the golf course of the existing homes, we would like the language there that those are a minimum of 1,250 (sic) square feet.

CHAIRMAN STRAIN: Okay. Thank you.

MR. BISH: Thank you.

CHAIRMAN STRAIN: The next gentleman that wanted to speak. Yes, sir. Please identify yourself at the mike, and -- when we ask for you-all to be sworn in, did you two stand --

MR. ANDERSON: Yes.

CHAIRMAN STRAIN: -- to be sworn? Thank you.

MR. ANDERSON: I'll just use this mike for -- briefly. I think the great words of Ronald Reagan are "Here we go again." I think this is, what, the third time we've been up here arguing the same thing.

MR. BELLOWS: State your name for the record.

MR. ANDERSON: Oh, I'm sorry. Howard Anderson, 1690 Double Eagle Trail, Naples, Florida, Valencia Golf and Country Club.

I urge you, once again, to vote this no. If you are property owners, which I assume all of you are, you looked very carefully at what you were buying into. I chose a planned community, not Golden Gate Estates. If you live in Golden Gate Estates, I mean no offense to anyone.

CHAIRMAN STRAIN: I live there, so be careful.

MR. ANDERSON: I'll be careful. I try to be careful. That was your choice. Okay. So you knew when you bought in that, it was zoned ag. It was absolutely buyer beware. You could wind up with a tent next to you.

We, the tenants of Valencia Country Club -- I know I'm supposed to speak to you only -- chose to live in a planned community. And now, for some reason, it's coming back up to the zoning board. I'm totally confused, but that's easy for me.

We talk about accountability. Let's try this the easy way. I live, as -- I think I showed last time we were here, I live right about here on this side. It's a 4,500-square-foot home. You want to put across from me a 1,250-square-foot home and that's not going to affect the value of my property? Think again.

Somebody has to be held accountable, whether it's the county or whether it's the builder or the developer.

My understanding from the last conversation we had here is -- and please correct me if I'm wrong, but I think it was Diane mentioned that Bolt has a history of going beyond and past what the contractual agreements or agreements of the zoning board have put in place. If that's a fair assessment, then why are we sitting here doing it again? Thank you.

CHAIRMAN STRAIN: Just for the record, you can't have tents in Golden Gate Estates.

MR. ANDERSON: Okay.

CHAIRMAN STRAIN: That I did check.

Okay. Are there any other folks that want to speak? Yes, sir. Come on up. Please identify yourself. I want to ask again, were you sworn in when we --

MR. HUERSTEL: Yes, sir.

CHAIRMAN STRAIN: Thank you.

MR. HUERSTEL: Eugene Huerstel at 1938 Par Drive in Valencia Golf and Country Club.

We appreciate living there, and we consider it a nice place. We like that the homes were built so that the values would stay up and that.

I guess, Mr. Chairman and the rest of the Planning Commission, I know that there's fine print in everything, and they can do maybe certain things in that, but I guess I would be for keeping the homes at 1,500 square feet. I think that's a good compromise. At this point when some homes are over 4,000 square feet, we do want to keep the values up. We know that they're going down. We take pride in our community. We'd like to keep it that way.

The other thing is -- I guess there's ordinances and -- that have been in place, and I would hope that maybe we could keep some of those ordinances, instead of coming back and changing, say, well, let's see if we can push it this far and see how much we can get and stuff.

I realize that people need to -- we want to have a good community and that, but you need to work for the people on this one, be considerate of the people.

I like what you brought up, Mr. Brougham, about having an area where the trucks and everything go in. You're considering the people and what they think about. And I know Diane has said some stuff, too. And all of you need to think about -- it's got to be about the people now. We're getting away from personal rights and freedoms and that, and I would really appreciate if you would consider us.

And I know that people can do what they want and they make a good point and stuff, but I would be for the ordinance as-is, not all these changes and stuff.

And I would appreciate your consideration. Thank you.

CHAIRMAN STRAIN: Thank you, sir. Will the lady that wanted to speak please come up.

MS. MILN: Sir, I have not been sworn in.

CHAIRMAN STRAIN: Okay. That will be our court reporter's duty.

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

MS. MILN: Good morning. My name is Susan Miln, 1716 Birdie Drive.

I've been up here several times. I thought I wasn't going to come back up here again, but here I am pleading with you, once again, to please consider the effect that this will have on the families that are there now. Seeing that the economy has changed in the downward position, I don't understand all the commotion that's going to happen within our neighborhood.

We contracted a single-family development. Our homes are a much different structure than what's planned on being built at this point.

I came in with the understanding that I was aware that there were condos going on that R2, noted 2 area there by the golf club. I was aware that there were condos going there. That was pointed out to me when I purchased my home. At that time the homes were way over a half a million dollars.

The condos that were projected to go in there were probably in the range of \$350,000 at 1,200 square feet. At this point they can't be priced higher than \$100,000, in my eyes, because we can't sell the homes that are close to \$100,000 at this point, being brand new.

We have, once again, over 50 people not paying their association dues in there. We are in distress in that neighborhood. There will be many foreclosures, many short sales to come because of the distress that we're in at this point.

I don't understand the growth that's going in. I'm totally opposed to it, probably because of what I contracted into. It's like my contract doesn't exist, and I'm hoping that I could change my contract after this is all over. And if it is approved, maybe I'll seek legal to find out if I can change my contract that I contracted into.

If -- I have a concern for the children. I have a concern for the construction, the construction entrances and exits. I live on Birdie Drive, not too far from this gentleman over here that has a larger home. I also have a larger home.

The construction trucks go down my street and around Birdie to build their project. And we have asked DR Horton in the very beginning, could you please run your trucks down the other side of Birdie where there is no homes,

and that was always neglected. Why, I don't know. There was never homes on that street. The construction always went down First Street to the left, right down my street.

There's very heavy-duty vehicles going down that road. There are very many, many children on that road. My children are grown, but I have big concern for the little kids in my neighborhood. I have a big concern for the elementary, middle school, and the high school children that are going to have construction vehicles on that end also.

Everything is tore up out there. There's no security. There's not enough security out there at this point. I don't understand. I could only plea that if you haven't been out there, how could you please justify your decision without being in our area and see what the lifestyle is out there at this point? It's pretty scary.

Thank you for letting me speak. Thank you for the work that you do. But, please, if you haven't been out there, your decision is going to affect my -- me and all my neighborhood. So thank you very much.

CHAIRMAN STRAIN: Thank you.

Anybody else wish to speak?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll ask the applicant then. Do you have any rebuttal comments that you would like to make, Burt or Bob?

MR. SAUNDERS: Yeah. Just a couple quick things.

In terms of the security gate to the south there by the R2A area, we have no problem in installing that gate as requested by Troy Bish. There is some question about the funding for that, and we'll work something out with the homeowners' association between now and the next meeting.

And then one other clarification. Again, back on Page 43, we're eliminating the language dealing with the repairs to the road. I just want to make it clear that you're -- assuming that you vote for approval of this, that agreement is not a condition of your approval. We will negotiate something with the homeowners, but we don't want to have a situation where that's a condition of approval.

CHAIRMAN STRAIN: We already said it wouldn't be.

MR. SAUNDERS: Okay. I just want to make sure for the record.

CHAIRMAN STRAIN: What we're trying to do is we're going to stipulate it as a request that should be presented to the Board of County Commissioners. Let them decide if they want to make it as part of a condition.

MR. SAUNDERS: Thank you, Mr. Chairman. I just wanted to -- again, just wanted to clarify that.

And then again there were a couple other items that we were discussing with Mr. Bish outside. So as we go through the discussion, there may be a couple other items that we've agreed. I'll have Mr. --

CHAIRMAN STRAIN: Okay. There is no other discussion. When you get done, we're going to close the public hearing and entertain a -- or have discussion and entertain a motion. So whatever you needed to get on record now, you need to do now.

MR. McLEAN: For the record, Matt McLean again. We have discussed with Troy the comments that he had out there. And we're in agreement to limit this area in here to 1,500 minimum, and this section through here on the east side of the existing roadway to 1,350, as well as this first sub-gate location, place a condition of approval that that sub-gate will be installed prior to a CO inside of the R2A area that's the 1,350. That's what we went back through with Troy. And I would like Troy to come back up and -- at least on the record.

CHAIRMAN STRAIN: I don't need Troy to come back up on the record. You've already stated what you're going to do. It's up to us to make the decision. But let me understand what you're -- put that back up, please.

R2 -- the R2A section to the west will be 1,500 feet, and the R2A -- I mean minimum. And the R2A section to the east will be 1,350, and the gate will go in prior to CO in any of the R2A sections; is that correct?

MR. McLEAN: Any of the R2A sections that are within the 1,350 limited area.

CHAIRMAN STRAIN: And any of the R2A in the east?

MR. McLEAN: Correct.

CHAIRMAN STRAIN: I don't know how else -- unless we start putting more acronyms in there like R2B or -- I'm not even going to --

MR. McLEAN: We'll have to work that out with Heidi. I mean, if it comes in to where we have to define it as an R2A section and R2B section --

CHAIRMAN STRAIN: I don't -- I don't want to see that happening, because then we're going to change the development standards table. I'm trying to keep this simple. But every time Bob lately touches a project, it gets real

complicated.

COMMISSIONER EBERT: Oh, you noticed that, too.

COMMISSIONER SCHIFFER: A question I have, Mark.

CHAIRMAN STRAIN: Go ahead, sir.

COMMISSIONER SCHIFFER: Those square foot that you gave us are in excess of the current PUD, correct?

MR. McLEAN: That's correct.

CHAIRMAN STRAIN: Current PUD -- yeah, the current PUD is a thousand square feet, which --

COMMISSIONER SCHIFFER: That's what I see.

CHAIRMAN STRAIN: The gentleman who talked about the tent in Golden Gate Estates, the thousand square feet would have -- was in the original PUD, so you guys have gone above and beyond that thousand in some cases by 50 percent.

MR. McLEAN: That's correct.

COMMISSIONER EBERT: I have one question.

CHAIRMAN STRAIN: Yes, Diane.

COMMISSIONER EBERT: Could you please explain -- in the memorandum on doing this, you want to delete the environmental commitments. Could somebody please explain that to me?

MR. MULHERE: Yeah. We discussed that at one of the previous hearings.

CHAIRMAN STRAIN: That was at the first meeting.

MR. MULHERE: That's just a title that the staff prepared for -- and approved for advertising purposes. When we said delete the environmental conditions in that title, the environmental conditions are being deleted because they have either been fulfilled or they apply through other policies and ordinances or through the Land Development Code.

There is a -- consistently the Planning Commission has eliminated duplicative language in PUDs, and that language, if it's already required somewhere else, shouldn't be in this PUD. That's why much of it was eliminated. So every single environmental condition that was in the original PUD has either been adhered to or will be adhered to.

COMMISSIONER EBERT: Okay. So the black areas that you have here on your map, that will be your --

MR. MULHERE: Preserve.

COMMISSIONER EBERT: -- acreage for preserve. Okay. Thank you.

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

(No response.)

CHAIRMAN STRAIN: Okay. With that we'll close the public hearing, and we'll entertain either discussions or a motion, whichever way this board wants to go. Anybody?

COMMISSIONER EBERT: I would like to.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: I will be voting against this today, and the reason for it is, if this was -- this was done 25 years ago as a settlement. This was a very special piece of property. The people that bought in Orangetree, it was supposed to be a very low density, 2,100 homes, and they bought into a lifestyle and a timeline.

I know market conditions are not good now, but this developer had 25 years. He had a great timeline to do these. He went beyond the absorption schedule by ten years.

Had he come to us in 2002 when he originally started this out -- the market was doing just great at the time, and we would have -- this would have probably been completely different.

I understand there is quite a bit of distressed properties there that peo- -- that the people that are left there have to make up a lot of the payments to Mr. Bolt. And I had asked at the last meeting, if -- show me the need, and they did not show me the need for the homes or for the commercial property.

I went back and I looked, and in 25 years that you had -- that he had it, out of the 2,100 homes, there are still 623 to be built. In the new absorption schedule, I see that they're going to do 53. I figured 59, 60 homes a year. Just to finish the 623 that are not done yet is going to take another ten years. And adding these other homes in there at this time, I just -- I just can't see it. It'll take people's property values even down more.

As far as the commercial, you have 22 acres of commercial in there already and 60,000 square feet. In 25 years you only have one tenant, which is E's Gas and Convenience Store.

I remember when the ranch portion came on, in reading that, that people were very much in favor of that because they figured that is going to be 44 acres and 200,000 square feet of commercial. They were hoping for a grocery store desperately.

At this time, in looking at what has already been approved there, you have Randall Boulevard at 401,000, you have Orangetree at 200,000, you have yourself at 60,000, and within 4 miles you have the Golden Gate on Wilson. That's 851,000 square feet. You want to add another 272-, which would make it over a million.

When we were doing the last one, we figured that the commercial places that are vacant right now, it would be till 2030 before they could even be filled.

So I just want to let you know I would be voting against this today.

CHAIRMAN STRAIN: Any other discussion?

COMMISSIONER BROUGHAM: Mark, I have a comment.

CHAIRMAN STRAIN: Go ahead.

MR. BROUGHAM: My concern with this petition centers around what I've already discussed -- and we've had some concessions and movement -- and that is, you know, the protection of the current residents and owners in Orangetree, you know, from the increased or planned increase in construction traffic and potential damage to roadways and so forth.

We listened to the residents over three sessions here express their concerns about the lack of concern in the past on the part of the developer, and it ranged from security issues to HOA issues to clubhouse issues and so forth.

Over the last three hearings, I've seen considerable concessions, in my opinion, and a realization on the part of the owner/developer that he must pay close attention to the concerns of the current owners, because they are the best customers and the best salespeople for future residents to come in there. And I'm encouraged by the concessions that have been made over the -- these last three hearings.

I have changed my opinion from initially. I was -- I saw many negatives, but I am going to vote in favor of this, because I do appreciate the concessions that have been made. I think that they have gone a long way to alleviate the concerns of the residents as long as they are followed through. But I would encourage you to continue to pay close attention through your current owners.

That's all I have to say.

CHAIRMAN STRAIN: Anybody else?

COMMISSIONER SCHIFFER: I'll make a motion.

CHAIRMAN STRAIN: Well, let me finish with a statement first. I want to read the changes that we just discussed, at least the more intense -- we went through the document and cleaned up a bunch of small language. There's some points that I wanted to make, though.

Number 1 is that they -- between now and the BCC meeting, the applicant is requested to work with the homeowners to come up with the solution to the road-damage issue and discuss that at the Board of County Commissioners' hearing.

That is -- and then Section 11.02.(C)(8) is the section in reference, and that has been noted as being too vague to be enforceable, and that's how that issue came up.

Number 2, there are -- gates and the timing are going to be amended to what we discussed, and the developer will pay for those changes and the gates.

Number 3, the R2 will be -- R2, upper script 2 will be referred to as R2A. There's going to be an HOA reference added under the R3 section.

Under the MUU they're going to add language concerning a recreation area and limitation of R uses in the panhandle.

Number 6, they're going to install a security gate to the south -- the sub-security gate, it may be called -- prior to the CO of units in R2A to the east. There's a lot of direction here.

R2A to the west will be a minimum of 1,500 square feet. R2A to the east will be a minimum of 1,350 square feet.

Now, that's the stipulations that are more noteworthy in regards to today's walk-through of the document. The document encompassed dozens of stipulations we have made over the last two meetings. This board -- this is our third meeting on this and our final.

The motion maker, if -- whatever motion is made is going to be both acknowledged as the final for this

meeting and consent as well.

In deference to the discussion that just occurred, this is a zoning board. The only matters this board is supposed to be weighing in on are matters relative to the Land Development Code and Growth Management Plan and zoning.

It's fine there was a settlement agreement. There have been many legal documents and issues involving that settlement agreement. That's outside the realm of this board. We can use it as a reference, but that's not a reason to vote.

The developer in this case has gone far beyond any I have seen in recent years on this board to compromise. This is a much better program. We have all -- always encouraged density in urban areas. We have discouraged urban sprawl. This settlement is an urban area, and it's -- if it becomes a viable urban area with good commercial with more opportunity for homes to be built, your property values will increase because it's going to be more convenient. You will have a self-contained community or more self-contained community.

By not allowing those expansions of those changes with the market and changes with our demographics and society, it is going to do more harm in getting your development to be -- how do I say -- acceptable or progressive.

So I think the changes announced are worthy of approval. I think that they are better than the compatibility that currently exists, developer could go in with thousand-foot units everywhere, and he's agreed voluntarily to increase those unit sizes to standard above the current minimum. And the only changes are areas far to the east separate from the current built areas.

So I can't see where some of the -- where some of the concerns have been. I firmly believe this is a better opportunity for this development than a lease -- the less opportunity.

Much of the control that you are concerned about, or some of it, is addressed in these new amendments. Some of it this board can't do anything about. We are -- HOAs and how they're operated and how your gates are operated and how the clubhouse is operated is beyond the terms of zoning. It's not our board.

So we're sticking to what the Land Development Code and the GMP allows us to be involved in.

And that's mostly why I'm going to be voting for approval if the motion is made with the stipulations that I've previously announced.

So with that, Nick?

MR. CASALANGUIDA: Mr. Chairman, one housekeeping item you asked for -- the transportation brought up -- just to give you a presentation real quick about the sidewalk connections.

CHAIRMAN STRAIN: Yes.

MR. CASALANGUIDA: If you want that real quick, we can take care of that.

CHAIRMAN STRAIN: Go right ahead.

MR. CASALANGUIDA: Very good.

CHAIRMAN STRAIN: This is for information only because the county's responsible for getting this accomplished anyway, so --

MR. CASALANGUIDA: Mr. Chairman, Commissioners, this is Oil Well Road. It's going to a four-lane condition, and there are sidewalks on both sides, with the signalized crossing at Corkscrew Middle and Elementary School here, the current Orangetree PUD.

Existing under construction area here, Palmetto Ridge High School, sidewalks on both sides with crossings along the way, signalized intersection there with crosswalks there, sir.

CHAIRMAN STRAIN: Great.

MR. CASALANGUIDA: Thank you.

CHAIRMAN STRAIN: Thank you. Okay. Any other discussion? If not I'll be -- Brad, you want to make a motion?

COMMISSIONER SCHIFFER: I'll make a motion that we forward PUDZ-2003-AR-3608, the Orangetree PUD, with a recommendation of approval.

COMMISSIONER BROUGHAM: I'll second that.

CHAIRMAN STRAIN: Motion made by Commissioner Schiffer, seconded by Commissioner Brougham. Discussion?

(No response.)

CHAIRMAN STRAIN: Brad, is that subject to staff stipulations and the stipulations that I just read into the

record based on the changes made this morning?

COMMISSIONER SCHIFFER: Yes.

CHAIRMAN STRAIN: And the second accept those?

COMMISSIONER BROUGHAM: Yes, I do.

Heidi?

MS. ASHTON-CICKO: I can have a document at the end of the meeting if you'd like to see it.

CHAIRMAN STRAIN: I think your abilities to correct things are -- I'm comfortable with them. I think we're very clear today in the few remaining items.

Anybody else have a -- okay. All those in favor of the motion, signify by saying aye.

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

COMMISSIONER EBERT: Aye.

CHAIRMAN STRAIN: Motion carries 6-1.

Okay. Thank you all. I appreciate all the input from everyone in Orangetree, and I especially appreciate the cooperation we've seen from the developer and his staff. So thank you all.

And with that, we'll take a break until 10:30 and resume with the NABOR application.

Just one moment. If there is a gentleman here by the name of Chip Block -- I don't know. I don't think I've ever met the guy. I'd like to have -- I'd like to talk to him for a moment at break. Thank you.

Okay. Thank you, Ray.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay, everybody. If you'll please take your seats. It's 10:30. We'll move on with the meeting.

***Okay. The next item up is a conditional use PL2011-0855. It's the NABOR building.

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. Anybody?

COMMISSIONER BROUGHAM: None.

COMMISSIONER HOMIAK: No.

CHAIRMAN STRAIN: Okay. I spoke with Bill Poteet yesterday at the county offices. Basically we discussed a couple issues that I'm going to be bringing up for discussion this morning, at least one issue.

Okay. With that, does the applicant want to make a presentation?

MR. URBANCIC: Yes. Thank you, Mr. Chairman. Good morning, Planning Commission members.

Greg Urbancic, attorney on behalf of MSL of Naples, along with Wayne Arnold from Q. Grady Minor & Associates, will be presenting today.

We're going to be discussing the building located at 1455 Pine Ridge Road. Sketch up there just to give you a property location so you know where it's at.

This is the -- even though it's only by MLS of Naples, it is the Naples Area Board of Realtors' building. We're seeking conditional uses 4 and 5 under the C1 zoning district which would allow for churches, civic, social, and fraternal organizations.

Nothing is changing in terms of the Board of Realtors' uses. These would only be subordinate uses to what we do today.

And, frankly, we're just taking a proactive approach, because this building was built in the early '90s. I think it was finished in 1993, and we've been renting our conference center and training center since that time. And so we felt it was a little gray to make sure some of the things that we were doing and some of the organizations we were renting to -- we just wanted to be proactive as realtors and come in and make sure that we were compliant with the LDC.

We have 295 seats in the conference center and training center that are used. Most often, as -- if any of you have been there, these are used for training of -- on real estate issues and other educational programs. But we have had, historically, some other uses, and that's the reason for the petition today.

As mentioned, these proposed conditional uses will be off-hour and incidental uses of the property. And, again, we just want to be proactive.

The building is a place where we have many functions, so these civic functions would -- we believe would be compatible. We think we're compatible with surrounding uses. We're sandwiched in between two commercial shopping centers, and we're also in close proximity to Pine Ridge Middle School.

And, again, staff has offered a few conditions that, I believe, were in your packet. We have no objection to conditions -- those conditions. There was an additional condition. I don't know if it made in into your packet. It was a Condition No. 4 regarding limiting church services to occur only during off-peak hours. We don't have an objection to that condition as well.

A little wordsmithing that we thought on that condition. And if -- Mr. Chairman, if you'd like, I could put that up on the monitor.

CHAIRMAN STRAIN: Sure.

MR. URBANCIC: Okay. Those were the conditions. Number 1 through 3 are exactly as staff has proposed. Condition 4, we just thought it probably made more sense in terms of enforceability and understandability for everybody if we just put a period after the word "hours" and that the church services will occur during only off-peak hours, which, historically, when we have had church organizations there, that's when it's been. So that's not a concern to us whatsoever.

With that, if there are any questions, Mr. Chairman.

CHAIRMAN STRAIN: Questions of the applicant?

COMMISSIONER EBERT: No.

CHAIRMAN STRAIN: You actually -- in conditions for approval at No. 4, the language you crossed out is the language that your office provided to county staff in the application. Did you not mean to provide that in the application?

MR. URBANCIC: No, I think that -- I think that's true. I just don't know how you would -- in terms of listing conditions for approval, that seemed to be, in terms of readability, enforceability, it seemed to make, you know, most logical sense in terms of wordsmithing a condition.

CHAIRMAN STRAIN: Nick, my concern, and the only thing I mentioned to Bill about, was the fact that they aren't -- they -- in their application they said they would be on off-peak hours, but there was no limitation, because they wanted it 24/7, that they're limited to off-peak hours. I think this does that.

But I'm also concerned that even if off-peak hours does -- do have some operational or significant impacts on Pine Ridge Road, if you take out that kind of language, would we still be able to require them to augment their traffic control with off-duty officers or anything like that?

MR. CASALANGUIDA: Not if you take out any language. But, sir, I'll be honest with you, that location, with that commercial center and the school, if they're in off-peak hours -- that's a signalized intersection to the east of the project. Pine Ridge is six-laned. It's an urban area. I don't expect any problems from this use and -- based on the number of seats they're providing.

CHAIRMAN STRAIN: Dropping that language has no impact on you then?

MR. CASALANGUIDA: I'm very comfortable with the location and the geometry and -- the way that property's designed.

CHAIRMAN STRAIN: Okay. Thank you.

Anybody else have questions of the applicant?

(No response.)

CHAIRMAN STRAIN: Thank you, sir.

MR. URBANCIC: Thank you.

CHAIRMAN STRAIN: Is there a presentation by county staff?

MS. GUNDLACH: Good morning, Commissioners. I'm Nancy Gundlach, principal planner with the Department of Land Development Services.

And staff is recommending approval of the NABOR building conditional use. It's consistent with the Land

Development Code and the Growth Management Plan.

And just for your information, Condition No. 4 has been -- been developed within the last 24 hours. And so it will read -- thanks, Ray.

It will read as shown on the visualizer. And it states, as stated in the petitioner's application, the church services will occur during off-peak hours.

CHAIRMAN STRAIN: Okay. Thank you, Nancy.

MS. GUNDLACH: You're welcome.

CHAIRMAN STRAIN: Any questions of county staff?

COMMISSIONER SCHIFFER: No.

CHAIRMAN STRAIN: Thank you.

Okay. Are there any members of the public registered to speak, Ray?

MR. BELLOWS: We have one speaker. William Poteet.

CHAIRMAN STRAIN: You have an opportunity to make this difficult.

MR. POTEET: I shall waive.

CHAIRMAN STRAIN: Good choice. Thank you.

Anybody from the public wishing to speak on this item?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll close the public hearing and entertain a motion.

Is there a motion from this board?

COMMISSIONER AHERN: I'll make a motion.

CHAIRMAN STRAIN: Go ahead, Melissa.

COMMISSIONER AHERN: To forward CU-PL2011-0855 for approval --

COMMISSIONER HOMIAK: Second.

COMMISSIONER AHERN: -- and including condition No. 4.

CHAIRMAN STRAIN: With the conditions of approval recommended by staff at presented at today's meeting?

COMMISSIONER AHERN: Correct.

CHAIRMAN STRAIN: Seconded by Ms. Homiak.

Is there discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER KLEIN: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: The motion carries. What are we, 7-0?

Thank you. And that's -- that's typically how our conditional uses go, which brings us to our problem child here today.

***The next petition up is Petition CUPL-2009-1412, the Alico Land Development, Inc.

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

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

CHAIRMAN STRAIN: Disclosures by the Planning Commission?

Brad, we'll start on your end.

COMMISSIONER SCHIFFER: I have none.

CHAIRMAN STRAIN: Anybody?

COMMISSIONER MIDNEY: I spoke with some residents.

CHAIRMAN STRAIN: Okay.

COMMISSIONER AHERN: I have none.

CHAIRMAN STRAIN: Melissa? Karen? Diane?

COMMISSIONER EBERT: Nothing.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: Nothing.

CHAIRMAN STRAIN: Okay. I spoke with the members of the Conservancy, or -- let's see. Nicole and the lady that was with Nicole. I think she lived in Immokalee, but I don't remember her name. I also spoke with the applicant and two of their representatives.

I've had a series of, as all of us have, copies of correspondence going back and forth between county staff and Lee County. I spoke at break with members of the Lee County staff who are here.

And just so we can go forward in a clear avenue -- first of all, I'm -- when this started I had no idea that it was as controversial as it's turned out to be, and I welcome all of you that have attended today, and everybody will be -- we will seek to listen to everybody. We'll make sure you all get heard. I don't know if we'll finish today, but we'll try to get through all the speakers today.

So, you know, all of you wishing to speak, we're not here to rush you through. I ask you be considerate of the time and that if you have -- if someone before you said something, we -- redundancy is something we don't really need. We understand the points made usually.

With that in mind, we also have a contingent from Lee County here. We have an intergovernmental coordination element of our Growth Management Plan, and it does require us to cooperate with adjoining municipalities whether they're within our county or whether they're outside or adjoining to our county.

Through that plan we have a series of interlocal agreements that also require us to work with them, inform them, keep them coordinated with what we're doing. In that regard, we will have a presentation from Lee County after staff's presentation today.

Normally we allow speakers five minutes as a minimum, if that's what they want, and then we allow people to go a little bit longer if they stay on focus. Lee County has a series of speakers that they were going to bring in. Instead they're consolidating their time into one presentation. And then we will be asking questions of them, just as we've asked everybody else.

So that's kind of the ground rules for today. We will break at close to noon for lunch. We'll come back after one hour, resume in the afternoon. But I can assure those here today who have traveled a distance, we're going to try to get all of the public speakers up today, and if we do run out of time, it will be after that, I would assume, and we will go to about five o'clock, as we usually do.

So with that in mind --

COMMISSIONER EBERT: Mark?

CHAIRMAN STRAIN: Yes.

COMMISSIONER EBERT: I do have one thing.

CHAIRMAN STRAIN: Diane.

COMMISSIONER EBERT: I'm sorry. I did speak with Nicole Johnson on this.

CHAIRMAN STRAIN: Okay, thank you. If you want to -- the applicant want to make its presentation, we'll start there.

MR. SCHROTENBOER: Problem child? I haven't been called that since my mother.

CHAIRMAN STRAIN: Well, this one kind of snuck up on me. I didn't realize the intensity of it until after we got into it, so --

MR. SCHROTENBOER: Like I proved to mother, I think we'll prove that wrong as well, Mark, so -- for the record, Don Schrottenboer, president of Alico Land Development, the applicant.

Thank you, Chairman Strain and fellow commissioners, for the opportunity today to present this petition for the Lost Grove Mine, and in advance I'll also thank you for your patience, because it looks like it's going to be quite a long day for all of us here today. So thank you.

Chairman, perhaps a couple housekeeping items, if we might, just for clarification before we get started. Really, the first one is your preference on how you wish to handle questions from yourself and your fellow commissioners during the presentations, whether you wish to do it after each presenter has concluded with their

portion of it or whether you would rather -- prefer to wait till the end and ask them all at one time.

CHAIRMAN STRAIN: If someone on this panel has a question that is -- that might be lost if they wait too long, they'd more than -- we'd like to use -- utilize the time after each speaker.

MR. SCHROTENBOER: Great.

CHAIRMAN STRAIN: I'll probably try to hold mine off until the end, because I have quite a few, and I can then work through the various elements at that point, so we'll see where it goes.

MR. SCHROTENBOER: Perfectly fine. Thank you for that clarification.

And also, as you've already pointed out, and despite -- you know, their not having any legal jurisdictional standing in today's hearing -- as you pointed out, Lee County is doing a presentation -- and as the applicant, we would like to reserve the opportunity to ask additional questions and provide some further testimony after that presentation, if we could, sir.

CHAIRMAN STRAIN: Yes. And I also think that -- Mr. Anderson asked for ability to cross-examine, that is -- that is fine. That will -- that can occur.

MR. SCHROTENBOER: Thank you, sir.

CHAIRMAN STRAIN: And I would request that you wait till each individual speaker of those from Lee County finish before you proceed with your cross-examination.

MR. SCHROTENBOER: Absolutely.

CHAIRMAN STRAIN: Thank you.

MR. SCHROTENBOER: Thank you. Alico Land Development, as I said, as I'm president of, is a wholly owned subsidiary of Alico. Alico is a privately-held company and has been in existence for 62 years and is -- most recently has moved into the Fort Myers area with its headquarters.

Alico has an extremely strong recognized history of being outstanding stewards of the land and the management of their lands. Alico is one of the leading landowners in the preservation of the panther, being a very active participant in the Florida Panther Protection Program right here originating out of Collier County and beyond.

Alico has sold and/or donated over 65,000 acres of land either to the state or various agencies, including land within the CREW that it donated a number of years ago as well.

Today Alico owns approximately 100,000 -- pardon me -- 180,000 acres in five different counties. Approximately 12,000 of those acres are right here in Collier County, of which we'll be talking about one of our pieces of property today.

Alico also has land holdings in Lee County, some of which are located in the DR/GR. And you will be hearing an awful lot today about the DR/GR. And the DR/GR, for those who obviously are present and may not have heard of that acronym, which might be the majority of you because Lee County has really not been forthcoming to other counties regards to their land use in regards to the DR/GR -- but the acronym stands for Density Reduction/Groundwater Recharge.

And I guess the sad part about that whole thing is that we are going to spend today a tremendous amount of time hearing about the DR/GR and how you should utilize that in your decision making.

It's sad for a couple reasons. One is because the DR/GR has been around for -- existence for a number of years but has most recently gone through a Comp Plan amendment in Lee County. And to the best of my knowledge -- and you will see a timeframe of the DR/GR presented by Lee County -- nothing in that time frame, including public hearings, was in any action with Collier County to bring you up to date of what they were doing to implement restrictions within their plan.

CHAIRMAN STRAIN: Don, just -- are you able to keep up okay? Yeah, she's trying to record everything, and we've got to be a little aware of the speed in which we speak. So you're moving pretty fast.

MR. SCHROTENBOER: Yeah. I know you're guilty of that as well.

CHAIRMAN STRAIN: Yes, I am. And if it wasn't for Terri being here today, and Cherie, Cherie would be on my case already. So, thank you.

MR. SCHROTENBOER: Good. You know, the second disappointment with that is that, because we are going to spend so much time today or you will be hearing about the DR/GR, it's really a -- it really doesn't come into play, because you as the Planning Commission cannot legally judge another county's Land Development Codes or Growth Management Plan against a project that is in an abounding (sic) county.

So we wish you the best with your patience about learning about the DR/GR and its implications and what it

is about, but there is really no play in today's hearings regarding the DR/GR in your decision.

Before I go too far into the presentation, let me introduce the rest of our Lost Grove Mine project team: Our legal counsel present today is from Roetzel & Andress, and that is Bruce Anderson and Bob Menzies; addressing our engineering, environmental, and compatibility issues is John English, Tim Durham, and Margaret Perry from Stantec; addressing the mining operations is Dennis Rosa from Dennis Rosa & Associates, some 30-plus years in mining operation experience. Our hydrologist is -- for Schlumberger Water Services actually directed by Scott Manahan, and addressing our transportation issues today is Ron Talone from David Plumber & Associates.

Although not part of our main presentation today, we also have present to provide testimony or rebuttal, and that is Jeff Straw from Geosonics, who is a blasting expert, as well as Dave Depew from Morris and Depew, who is an -- expert testimony in the DR/GR.

The subject property of Lost Grove Mine is located on the far northwest corner of Collier County, and it is completely contained within the Rural Land Stewardship Area, the RLSA, an acronym I'm sure you're fully familiar with.

The mining boundary encompasses 1,382 acres, of which approximately 50 percent or 693 acres will actually be mined.

Under the baseline standards of the RLSA, mining is an allowable use. The Lost Grove boundary is inclusive of a larger piece of property that Alico holds, and I think I can show that a little bit better on this map. The black line that you see encompasses -- whoops, I'm sorry. I don't know if that was my jacket or -- pardon me for that.

The black line that -- you can it, encompasses the boundary of the entire piece of property, which is 4,642 acres. Over 75 percent of this property is an active orange grove, has been in (sic) over 25 years, and that is inclusive of the mining portion of this application as well.

The Lost Grove Mine property is identified on the screen that you can see here. The boundary for the mine is kind of outlined in red that you can see. The blue indicates the mine lake, proposed mine lakes areas, the light yellow in the center is the operation center, the green is preserve native vegetation that will remain, the hatched yellow line along the two perimeters are the proposed setbacks, and the remaining uncolored area is open space.

As can you see, the Lost Grove Mine property is bound to the west by Lee County, to the south by Corkscrew Road, and to the north and to the east by our own property, which is obviously a good portion of our citrus operation.

The property is bisected by State Road 82 to the north and to County Road 850, Corkscrew Road, to the south.

A fairly extensive community outreach initiative commenced a little over two years ago for this project. The information on the slide, I know, was part of the packet, was an information piece that was part of the packet that you received in advance of the meeting. But, in general, it's a chronological list of the outreach among environmental groups, agencies, and neighbors over the past two years.

As you will note, there's been several meetings with the Florida Wildlife -- Wildlife Federation, Collier County Audubon, Defenders of Wildlife, two meetings with the CREW board, as well as two neighborhood meetings, one with Lee County residents and one with Collier County residents.

One additional meeting recently took place. That is not included on this list. On October 13th there was a meeting held between the Collier County staff, Lee County staff, and us as the applicant to discuss the Lee County's proposed conditions. Needless to say, unfortunately, this meeting was less than productive or satisfactory. Lee County, unfortunately, pretty much sat on their hands, indicated that they were unable to have a constructive dialogue with us regarding our proposals to -- or settlements to or proposed settlements to their conditions because they had to report to a higher authority.

Keep in mind that this meeting was requested by Lee County, and they brought five staff down to Collier County for that; however, despite that disappointing meeting, the community outreach over the past two years has proved beneficial in addressing numerous capabilities or compatibility issues, which most of them, if not all, are contained in the proposed conditions that your staff will present to you and you'll hear more about later in this meeting.

Unless there's any questions of me at this time, I'm going to turn it over to John English to begin the full-depth presentation with a project overview.

CHAIRMAN STRAIN: Anybody have any questions that need to be asked now?
(No response.)

CHAIRMAN STRAIN: Thank you.

MR. SCHROTENBOER: Thank you.

MR. ENGLISH: Good morning. For the record, my name is John English. I'm a licensed professional engineer with WilsonMiller Stantec, and I'm going to continue on this morning by giving you a project overview and talk about surface-water management.

I thought I would start by -- I thought it might help to explain how we created the land plan for this project.

We began by identifying the area that had the best and most suitable material for use to be mined. We then looked at the existing native vegetation areas that are being -- currently being used for reservoirs in the agricultural system, and they are identified as WRAs in the rural lands mapping. We set those aside to keep those. We then identified two logical points of entry to the property to support the use. You can see there's one proposed on Corkscrew Road as well as one from State Road 82.

Next we identified an ideal centrally located operations center and route to the required scale house to connect to the entry points. And then what was -- then we crafted the lakes around those areas.

It's important to note that we are proposing a lake edge that is set back 300 feet from the surrounding property lines, which is to the west -- to the west and along Corkscrew Road. North and to the east is internal property lines that have no setback requirements.

We also are proposing to provide an enhanced berm along those same edges. That will include a -- an enhanced berm -- or buffer that will include a landscape berm, and that will be discussed later in the presentation.

So as mentioned, we have 693 acres of mining, lakes. We provide the required native vegetation, propose a 300-foot setback from adjacent properties, enhanced landscape, and we meet all applicable standards of Collier County.

It's important to note that we have applied for and received an environmental-resource permit from the Florida Department of Environmental Protection. That was obtained on -- in May of this year.

Next I'm going to talk to you a little bit about the current condition or the pre-mining condition. The topography of the site ranges -- the high point is in the northwest. The low point is to the southeast. And so naturally that is the pattern of drainage on the property, from the northwest to the southeast. It is currently an agricultural operation. It's citrus. It has a water-management system that operates under a permit obtained from South Florida Water Management District in 1979.

And generally how it works, citrus trees are arranged in blocks. The blocks are surrounded by drainage ditches. The drainage ditches convey stormwater runoff by gravity to downstream rim ditches that circle the reservoirs, which is where stormwater is stored. Stormwater is pumped out of the rim ditches into the reservoirs where it is stored until it can be released through gravity control structures.

That water is released downstream heading south and east to the Corkscrew Road right-of-way where it then crosses under Corkscrew Road through existing culverts and then through cut ditches into the CREW area adjacent.

The mining phase. How the water-management system will work there, runoff will be conveyed to the on-site mining lakes for storage. The mining lakes will be surrounded by a perimeter berm, each lake. The top elevation will be set at 3 feet above the 25-year, 3-day storm event peak stage. These lakes will retain the 25-year, 3-day storm event peak stage and will have zero discharge during the life of the active mining operation for that lake, and thereby will provide the required water quality and quantity storage volumes.

Now, as the lakes are mined, agricultural citrus operations that are not impacted by that excavation will continue, and they will be phased out over time as the lakes are excavated.

Again, as I mentioned earlier, the environmental-resource permit was approved by DEP in May of 2011 with the findings as I -- and I quote: The results of the preliminary well water testing have shown that the site can be mined without adverse effects to the regional groundwater quality and, quote, the eventual replacement of that portion of the citrus groves and reclaimed quarry lakes should result in net improvements in water quality and quantities for the CREW lands through decreases in agricultural discharges and groundwater pumping.

After each lake is completed, we will move into reclamation phase. The discharge -- at the end of -- when the lake is completed, the -- a control structure will be installed in each lake, which will then allow discharge from the lakes by gravity into the on-site reservoirs, where they will then continue downstream and discharge as previously mentioned.

Also, as a part of that reclamation, the surrounding perimeter berm will be lowered the 3 feet to the 25-year,

3-day storm event peak stage.

I mentioned the findings from the ERP approval earlier.

And with that, if you have any -- if you have any questions for me, I'd be happy to take them at this time. If not, I will turn the mike over to the next presenter.

CHAIRMAN STRAIN: Are you the -- you're not the hydrology expert, right?

MR. ENGLISH: I'm surface water, not groundwater.

CHAIRMAN STRAIN: Okay. When you said that -- the groundwater pumping that exists in the agricultural, is that from an aquifer or is that from a well? Is an open -- is an open -- how is it pumped? Is it open wells, or is it driven well down to a certain aquifer?

MR. ENGLISH: We have a hydrogeologist that will be speaking later to groundwater pumping. But just a quick answer, I believe there are wells on site is the source of the pumping for irrigation.

CHAIRMAN STRAIN: And the wells are -- well, again, I mean, I've seen agricultural wells in two forms: Wells going down in the form of casing to a certain aquifer to draw water out with a diesel pump on top or whatever, and then an open well where there's a large cut where the water just keeps filling up the hole, the water's pumped out of that into the dikes and then drawn out into the rows of crops.

Which are you using here? Are you doing deeper wells, or are you doing shallow wells?

MR. ENGLISH: I apologize. I should really allow Scott Manahan, our hydrologist, to talk to that.

CHAIRMAN STRAIN: Okay. I'll wait till he speaks then. Thank you.

MR. ENGLISH: Yes, sir.

CHAIRMAN STRAIN: I have a series of questions, but I honestly -- they're going to be -- there's so much data on this project, I'm just going to wait till most of you get done speaking and then ask, and whoever can answer it's going to have to. That will probably be my way of approaching it, so -- but any other board members who have questions right now?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you.

MR. ENGLISH: Thank you, Mr. Chairman. With that, I'll turn it over to Dennis Rosa.

MR. ROSA: Good morning. My name is Dennis Rosa. I'm the mining consultant for the applicant. I have some 35 years of experience.

CHAIRMAN STRAIN: I think you're not being picked up on the speaker.

MR. ROSA: I'm not standing close enough.

CHAIRMAN STRAIN: There you go. That's great. Thank you.

MR. ROSA: There we go. All these tall guys came before me.

CHAIRMAN STRAIN: Well, that's what I noticed. Don's pretty tall. He must be having a very -- what do they -- projected voice, so --

MR. ROSA: We either have to get me a ladder or move this thing down, so.

If you look at the site, the excavation for the site is going to be phased. The amount of material that we take out every year is going to depend on market conditions. And at peak production, I think we're talking about four-and-a-half million tons per year, but it will take quite some time to get to that level. That's typical for the area. There are three or mines in Lee County that operate near that level or above it.

The hours of operation are proposed to be 6 a.m. in the morning to 6 p.m. at night. Blasting permits will be obtained from the state fire marshal's office, and blasting itself will be limited to five days a week from nine till five. It won't be continuously blasting all that time, but those are the hours within which we would blast.

The vibrations from the blasting would be monitored by Geosonics, and we have a representative from Geosonics here to explain that if need be.

The excavation will start in the northeast corner of Lake 1, which is near the -- where the entrance road enters from the north, and it will progress to the south in successive cuts to the south with the stockpile material being stockpiled on the south side of the excavation so that the stockpile is between the west property line and the dragline.

The -- that material will be crushed in the field with field crushers, jaw crushers. They'll be located on the east end of the stockpile and progress to the west, again, moving in successive cuts with the progression of the excavation.

The operations area will be in that center portion, the yellow portion in the center. The crushers and the

screens will be located there for aggregate production. The crushers will be shielded. We'll put a cover on the outside of them to cut down on noise. And the screens on the crushers will be electric at that location. They won't be diesel operated.

We will control the dust on the inside of the project by using -- wherever possible using conveyors to move the material rather than large trucks, although there will be some large trucks moving within the boundary of the project. Dust at that -- on those haul roads will be controlled by mobile water trucks.

We will also provide monitoring wells on site to check the groundwater for pollution.

The depth of the pit that we've proposed is variable. From the north it's -- at its shallowest point would be, I think, 44 feet or 43 feet in depth till we get to the south end where the depth is, I believe, shown on the plans at 143 feet. And that variable depth, we will control that inside the quarry. And that depth was determined because that's the beginning of the confining layer. And we're going to control that depth by -- through the blasting operation.

When we drill the holes to place the blasting agent, the driller will log the hole so that we know what the depth is at every location. The charges will be placed on about a 20-foot grid, 20 by 20. So every 20 feet within the lake area, we will know the depth to the confining layer as we progress across the project.

And that log that the driller provides will be used to give to the superintendent, and he'll direct his operation, his excavation operation through that -- through means of that driller's log.

They actually -- when they're digging, they control the depth with a dragline by marking the cable so that they know how deep they're digging in the water. And as each successive cut goes across, it will get just a little bit deeper every time we make a cut until we get to the far end. But we will know before we start the excavation where the bottom is supposed to be.

So with that, I'm going to let Ron Talone speak on the traffic issues.

CHAIRMAN STRAIN: Phil?

COMMISSIONER BROUGHAM: Not so fast. I have a number of questions about --

MR. ROSA: Okay.

COMMISSIONER BROUGHAM: -- about the mining operation, per se.

MR. ROSA: Okay.

COMMISSIONER BROUGHAM: The first is, how do you determine where the confining layer is? I heard you say that the driller goes down, you know, to the confining layer. Is that, like, all of a sudden the drill stops or what? If you could explain that to me.

MR. ROSA: The pressure changes on the drill. There's a pressure gauge on the machine that's hydraulically operated. As he goes through different hard layers and soft layers, the pressure on the pressure gauge will change. As the rock gets harder, it may even lift up the back of the drill rig. But when it gets to the softer clays, the pressure gauge drops and he needs less pressure on the down side so that he can record that bottom.

The other thing to note is that that clay is an impurity. We don't need that in the rock. It's actually going to be a problem in processing the rock.

MR. BROUGHAM: Okay, thanks. You mentioned that on the -- excuse me -- on the crushers they're going to be electric motor?

MR. ROSA: The crushers at the processing site would be electric. The crushers in the field will be diesel.

COMMISSIONER BROUGHAM: Where is the field, sir?

MR. ROSA: Out at the cut, where the dragline will be cutting.

COMMISSIONER BROUGHAM: Okay. I have no conception of how far noise from a crusher travels, particularly if it's going across water. Is there any analysis of that? I mean, for me to judge the noise from an electric crusher versus a diesel crusher across an expanse of water to the west, I'm a little mystified as to how far that noise is going to travel to potentially disturb things.

MR. ROSA: The water should be to the north of the cut. We're moving from the north to the south. And then they'll create a stockpile to the south so that the noise is going to be traveling to the north or into the pile of material. That stockpile of material will actually provide a shield for the noise traveling to the west.

COMMISSIONER BROUGHAM: But you don't have any history or statistics on the intensity of the noise, the dBAs of the noise?

MR. ROSA: Not off the top of my head, but we could provide that. There's -- in other mining operations there's a mining or -- a noise ordinance, and those machines comply with that noise ordinance.

COMMISSIONER BROUGHAM: Okay. I would be interested in seeing some of those in the future.

Just one more question. Blasting activities you're requesting Monday through Friday 9 a.m. to 5 p.m. If you could go forward and this was an operation at peak level and so forth, how often are you going to set off charges? Is there any way to predict that? Is it continuous? Is it once an hour, once a day? You just can't --

MR. ROSA: More likely twice a week, and it would be over probably three seconds. The charge will actually go off in three seconds' time. And I would say you'd be doing that twice a week throughout the project.

COMMISSIONER BROUGHAM: Okay, thank you.

CHAIRMAN STRAIN: Any other questions at this time of this gentleman?

Sir, I've got a couple. Did Bruce share with you the Jones Mining stipulations -- there are 42 of them -- that this board and the board above us placed on that mining operation that is in a similar corresponding location to residential that this project is?

MR. ROSA: Yes, he did.

CHAIRMAN STRAIN: Okay. The reason I ask is, I'm not going to take it step at a time right now. I'd rather wait for the presentations to be complete, but at some point I want to ask how each one of those 42 stipulations relate to this project in regards to its air blasts, the numbers and seconds of drilling, the depths, the charges, and all that other stuff, but I wanted to make sure you had that. And if you did, then I hope you read it because we'll walk through it.

MR. ROSA: We did. And not only myself, but Jeff Straw has analyzed that, and we'll be able to address that for you.

CHAIRMAN STRAIN: I think Mr. Straw was one of the people who accepted that.

MR. ROSA: Yes.

CHAIRMAN STRAIN: So I hope he still thinks we did a good job.

MR. ROSA: He's guilty by association.

CHAIRMAN STRAIN: So is Bruce. So -- and I wanted to make sure that -- I mean, that mine did have a lot of concerns from neighbors, and it was as intense as this one is being with the attendance in the audience and all that. So I wanted to make sure that we understood -- we had some starting point from the past.

And for those of you that are new on the board, you weren't here when that occurred. Depending on how much time we have, whether we finish today or not, before -- at some point it would be handy to get a copy of that from staff and read it.

The other thing is, on the map in front of us -- and I do have, like I said, a lot more questions, but I'm going to wait till the presentation, for the most part, is done. But on the map in front of us, you have a mining area in the north, a mining area in the south, and I'm not sure what the idea was for the one in the middle and to the east. It says, lake, parenthetical, mining area. Why did the word "lake" get added to that with a parenthetical for mining versus the way the other two are denoted; do you know?

MR. ROSA: No. I think all three locations are going to be the same.

CHAIRMAN STRAIN: They're all going to be treated the same?

MR. ROSA: Yes, sir.

CHAIRMAN STRAIN: Okay. The crusher that you're going to have that apparently is portable that will move with the pile --

MR. ROSA: Yes, that's correct.

CHAIRMAN STRAIN: What is the minimum distance you're going to have between that crusher and the western and southern residential boundaries? And those, by the way, are where my concerns are going to be stressed today, is because those are the most sensitive boundaries. What you do adjacent to your own property, that's different. But I'm concerned about those two boundaries.

MR. ROSA: I would say we're going to be within 350 to 400 feet.

CHAIRMAN STRAIN: Why is it necessary that the crusher follow that closely to the pile? Could the pile be moved -- I mean, your dragline is going to go down over a hundred feet, so your stick on that's going to be pretty long.

MR. ROSA: Yes.

CHAIRMAN STRAIN: You could swing out a longer distance. Why would you need to be that close with your crusher?

MR. ROSA: Well, the crusher is going to be fed by a loader.

CHAIRMAN STRAIN: Well, that's even better then. Your loader could travel easier than the dragline could swing.

MR. ROSA: It's a matter of production, I guess. It's the closer he gets to the -- between the pile and the crusher, the more efficient the operation becomes.

CHAIRMAN STRAIN: Okay. But I think from a zoning matter for this board, compatibility is one of the biggest drivers, and if there's better ways to accomplish compatibility through compromise by on-site actions, we may want to be considerate of that as we go forward today.

MR. ROSA: We can do that.

CHAIRMAN STRAIN: Okay. Thank you. That's all I've got at this time. I'm going to have a lot more.

MR. ROSA: Okay. Ron Talone will be our next speaker.

CHAIRMAN STRAIN: Thank you, sir.

MR. TALONE: Good morning. My name is Ronald Talone. I'm with the transportation consulting firm David Plummer & Associates. We prepared the traffic study in support of this application.

The traffic study that we submitted was consistent with Collier County regulations, and it was reviewed and approved by the county staff.

We provided copies of the traffic study to Lee County, Hendry County, and the Florida Department of Transportation.

As mentioned previously, the mine will have access directly to State Road 82 at a point located across from Church Road and to Corkscrew Road.

The mine will generate approximately 700 daily truck round trips. And per county regulations, the anticipated mine traffic does not have a significant impact on the State Road 82 or Corkscrew Road or State Road 29.

I should mention that six out of seven of the segments had a de minimis impact per county regulations.

Only 10 percent of the mine traffic expected to use -- is expected to use Corkscrew Road. I have a slide in a minute that I'll show, and I discussed the distribution of project traffic in a little more detail.

It's important to know that most of the mine traffic will occur during daylight hours, and the trucks that are on Corkscrew Road will be subject to whatever regulations are imposed by Lee County in -- on that road.

The -- and it's -- also I'll have additional slides to review some of the things that the State of Florida is doing regarding State Road 82. There's a lot that's been programmed for that corridor.

And, finally, the applicant has agreed to contribute \$1 per truckload exiting the mine, and that will be available to Collier County for maintenance of Corkscrew Road.

The distribution of the mine traffic was carefully considered based on market conditions. Most of the mines that would be our competitors are located to the south and southwest of us. And we feel that those mines will handle most -- will take care of the market to the south and southwest of us.

So we've projected that our markets would be primarily to the north and northwest, and that was the basis for our traffic distribution.

I wanted to point out three aspects of the daily variation in traffic, the hourly variation during the day. First off, again, as I pointed out, most of the project traffic will occur during daylight hours. Second, mine traffic peaks at late morning, midday, and that's at a time when it's between the a.m. and p.m. peak hours of the State Road 82 traffic. And, finally, when State Road 82 traffic is at its peak during the p.m. peak hour, our traffic is dropped off to a very low level. So the peak of our traffic does not coincide with the peak of the traffic on State Road 82.

Now I'd like to review a few things that are being done by the state at this time. Right now a 4-mile section of State Road 82 is under construction. The state's invested nearly \$60 million in widening that section of 82 from Ortiz to Lee Boulevard to six lanes. Also, the state has recently completed a 7-mile section of State Road 82 as a resurfacing project, and previously they had resurfaced another section. So there's -- there has been substantial resurfacing done in the corridor. And as part of the resurfacing, that includes both improving the roadbed itself and improving the shoulders.

And previously, also within the last five years, the state has resurfaced the portions of 82 within Collier County.

In addition, the state has been providing turn lanes at key intersections along the corridor. As this shows, the state recently completed the installation of left-turn lanes on sections of State Road 82 past Lehigh Acres. There's also been improvements to the Columbus Boulevard intersection and at State Road 29, and there's a scheduled

improvement to provide turn lanes at Homestead Road. So that was three point million dollars (sic) worth of improvement.

And, finally, the state has programmed preliminary engineering for the widening of State Road 82 throughout its length in both Lee and Collier Counties. They're investing \$18.4 million in preparing the preliminary design plans for the widening. And in my opinion, the state would not be investing that much money if they didn't foresee dollars coming at some point in the future.

CHAIRMAN STRAIN: I've got to ask whoever's got that cell phone to please turn it off. Thank you.

MR. TALONE: And last, I wanted to point out that based on the current adopted MPO long-range plans, the section for Lee Boulevard to east of Alabama Road is included in the cost-feasible plans and a remainder is included in the needs plan.

So based on what's been in the recent state work programs and in the upcoming or current work program, the state is investing \$92 million in State Road 82 improvements. So I think that's significant, and we can expect more progress in the future.

Thank you.

CHAIRMAN STRAIN: Don't go away. Questions first of staff?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Commissioners -- Mr. Schiffer?

COMMISSIONER SCHIFFER: On site, where do you intend to gate the project? Because essentially you're going to come off of 82 with a roadway. You're going to have to build to access the site, and then you're going to, on your site, provide access down to Corkscrew. So where will you be gating in that access?

MR. TALONE: Someone else would have to point out the location of that access, but I -- but we have been reassured that there is sufficient distance on site so that any trucks that are queuing in the morning or throughout the day will have sufficient room to be able to queue and stack up on site without any use of the state rights-of-way or the county right-of-way.

COMMISSIONER SCHIFFER: So what you plan to do is you'll turn in directly off of 82 onto this new road you're going to be building through the existing citrus?

MR. TALONE: Yes.

COMMISSIONER SCHIFFER: And it will remain citrus, I guess.

MR. TALONE: The gates will be further on site.

COMMISSIONER SCHIFFER: I know. So every -- we can use that road to queue up any traffic?

MR. TALONE: Yes, that's my understanding.

COMMISSIONER SCHIFFER: It's going to be off of 82?

MR. TALONE: Yes, sir.

COMMISSIONER SCHIFFER: All right. Thank you.

CHAIRMAN STRAIN: Any other questions of traffic at this time?

(No response.)

CHAIRMAN STRAIN: I've got a few, sir. You said that there was no significant impact on any of the roads.

MR. TALONE: That's correct, based on county regulations.

CHAIRMAN STRAIN: Let me read a section from our county staff report, SR28 impacts. The only concurrency link that is impacted by this zoning amendment is Link 88.0, State Road 82 between county line and State Road 29. The peak impact that is proposed on State Road 82 during the peak hour of the site, which is between 10 and 11, is 47 directional trips.

This represents a 5.3 percent, parenthetical, significant, end parenthetical, impact on State Road 82. What does that -- how does that -- what does that mean in relationship to what you said?

MR. TALONE: I can explain that. And I have discussed that with the staff?

CHAIRMAN STRAIN: By "the staff" you mean Collier County staff.

MR. TALONE: Yes, sir.

CHAIRMAN STRAIN: Thank you.

MR. TALONE: That's a reference to -- at the peak hour of generation of the mine, which is late morning, that that would be the percent impact. But for the p.m. peak hour, which is the time of day that is relevant for the

county's review of traffic-impact statements, our traffic will have dropped off considerably and our impacts are below the threshold for significant and are de minimus on six out of seven impacts during the p.m. peak hour.

CHAIRMAN STRAIN: Okay. So you're saying that the significant measurement only applies during a time of which the road is considered the peak hour?

MR. TALONE: That's the standard by which traffic is reviewed.

CHAIRMAN STRAIN: Is that the standard by which Collier County reviews it?

MR. TALONE: That's -- yes, sir. That's my understanding.

CHAIRMAN STRAIN: Okay. Maybe I need to -- I need you to respond to the following comments, and it's a transportation review that was issued. I imagine you've gotten it. Collier County staff recommends inclusion of a commitment to provide proportionate-share payment for the following improvements: SR82 widening identified in the ongoing PD&E study by FDOT, including contribution of right-of-way frontage. To the extent -- what extent has that been accomplished or to be accomplished or committed to be accomplished?

MR. TALONE: The applicant has agreed to provide for stormwater management along the length of its property on State Road 82, and that was to satisfy that proportionate-share obligation. And the condition states that with that commitment and agreement by the applicant, that no further proportionate-share obligation would be required.

CHAIRMAN STRAIN: And, of course, when county staff gets up here and transportation after their -- when they get into their presentation, we'll be going over similar questions of them to make sure they agree with your comments.

Provide water management along SR82. That was in addition to proportionate-share payments. So you're saying you provided the water management along 82 and for the use -- for the use of FDOT's 82 widening project. They stated that was both. But in lieu of both you provided the water-management facilities; is that right?

MR. TALONE: That's my understanding, yes, sir.

CHAIRMAN STRAIN: Okay. Then the next one is contribution of proportionate-share payment towards SR29 and SR82 intersection. Are you believing that's covered by county staff's acceptance of the water-management area as well?

MR. TALONE: Yes.

CHAIRMAN STRAIN: Before I go further, do you know how the valuation of those proportionate shares were originally considered versus the valuation that utilized the contribution you provided in the water-management area?

MR. TALONE: I don't have any particular information on that at this time.

CHAIRMAN STRAIN: Okay. Well, I'll rely on county staff to tell me what they value the proportionate-share contributions at and then how they found the -- it equitable between the proportionate share right off that they used when they -- when you provided the water-management area.

Water management is acreage, so there's a value in acreage. And I just want to make sure they valued it right. We have a Code of Laws that tells them how they should have valued. I hope they abided by it.

They also -- you also were supposed to have provided a survey of road right-of-way conditions for a radius of 2 miles at each project access, include at least one cross-section of both 82 and Corkscrew Road within the study area demonstrating the thickness of paving and base for each road. Was that done?

MR. TALONE: It's my understanding that our agreement to contribute a dollar per truckload was -- would address the issue related to the condition of the roadway and that we would not have obligations to assess the condition of the roadway if we've made those payments.

CHAIRMAN STRAIN: In 2009 that dollar per truckload was tolded (sic) by transportation staff to the Board of County Commissioners. It was for maintenance purposes only. So I don't know why it would have an impact on the study that was asked for in regards to the intersections and the road thickness, but I'll find out when staff comes forward.

MR. TALONE: Well, I would agree, the dollar per truckload is maintenance related, not related to the proportionate share.

CHAIRMAN STRAIN: Right. But it would be nice to know that the road in which you're beginning your process on as -- on pavement and base, enough so that the maintenance expected as a result of the thickness of that base would be equal to the value that you're being charged for -- on a per-truck basis.

But staff would have some way of valuating that; otherwise, they wouldn't have, I assume, made the agreement. So I'll find out from them.

And, John, all this discussion I'm having is for your benefit so you'll be more prepared when you come up today.

Also, one of the comments was compensating right-of-way will be required for the turn lanes on both SR82 and Corkscrew, and I'm assuming that you've agreed to do that.

MR. TALONE: Yes.

CHAIRMAN STRAIN: Would that compensating right-of-way include an acceleration lane after you make a left turn out of the facility so that eastbound -- or westbound traffic would be able to get around the trucks?

MR. TALONE: Yes. The language in the condition related to compensating right-of-way refers to compensating of right-of-way equal to 12-foot-wide acceleration or deceleration lane, so that would cover compensating right-of-way in either case.

CHAIRMAN STRAIN: Okay. But usually when they talk about decel and accelerating, they're talking in a right-in, and then as you right-out, you're accelerating, and when you're right-in, you're decelerating. So if you're coming in from the east traveling west and you want to make a left -- and you're a dump truck -- into this facility, you're going to have a left-turn lane, I would assume --

MR. TALONE: Uh-huh.

CHAIRMAN STRAIN: -- but normally they don't provide left-turn westbound lanes at an intersection like that. Are you intending for acceleration? So, in essence, you'd have an extra lane for traffic to move around you. This is a similar condition that we talked about in the Jones Mining issue. Have you -- is that part of what you're proposing?

MR. TALONE: Have we specifically addressed an acceleration lane in the conditions?

CHAIRMAN STRAIN: Otherwise, what happens, traffic coming on a two-lane road will be forced to severely slow down as the back of the trucks come upon them, or they come upon the back of the trucks, I should say.

MR. TALONE: For clarification, you're referring to an acceleration lane so that left-turning traffic will --

CHAIRMAN STRAIN: Not block oncoming westbound traffic.

MR. TALONE: That's not shown in the drawing I'm seeing here. I think that's something we could certainly discuss, and --

CHAIRMAN STRAIN: Yeah, we'll be discussing it. I just wanted to understand where you're at now, because that's kind of another point I wanted to make. Last Friday we got our packages. Some of us got CD ROMs in lieu of the standard three ring binder that would have been about 4 inches thick, for the EIS, the EIS supplement. And at that time I don't believe I had asked for the hydrology, but I did ask for it over the weekend.

That CD-ROM was failed. It only had a link that did not work. I gave my copy of that failed one to staff. They have verified that it didn't work. I don't know if the rest of you had a similar CD-ROM. But what that meant was the thousand pages of material on there -- 400 of which were duplicate, so that left about 600 new reading -- couldn't get started until the new CD-ROM was distributed to this board, and it did include hydrology and many other items.

I'm just letting you-all know that, because that was quite a lot of reading to put on the back of this board in two short days. Needless to say, I didn't get through it all in detail.

I'm just making sure I've got all I need to get on questions for you right now, Ron, so just give me just a second here.

MR. TALONE: Sure.

CHAIRMAN STRAIN: So the survey that they asked you to provide wasn't done because staff, again, accepted the water management in lieu of that survey; is that correct?

MR. TALONE: That's my understanding.

CHAIRMAN STRAIN: Okay. Thank you.

Anybody else have any questions at this time?

(No response.)

CHAIRMAN STRAIN: Okay. Thank you, sir.

MR. TALONE: You're welcome.

MR. MANAHAN: Good morning. My name is Scott Manahan. I'm with Schlumberger Water Services.

We conducted a hydrogeologic investigation of the Lost Grove Mine site. And I'll just go over what we did and what our results were.

Our initial investigation included the drilling of some soil borings across the site. Initially ten borings were drilled. The purpose of these initial borings were simply to determine if there was, in fact, limestone or other minable deposits there.

The initial results looked good, so an additional 10 soil borings were conducted and confirmed that hard limestone suitable for aggregate was present across the property.

And then, finally, an additional 15 soil borings were drilled across the property. And the purpose of those borings was to, again, confirm the rock depth and thickness, and also those borings were converted in the monitor wells. And so there were a total of 23 monitor wells constructed on the property owned by Alico there.

The hydrogeologic investigation continued with some aquifer testing, and we also did water-quality sampling with the monitor wells that were constructed out there.

In general, the water-table elevations across the site follow the land-surface elevations and slope from the northwest to the southeast.

As part of our soil borings, we identified the depth to the confining layer out there. A confining layer is a layer of clay or other low-permeability sediments that separate the water-table aquifer from the underlying sandstone aquifer. So the lake depths or the mine excavations will be based on the depth of that confining layer.

And we found it varied across the site, particularly from north to south. That depth varied from roughly 45 to 145 feet below land surface. We estimate the confining unit to be approximately 40 to 70 feet thick underneath the site.

The excavation or the depth they'll dig to will terminate one foot above the top of that confining unit. And as Dennis Rosa had pointed out, that when they drill holes to blast the rock, they'll reconfirm the depth of the confining unit.

Another part of our investigation or analysis was we conducted some groundwater modeling. The groundwater model was used to assess the impacts to the mine on groundwater levels. As our -- we used a base model that was created by the South Florida Water Management District for our modeling study. So instead of starting from scratch we used an existing model. And what we did is we kind of updated the model or the -- in the area around our mine with the information we had gained from the on-site hydrogeologic investigation, and we used that model to assess the impacts of the mine being excavated there.

The MODFLOW code was used. It's the most commonly used groundwater model. It was developed by the USGS, and it's a frequently used model code.

Our modeling approach and the results obtained were reviewed and approved by the Florida Department of Environmental Protection. And, basically, we used the model to compare the existing agricultural operations to the post mining conditions.

Essentially, we did a model of the way the site is now with citrus trees and irrigation, and then we did a model of with the trees gone, lack of irrigation, and the presence of the mines. And those model results showed what water levels would be, and we subtracted one from the other, and that gives us the impacts of the mines themselves.

The results showed that groundwater levels will likely increase slightly. That's primarily due to the reduction in the irrigation water use out there. Right now, particularly during the winter and spring, there's pumpage from water-table aquifer wells to irrigate the citrus trees, and that pumpage causes drawdown. And basically, by eliminating that pumpage, we're going to see a little bit of a rebound in the water level -- groundwater levels.

One of the most significant impacts of actually constructing a lake is right now we have where there's rock and sand and aquifer material, that will be excavated and it will just be water. So that's probably one of the bigger differences is instead of roughly 20 to 25 percent water, now we'll have 100 percent water where the lakes occur.

There will be a reduction in the total site water use by the change from citrus irrigation to mining. During the mining operation, there will be some water use, you know, washing the wheels of the trucks, rinsing the rock, and assorted minor uses, but the net result will be a reduction in water use. And then, ultimately, when the mining is done there, there won't be any consumptive use of water.

Again, the water is used for dust control, wheel washing, and minimal potable needs at the site.

And the -- our model results showed that there'd be no adverse drawdown impacts to the adjacent CREW lands.

This figure just kind of shows what's going to happen out there. Right now we have water-table aquifer, the confining unit, and the underlying sandstone aquifer. When the mine is excavated, you'll have that limestone removed, and it will leave you a lake, basically, within the water-table aquifer.

And that's all I had on the hydrology.

COMMISSIONER BROUGHAM: Question, Mark.

CHAIRMAN STRAIN: Phil.

COMMISSIONER BROUGHAM: Mr. Manahan, on one of the previous slides you mentioned that you're going to be using mine water to do truck washing, et cetera, et cetera, and potable, and then you said minimal potable use. I'm trying to visualize drawing water out of a lake, washing dump truck tires and so forth, and where that water ends up, number one, and how could you possibly -- I mean, if it's going back into the lake, you're not going to use that lake for potable use, certainly.

MR. MANAHAN: No. The potable supply, they'll probably have a couple of trailers out there, you know, maybe a workshop. We would put in a small diameter well, you know, like a 4-inch or 6-inch diameter well.

MR. BROUGHAM: So it's not from the lake?

MR. MANAHAN: No, not directly from the lake.

COMMISSIONER BROUGHAM: That's what I interpreted mine water to be --

MR. MANAHAN: Okay.

COMMISSIONER BROUGHAM: -- is from the lake. Where does the residue from the truck washing go? Where does it drain to?

MR. MANAHAN: It would drain back into the mining lake.

COMMISSIONER BROUGHAM: It wouldn't go -- flow off site into other areas?

MR. MANAHAN: No, no. The entire mine property will have a berm around it, so --

COMMISSIONER BROUGHAM: Okay. I heard that earlier.

MR. MANAHAN: So, yeah.

COMMISSIONER BROUGHAM: Okay. I was just a little concerned about people drinking that water.

MR. MANAHAN: Yeah. No, we would have a small well for that -- those purposes.

COMMISSIONER BROUGHAM: Okay.

CHAIRMAN STRAIN: Got to watch you, if you go out in your lake, you don't scoop some of it up.

COMMISSIONER BROUGHAM: I know.

CHAIRMAN STRAIN: Anybody else have any questions?

COMMISSIONER SCHIFFER: I have questions.

CHAIRMAN STRAIN: Paul, and then Brad.

COMMISSIONER MIDNEY: Yeah. Sir, I know you're calculating that a certain amount of agricultural water is pumped in order to lift the water table to about 2 feet below the soil surface in order to feed the orange groves.

Doesn't much of that water filter back down into the aquifer? How much does the grove actually transpire? And does -- when you say that you're pumping so many million gallons a day, are you really actually using that much?

MR. MANAHAN: For the irrigation water use?

COMMISSIONER MIDNEY: Yeah.

MR. MANAHAN: Yes. The groves -- and some of the guys may correct me if I'm wrong. But I believe they use a micro-drip irrigation system out there. So there's -- that's a very efficient -- you know, some of these farming operations, for example, like tomato farms or truck crops, they will just flood furrows between the crops, and that is a very inefficient irrigation method, and a lot of it does go right back down into the aquifer.

But at the citrus groves, they typically use a micro drip, so it's very small little pipes. And each tree has just a little spray head, and so it just gives the tree enough water that it essentially uses all that water that is pumped.

COMMISSIONER MIDNEY: It uses all those millions of gallons a day?

MR. MANAHAN: Yes, yes.

CHAIRMAN STRAIN: No. I think what Paul was trying to find out is most your agricultural pumping operations have a huge capacity of water that they're allowed to pull. One I'm familiar with is 4.3 billion gallons a year. But they don't use that much. Their pumping discharge is peak during the dry months and are nothing over the

water -- the wet months because they don't even have crops in the ground.

And so the total of the 4.3 billion might be 3.5 billion, something like that. I think the question was, are you using, by your pumpage charge, which are on record with South Florida, the full pumpage amount that you're allowed to use based on your water-management permit?

MR. MANAHAN: No. There is an annual and a maximum monthly water-use allocations included in the water-use permit. You're not allowed to exceed those values. And you're correct, those values are based on the amount of water that a crop would need in a one-in-ten-year drought.

So typically, you know, every year is not very dry. So you're correct, we don't use those full allocations every year. But when we did our analysis with our groundwater modeling, we did look at actual pumpage data, not permitted allocations, when we did our analyses.

CHAIRMAN STRAIN: Okay. But I think that gets to the point of Paul's question, and I -- that's good -- that's good information, thank you.

Go ahead.

COMMISSIONER MIDNEY: In one point in the report you say you're going to be going down 140 feet -- 144 feet. In another place it says you're going down 120 feet. Which is it?

MR. MANAHAN: The 144 or 145 feet is the maximum depth of mining that will occur, at least the permitted maximum depth. The actual depth they go to, it may vary based on operational, you know, needs or capabilities. For instance, you know, maybe their dragline can't get that deep.

But, yeah, I recall from our report, I think early on in the investigation our thought was 120 would be the max depth. But based on the depths to the confining unit, 144 or 145 would be the maximum.

COMMISSIONER MIDNEY: Does it make any difference if you go up to one foot from the confining layer as opposed to five feet, which some people had suggested?

MR. MANAHAN: Well, the biggest difference is you would just lose that amount of rock, you know, essentially lose production.

COMMISSIONER MIDNEY: But you wouldn't have more leakage down through the water table that way -- I mean through the confining layer?

MR. MANAHAN: No. As long as you don't breach the confining unit, you should be fine. So the one foot should provide adequate safety factor there.

COMMISSIONER MIDNEY: Can you talk about that term "leakants" that I saw there?

MR. MANAHAN: Okay. Let's see. This figure is pretty good. It shows the general situation. You have the water-table aquifer and the sandstone aquifer, and the confining unit is that low-permeability clay zone that separates those two aquifers.

So the water quality and the water levels in the water table and the sandstone can be quite different, and particularly in the wintertime or the spring when a lot of the farms or areas are pumping out of the sandstone, those water levels can be way down, like 40 feet below land surface. Where in the water table the water levels don't fluctuate quite as much. There's maybe a seasonal fluctuation of about three to four feet.

So, basically, that confining unit separates the two aquifers, and so there's just different levels and water quality in the aquifer units.

COMMISSIONER MIDNEY: And leakants, what is that?

MR. MANAHAN: Oh, yeah. The leakants is -- the way the water gets down into the sandstone aquifer is by leakants downward through that confining unit. And typically the water level in the water table is higher than in the sandstone aquifer. And the actual term "leakants" is a hydrogeologic term that's defined as the confining unit thickness divided by or, actually, the -- yeah, divided by the hydraulic conductivity.

So if you have low-permeability sediments and a very thick sequence of those sediments, then the leakants is very low. And -- so that just gives an idea of how well the aquifer's confined.

Almost every aquifer in nature is not perfectly or totally confined, so they're almost all leaking to some extent. And so that -- again, when those water levels are higher in the water table, they'll tend to leak down into the sandstone aquifer.

So when they're pumping the sandstone in the spring and the winter, the water levels in that aquifer decline, and then you induce leakage from above.

COMMISSIONER MIDNEY: So now all the wells are in the sandstone aquifer?

MR. MANAHAN: The irrigation --

COMMISSIONER MIDNEY: The irrigation wells.

MR. MANAHAN: Actually, most of them are in the water-table aquifer within the mining site itself. Again, Alico owns a bigger piece of property there, and they do have some sandstone aquifer wells, but the majority are water-table aquifer wells.

COMMISSIONER MIDNEY: But when the -- when the agriculture stops, the sandstone aquifer pumping will stop, and then that will reduce the amount of leakants down from -- from the water-table aquifer down?

MR. MANAHAN: Well, actually, right where the mine pits are, I believe all those ag wells are water-table wells, so they wouldn't have any reduction in sandstone pumpage right there.

COMMISSIONER MIDNEY: My final question is about the pan coefficient. You say that usually -- you used the figure 0.7, which is the average for the United States. But wouldn't -- us being in Florida with a lot more solar heat, wouldn't a higher pan coefficient be more accurate than to use the national?

MR. MANAHAN: Well, the -- well yeah. There's a lot of differing opinions on which, you know, pan coefficient to use. They say they range from .6 to .8; .7 is frequently used. A lot of people down here think .75 might be a better number to use. There's been a lot of different studies of ET rates. So there is some uncertainty in that parameter.

And what we do to address that in our modeling studies is we do our model to the best of our knowledge or using our best judgment, and then to look at the uncertainty in the results, we typically do what's called a sensitivity analysis.

And what we did in this case is we used an open-water evaporation rate of 46 inches, which was based on, I believe that .7 pan coefficient, but to -- since, you know, there is some uncertainty, we also did a sensitivity run using a rate of 50 inches per year to see what the difference would be if it was higher, in fact.

And the results -- it didn't change our modeling results significantly. You know, we developed contour maps, and you could hardly tell the difference between the two. So it appeared that the model was not too sensitive to that parameter.

COMMISSIONER MIDNEY: Thank you.

CHAIRMAN STRAIN: Anybody else? Brad?

COMMISSIONER SCHIFFER: Yeah. In the package you have some charts showing a recharge trench, retention trench or lake, and how is that really going to work? I mean, I can tell you what it appears is happening, but you're going to be building these around the wetland areas or --

MR. MANAHAN: I believe it looks like you're referring to some figures that refer to the dewatering plants or --

COMMISSIONER SCHIFFER: Right.

MR. MANAHAN: Yeah.

COMMISSIONER SCHIFFER: Right. In other words, so you're pumping out of the mining area into these trenches?

MR. MANAHAN: Yeah. Dewatering will be conducted just for the -- what they call the upper part or the overburden in the mines. The -- like, for instance, this mining lake that you see here, that won't be dewatered just because that rock is very permeable and you probably couldn't dewater it.

So -- but when they dig that first, let's say, 10 feet or so, that's mostly sand, and then below that is the rock. So the dewatering will be limited to just the sand or overburden.

And -- so, yeah, they pump the water out, and then if there's a wetland area or anywhere of concern, what they do is they put a trench in between where you're dewatering and the area of concern, and you put that water in the trench, and that kind of rehydrates the water-table aquifer and prevents drawdown to -- you know, to any sensitive area.

COMMISSIONER SCHIFFER: Okay.

MR. MANAHAN: And that process is regulated by the South Florida Water Management District. So they don't have it yet, but ultimately they would have to get a dewatering permit, and the Water Management District would review the plans and then approve or deny or recommend changes to the plan and ultimately approve a dewatering permit.

COMMISSIONER SCHIFFER: Okay. So this is only really used at the beginning of a new surface area?

MR. MANAHAN: Yes, yeah. And typically what they'll do is -- you know, some of these lakes are pretty big. I think they're several hundred acres, so they typically do the dewatering in a cell. It would likely be 10-acre cell or something along those lines, and they'll excavate the overburden and dewater there, and then once they're done with that, then they'll move to another cell.

So they don't -- they don't try and dewater, like, to a whole 250 acres or anything like that, but it's more of a -- as they progress.

COMMISSIONER SCHIFFER: All right. Thank you.

CHAIRMAN STRAIN: Anybody else for the hydrologist?

(No response.)

CHAIRMAN STRAIN: Sir, I've got a series of questions, but before I can ask you yours, I need two answers from the mine expert.

MR. ROSA: Yes, sir.

CHAIRMAN STRAIN: Thank you. How do you see them excavating the top 10 feet of this sand overburden?

MR. ROSA: They have to excavate it with a small dragline. They would dewater half the distance of the overburden. So if the overburden is 15 feet, you'd dewater about seven, seven-and-a-half feet, and then excavate that. And it's done right behind where you're going to form your next cut, your next pad for the dragline to dig the rock.

So you're trying to remove the overburden right behind the rock pad, and you would just do half the dewatering depth to the -- from the surface to half the distance of the overburden.

CHAIRMAN STRAIN: Why have you chosen for the overburden, especially in the way you're going to strip it, to use a dragline when you could accomplish that job with a track-mounted hoe?

MR. ROSA: You have more reach can -- what we're trying to do is get it out of the ground as dry as possible. And you would pull it out, and you can -- you can put the excavated material further away from the edge of the hole.

CHAIRMAN STRAIN: Well, if you use a track-mounted vehicle, you could put it in Yukes (Phonetic) and move it to wherever you wanted to. Plus it's sand. You're going to stockpile it for a while anyway, aren't you?

MR. ROSA: You'd only stockpile it as long as you had to. It's dry -- you want to get it as dry as possible so you can move it as quick as possible, and hopefully you can load it directly onto a truck and sell the overburden for fill dirt.

CHAIRMAN STRAIN: Yeah. I'm mostly concerned about the dewatering. That's why I wanted to understand why you thought that that was the way to go.

MR. ROSA: The way the dewatering works is when you do dewater, the water that is pumped out is returned back into the cut, back into the mining lake. It doesn't go anywhere.

CHAIRMAN STRAIN: The dragline that you're proposing to do your main excavation, what kind of bucket are you putting on it?

MR. ROSA: To start with, it would be a seven-and-a-half-yard bucket.

CHAIRMAN STRAIN: Okay.

MR. ROSA: But as we progress, it would probably end up going close to 20 yards.

CHAIRMAN STRAIN: What kind of teeth are you going to have length-wise on the cutting edge?

MR. ROSA: They'll be in the vicinity of, let's see, on the big -- on the big bucket they'll be about a foot long.

CHAIRMAN STRAIN: Okay. And that -- the reason I ask is it's going to affect the confining layer. Your teeth will hit that confining layer if you're even -- if you're a foot above it. You won't even know it until you hit it with your teeth, and that would -- and their foot-long teeth are going to have then -- actually be cutting into the confining layer in some manner or form. That's what I was concerned about.

MR. ROSA: Okay.

CHAIRMAN STRAIN: Thank you.

MR. ROSA: Yes, sir.

CHAIRMAN STRAIN: Now back to the hydrology. Did you use the fetch formula for the depth calculation on how deep you'd go, or did you check with that to see -- because Collier County uses what's called a fetch formula to determine how deep they're allowed to go in the excavations. Are you within that formula range? I mean, I'll be asking the county engineer this, but I'd like to hear it from your side.

MR. MANAHAN: I'm sorry. The fetch formula?

CHAIRMAN STRAIN: You don't know about it? That's fine. County engineer will.

MR. MANAHAN: Okay.

CHAIRMAN STRAIN: So --

MR. MANAHAN: What was it for?

CHAIRMAN STRAIN: Are we -- we establish the depth we're allowed to dig by a formula. It's called the fetch formula.

MR. MANAHAN: Okay.

CHAIRMAN STRAIN: And our county engineer loves to answer those kinds of questions, so -- it will be his turn soon.

You said there will be no adverse impacts on adjacent CREW lands. Is that at the finalization of your excavation, or is that at all times during the excavation?

MR. MANAHAN: That would be at all times, yeah.

CHAIRMAN STRAIN: Okay. And what about the WRAs that are in the -- in the property? Those are water-resource areas, so that means their hydrology should be protected. Do you see their hydrology fluctuating or changing at all as a result of the mining operation?

MR. MANAHAN: Not really. That might be a better question for the surface-water engineers. As far as groundwater -- I'm mostly in the groundwater area -- we will see some increase in the water level, so presumably that might help those areas stay wet longer.

But I believe the way those features function really is to receive the water pumped off the groves right now. So probably more of a surface-water question.

CHAIRMAN STRAIN: Okay. The -- your presentation seems to present a connotation that this lake isn't going to be bad for the water -- for the water-table aquifer. And I don't know anything about this DR/GR thing, but I thought it was something that concerns the wellfields where the municipal water comes from for portions somewhere in Lee County.

How -- they seem -- from what I understand in the correspondence I've seen and the discussions that have occurred, Lee County seems very protective of the wellfield -- of their wellfield sources, and that's why this -- part of the reason this DR/GR area was created.

If a mining lake like this isn't a negative for the water-table aquifer, then why would -- why do you think they're concerned?

MR. MANAHAN: I'm not sure. I don't think it's really a concern that the mining lakes would impact their wells, but -- well, for one, because we're about five miles away from the nearest Lee County production well, and they're -- both of their wellfields in the area -- the Green Meadows Wellfield and the Corkscrew Wellfield, they're right basically within mining lakes. Some of their wells are actually almost like islands with inside mining lakes.

So the mining lakes actually provide additional groundwater storage -- or water storage and increased recharge. So I'm not sure, you know, why they would have a concern over that. Because, again, their two primary wellfields are right -- literally right inside of mines almost.

CHAIRMAN STRAIN: And I don't know if that's what their concern is. I've just been trying to under- -- I don't know anything about the DR/GR land use in Lee County. And in my few comments I've heard, it seems like it's something to protect the water resources.

And I'm trying to figure out if this mining lake -- and from a hydrology perspective and your perspective and the way you've done your presentation seems to have no negative effect; in fact, at some point you even thought it had a positive effect on the water table. I need to understand. And I'm kind of setting the tone here so maybe when Lee County discusses -- does their presentation I can understand it better, because it's an important issue, and I'm trying to understand it based on what you have said as a hydrologist.

Then the only pumping the current agriculture operations do within the area of the CU, conditional use, is from the water-table aquifer. You responded to that to Mr. Midney; is that correct?

MR. MANAHAN: That's correct, in the area proposed for mining. On some of the other property a little further to the east and north, they do have a -- some sandstone aquifer wells, but the majority are water-table aquifer wells.

CHAIRMAN STRAIN: Do you know how -- you know what? I'm not even going to ask you this next question. I want to get my final question from the fellow who does the mining.

MR. MANAHAN: Okay.

CHAIRMAN STRAIN: Thank you, sir.

I've been involved in some excavations both with draglines and with hoes, not to the depths you're talking about. So I'm understanding some of your terminology. I also want to understand in a dragline, if you're going down 140 feet and you're going down to the confining layer and you know you've only got one foot before you hit it or you want to stop at one foot above it, what mechanism on the dragline provides you with the knowledge to know that you're at the depth that the previous bore holes indicated that a confining layer was at so that you are always maintaining that buffer between confining layer and the point that you're dropping your bucket.

MR. ROSA: The dragline cable is marked with paint so that the operator can see when the cable breaks the water that he's at the right depth.

CHAIRMAN STRAIN: You're using what size cable; three-quarter, one-inch stranded?

MR. ROSA: At that depth it will be probably three-quarter.

CHAIRMAN STRAIN: Okay. So on a three-quarter inch cable from inside the stick --

MR. ROSA: One inch.

CHAIRMAN STRAIN: Okay. One inch. From inside the cab he's going to have a reach on a stick of, what 60 -- how many feet long is his dragline going to be?

MR. ROSA: He's going to have a reach of about a hundred and -- well, equal to the depth, 140 feet.

CHAIRMAN STRAIN: Okay. So if you look at the base of that triangle out to where he drops his line in the water, it's quite a distance from the cab. And he's going to have a paint mark showing him where the depth that he needs to go to that day? Because as we've heard, you're going to have a variable confining layer over the site.

So he's going to run out each day and put a new paint mark on that cable as he drops it in the water to make sure he doesn't go -- how do you do that? Do you understand what I'm saying?

MR. ROSA: Yeah. You drop the boom on the -- out on the pad --

CHAIRMAN STRAIN: Right.

MR. ROSA: -- and then the bucket is close to the machine. The cable lays out on the ground and they paint the dragline cable.

CHAIRMAN STRAIN: So they'll have to do that pretty much as they cross the site and they get their new readings as the confining layer drops from 44 feet in the north to 145 feet in the south, or whatever the numbers are.

MR. ROSA: Probably every other day they'd have to refresh the paint.

CHAIRMAN STRAIN: Okay. Interesting. Sounds a little archaic. With all the digital instruments we have, you just -- they couldn't put something in the cab that says, off the spool we had this much line drop in the water?

MR. ROSA: Sometimes simple is good.

CHAIRMAN STRAIN: Well -- but when you're getting so close to -- what's the level of tolerance you think that operator's going to have looking at that paint mark from his cab as he's dropping deep in the water continually?

MR. ROSA: I would have to say it depends on the operator and his proficiency and --

MR. BROUGHAM: How about an eye test?

CHAIRMAN STRAIN: Yeah. Well, I mean, all these things are factors into a level of tolerance, and you don't have much when you're talking about one foot above a confining layer. That's where my concern is going with this line of questioning.

And, unfortunately, I've got so many of these lines of questioning. We're going to have a long day.

MR. ROSA: The other thing you have to consider is the confining layer is 40 foot thick here, so -- and that the clay itself that we're -- that makes up the confining layer is detrimental to our operation. So when it -- when it appears on the pile, then we have to go after the operator and change his method of operation.

CHAIRMAN STRAIN: Okay. And you feel confident that that thickness is maintained throughout the entire site? Because the soil tests that I've seen -- I didn't have time to read them all.

MR. ROSA: The thickness of the confining layer?

CHAIRMAN STRAIN: Right. I didn't know if it -- I didn't see enough to tell me it was consistent throughout the site, but I may not -- there may be a lot more that I have not seen or I have not had time to read.

MR. ROSA: Scott could probably tell you better than me, but I believe it does. It's that thick or thicker.

CHAIRMAN STRAIN: Okay. Scott, if you could verify that for the record, I'd appreciate it. He put the burden on you now.

MR. MANAHAN: Yeah. Well, we believe the thickness of the confining unit varies from roughly 40 to 70 feet, and that's based on drilling conducted in the area. We did not go through the entire thickness on the site in our cores, so that number is -- there's some uncertainty in that. But, again, it's based on a lot of wells drilled all throughout the area.

CHAIRMAN STRAIN: Okay. Thank you. Appreciate everyone's patience so far.

It's noontime. We need to break for lunch. I'm sorry we haven't got further this morning. We're going to have a long afternoon. We'll come back at one o'clock and resume the meeting.

(A luncheon recess was had.)

CHAIRMAN STRAIN: Okay, everybody. Welcome back from our break. And -- okay. Let's vote on this project really quick. I think the applicant's watch is off compared to -- Ron, do you want to make their -- rest of their presentation for them? Did you enjoy the last time?

MR. TALONE: I could give it a try, but I don't think I could get very far.

CHAIRMAN STRAIN: Okay. Well, I haven't had an applicant show up late before, but I guess we'll have to go back off record, Ray, and we'll just have to sit and wait a little while for the applicant. Let's just do that. I don't want to say anything that they're not present for because I want to make sure that they're available for everything that's discussed, so let's just hold off.

We'll go back off record until the applicant returns.

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. If everybody will please have their seats. The applicant has been kind enough to return from lunch.

Tim, do you want to proceed with a presentation? Because I'm tired of waiting. We said one o'clock, and that's what time this meeting should have started, so --

MR. DURHAM: I sacrificed a piece of General Tso's chicken to be here, so --

CHAIRMAN STRAIN: Well --

MR. DURHAM: It's still sitting on the plate.

CHAIRMAN STRAIN: -- I mean, those of us that knew we had to be here didn't necessarily leave to get something to eat. We planned for it.

MR. DURHAM: Understood.

For the record, Tim Durham. My name is Tim Durham. I'm with WilsonMiller Stantec in the environmental group.

I'm going to touch on more of the bugs and bunnies aspect of the project for just a bit. Certainly open to questions as we go.

From the beginning, we've been very open about this project. Before the first application went in, we met with various NGOs and, you know, discussed concerns that might be out there. We've met with the CREW board several times to provide information, take questions from them, and try and respond to those questions.

Alex Sulecki, with Conservation Collier, and I have had numerous discussions about various issues. So we've certainly been as open as we can about this process. And the resulting plans you see are there because of input we've received and adjustments we've made.

On the project site -- let me jump ahead. You okay, Ray?

COMMISSIONER SCHIFFER: You've got to push it down first.

MR. DURHAM: That is not part of the presentation.

MR. CASALANGUIDA: There's a sympathy vote there.

MR. DURHAM: Yeah. Good job, Ray.

CHAIRMAN STRAIN: He didn't want to be noticed. You know that, don't you?

MR. DURHAM: It's all Collier County citizens. It's good.

Just quick, wanted to touch one historic aspect just real quickly. Just recognize that when this property was converted from forested habitat to citrus agriculture, permits were obtained at that point, and the offset or the mitigation for that permit are those chunks you see in yellow on this exhibit, we put aside and are integrated into CREW.

So the project we're talking about now is a site that has been converted to agriculture with some, you know, offset that came about.

I'll back up a second, if I could, just quickly. And we do not have any Corps of Engineers jurisdictional wetlands on site. I don't say that about too many projects you see anymore. And I'll explain the significance of that a bit later.

Within the site there's 123 acres of the property that are technically designated as primary zone. And, again, I'll talk about that some more.

And we have had some ongoing discussions with U.S. Fish and Wildlife, and I'll, again, bring that up a bit more.

One of the items, the primary zone, the thing -- the areas you see in bright green there are primary-zone habitat as designated by Fish and Wildlife Service. You'll see there's a little thumb or little portion of that protrudes up into the proposed mine site.

If you zoom in a little closer on that, you'll see that approximately 70 percent of that area is actually citrus, 30 percent is native vegetation. We have said from the beginning on this project that we are perfectly happy stipulating this is in the primary zone. Panthers have always had the potential to use this, panther have used this area, and we would expect to see panther in this general area moving forward.

We understand that, and we have started appropriate negotiations and discussions with Fish and Wildlife Service about what is the appropriate compensation for any impacts of that sort.

In regards to that, we have recently received a response from U.S. Fish and Wildlife Service that wasn't really available earlier in response to a proposed wildlife habitat conservation bank. On this exhibit you see it there on the right. This piece of land is intended to offset a couple of projects that Alico has coming up, including the Lost Grove Mine site.

Early on when we realized there would need to be panther compensation provided for this project, we had meetings with the game commission and the Fish and Wildlife Service and had discussions about how to maximize the benefit of any kind of compensation measures for panther.

What you see there proposed on the exhibit is 3,707 acres of primary-zone habitat that both the service and the game commission are very desirous to have put in a conservation easement and be subject to enhancement and perpetual management. We are in the process of working on that now.

The primary species that are of concern here are the Florida panther and wood stork. Indigo snake, other species, are also going to be considered, but these are the -- kind of the deriving species, if you will. We know they'll need to be compensated for.

The mitigation -- the habitat conservation bank -- and I have to be careful and say that correctly. We're calling it Grand Marsh Conservation Bank, and you can see the size. The location helps to connect existing conservation lands that are out there, further strengthens that linkage.

A part of that site, we have plans and have discussed with Fish and Wildlife Service converting some of the pasture on the conservation bank site to marsh, short hydro period wetland marsh, which is what the wood stork is in short supply of right now.

The area that would be converted on the Grand Marsh site is approximately 14 miles from the Rookery at Corkscrew Swamp Sanctuary, which is within the foraging area, you know, meaning it's a valuable piece of forage for the wood storks during the nesting season.

The process that will -- there have been some questions about the process we'll go through. As I said, we have no Corps wetlands to impact. Typically when you impact a Corps wetland, that triggers the federal process, gives them a nexus, which involves the Corps, which then gives a route for Fish and Wildlife Service to become involved in the project.

Lacking that particular federal nexus, there's a couple of options out there. And I understand somebody from Fish and Wildlife Service provided an email response this morning or late yesterday, and there's -- I want to talk about that just for a minute to clear up a few things.

We do not have a federal nexus through the Corps permit process; however, there are a couple of other possibilities for a federal nexus. But the most defined one -- as part of the habitat conservation bank, we are proposing that bank. There is a federal nexus. We have an application in for that bank. That is a federal action.

That bank will most likely be tied to Lost Grove Mine and the other future mine Alico's looking at, and that would be the federal action that would initiate the consultation.

Alternatively, we could submit for technical consultation, go through the same process as if we were being

reviewed, make what they call voluntary commitments to Fish and Wildlife Service, have that evaluated and issued. Those are a lot of words basically to say this: Without a federal nexus, theoretically, the client could go out there, as far as the Corps is concerned, and do that mine. If he does, though, he's subject to the Endangered Species Act. Anything bad that happens to a panther in the area he's liable for.

Fish and Wildlife Service made the point, if the applicant goes out there and digs his mine based on the county's approval without anything from Fish and Wildlife, then the county might be liable, too, for being party to that.

It has never been our intent, never will be our intent to do this project without having appropriate U.S. Fish and Wildlife Service approval in hand, all right.

So the comment from Fish and Wildlife Service is -- you know, they are correct in what they say, but the other side to that is, if it was a condition before they ever do any mine operations and they have the appropriate permit from Fish and Wild Service, once Fish and Wildlife Service issues that approval, the incidental take statement and the associated conservation measures to the applicant, there is no liability to the county. That's a thing between Fish and Wildlife and the applicant.

So to sum up, we fully intend to compensate for impacts to wood stork and panther through the appropriate avenue, the Fish and Wildlife Service. Our main effort to date has been to establish a really good compensation, part -- parcel in project, which will then be tied to Lost Grove Mine. We have no intention of doing the project until all those approvals are in place. I just want to clear that up.

I'll -- I think there were probably a few other points I wanted to make, but I'll stop at that point and just assume there'll be questions down the road or now.

CHAIRMAN STRAIN: Well, see if there's any right now. Paul?

COMMISSIONER MIDNEY: Of that 3,707 acres, how much would the 100-and-something acres of panther habitat purchase?

MR. DURHAM: It would be just about half of that.

COMMISSIONER MIDNEY: Half?

MR. DURHAM: Yeah.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: I've got a couple, Tim.

MR. DURHAM: Yes, sir.

CHAIRMAN STRAIN: The telemetry, could you put that back up.

MR. DURHAM: It only has -- on one of the exhibits on the -- this one, some incidental telemetry, yes.

CHAIRMAN STRAIN: The date of those telemetry points then -- because when I had met with Nicole Johnson, she had a much more intense series of the telemetry points, and I was just wondering what the discrepancy would have been and why you wouldn't have used hers, or if you don't think hers are relevant for some reason.

MR. DURHAM: From what I've seen, what we're being shown on some of their exhibits is telemetry and GPS mixed together. They're all the same color red with dots and triangles. This is through June when we started working on the habitat conservation bank, putting exhibits together for it.

CHAIRMAN STRAIN: June of what year?

MR. DURHAM: I'm sorry, this year, 2011, excuse me. And what -- the reason they're on this exhibit, this is something we used in conjunction with the conservation-bank application. We obviously had it in the mine later for this meeting today.

What we're showing there is the general trend over 20 years of what the telemetry points are showing. The data since June of this year through September adds more telemetry points but also very graphically some GPS points which are -- I can't apples and oranges, but there's a slightly different flavor to the two.

CHAIRMAN STRAIN: Well, this says it's GPS and telemetry data, so --

MR. DURHAM: I'm sorry. This one may be, I'm sorry.

CHAIRMAN STRAIN: Okay. Well, then how would this one be more relevant? If you're saying the GPS data isn't relevant -- or isn't as relevant, how come this one's being used by you guys?

MR. DURHAM: This is being used primarily for what you're seeing over here on the east side which the conservation lands in -- lands are.

The point of this was how the focus of the existing conservation lands out there -- Dinner Island (sic), Spirit of the Wild, Okaloacoochee State Forest, how all those are being -- you know, have a value to that clump of telemetry points out there.

CHAIRMAN STRAIN: But if you're discounting the GPS as not as relevant, then we don't know how many GPS points are in the area that you're considering the 3,700 acres because you've got a -- it doesn't differentiate whether it's GPS or telemetry, so how do we know that the area you're providing is any more in telemetry than the one that you're working on?

If your points represent GPS and telemetry both on both sites, you could have one represent -- I mean, you could have all GPS sites on the site that you have out east, couldn't you?

MR. DURHAM: Mr. Strain, if we had started to create an exhibit specifically and only for this presentation, we would have built it differently. Frankly, we took an existing exhibit that had a different purpose, cropped it, and added the Lost Grove Mine to it. I'm sorry if we're trying to infer any conclusions with those dots. Those are ancillary information to assist us in a sit-down discussion we were having with Fish and Wildlife Service. I should have purged them.

CHAIRMAN STRAIN: I mean, I wasn't -- I wasn't really going in the direction this is now being discussed, but when you kind of discounted the GPS sites, yet this one brings -- uses both, I couldn't figure out why you'd want to use it if you're discounting it.

MR. DURHAM: We were talking to the Fish and Wildlife Service officials who -- that was not really a valid point. And I'm not discounting GPS points, let me be clear on that. I think you have to be careful to distinguish between them and telemetry as having slightly different significance generally.

CHAIRMAN STRAIN: Okay. Well, let's assume then we'll just discuss the points that are on the Lost Grove Mine as they're on this map for this discussion. How many of those points are from the same animal; do you know?

MR. DURHAM: A vast majority of them.

CHAIRMAN STRAIN: Well, that means over 60 percent? Over -- I mean, so you've got, what -- is there 12 points there? So you're saying eight of them are from the same panther one from the other? So you've got two panthers? I'm trying to understand how -- because telemetry, I believe, is unique to each animal.

MR. DURHAM: Yes, it is.

CHAIRMAN STRAIN: Okay. How many animals have been going onto your site?

MR. DURHAM: Several over the years have been on the site at one time or another. The vast majority of the points, whether GPS or telemetry, are occurring from a cat that actually denned on the site and spent a lot of time on the site.

CHAIRMAN STRAIN: Do you know where the den was? I mean, in that aerial you showed, it's most -- 70 percent citrus. Were they in the WRAs --

MR. DURHAM: Yes.

CHAIRMAN STRAIN: -- that are supposed to be water?

MR. DURHAM: My knowledge is with conversation over the phone with people in the game commission, so I can't tell you with absolute certainty. I know the impression I have from my discussions, but I did not record those calls.

It is not unusual for panther to go into things like the WRA on an opportunistic basis within citrus areas. It happens in numerous places.

Citrus areas do have deer and hog in there on occasion. When there's no panther around, they wander in a little bit more. When a panther shows up, he kind of does some ambush hunting out of some of those more covered areas. The deer and hog figure that out after a while and kind of go away.

So we do see panther come in and use some of the natural areas of citrus groves all over South Florida. But when you analyze the total use of habitats by panther, it's weighted more towards the other habitats. But that's why we stipulated from the beginning, yes, panther do come through this area. They also get hit by cars in this area. There's no doubt there's panthers in this area.

CHAIRMAN STRAIN: The denning that a panther does is what time of year?

MR. DURHAM: It's not quite as seasonal as you see for wood storks or things like that. There can be some variety in that.

One point I did want to kind of bring up -- it had been mentioned before -- but one of the main things we look at with projects and panthers is trying to avoid nighttime traffic as much as possible. There have been panther mortalities on Corkscrew Road, as on other roads across the county. A majority of those do happen at night, so there is some benefit to restricting, you know, the mine operation as a daytime-hour deal.

The other thing I did want to discuss was the EAC had made some recommendation about the potential to save the primary-zone habitat that's on the mine site. If I could have a second here to jump back, my concern with that is you see Corkscrew Road separating that.

If that site becomes mine and that one little piece becomes habitat for panther with Corkscrew Road right there, I think that may be kind of setting up a problem.

I will tell you that Fish and Wildlife Service, should we not -- should we save that piece, will not give us credit for that piece, being disconnected as-is. So we're going to be compensating for that piece whether we save it or not. And I think it may be a little bit misguided to be saving that one little piece with, again, Corkscrew Road right there separating it from the native habitat to the south.

CHAIRMAN STRAIN: Okay. And you were involved with the RLSA overlay; were you not?

MR. DURHAM: I was.

CHAIRMAN STRAIN: Okay. Do you remember the discussion involving that piece north of Corkscrew Road? If you notice on the RLSA overlay -- the RLSA overlay does not show that primary north of Corkscrew Road. I remember there was a discussion. I can't remember all the details because it's been, what, six years, seven years.

MR. DURHAM: Long time, yes.

CHAIRMAN STRAIN: But that piece is pulled out, and the preservation lands or the preferred lands are stopped at Corkscrew Road, and from Corkscrew Road north it's considered open lands.

MR. DURHAM: Correct.

CHAIRMAN STRAIN: I'm just wondering if you remember if -- how that discussion -- how that evolved versus the plan that we have here today. Do you remember it better than I do?

MR. DURHAM: I have a vague recollection. I would presume that there was some discussion that Corkscrew Road kind of isolated that a bit and made -- since it does not have it there. But I do not remember the specific conversation.

CHAIRMAN STRAIN: I remember it came up. I just can't go back that far.

MR. DURHAM: You do bring up a good point, though. In some of those discussions, there was quite a bit of talk about panther corridors through this area. And one of the main desires for a corridor was one that runs to the east of this project that would then run north and towards the east. So this area has been looked at in terms of panther use as part of that RLSA you're mentioning.

CHAIRMAN STRAIN: Okay. We've had testimony that there was no -- from the hydrology perspective, no adverse impact on the WRAs or the CREW lands. With your experience, do you see any issues with that statement?

MR. DURHAM: I do not. And let me expand just a bit, because I don't think you got one of your questions answered adequately earlier.

The WRAs which we are preserving on site, in their current condition, they're of a moderate quality. Their hydraulic regime is just totally affected by what the citrus operation is.

So they're wet enough to survive, but just not a very natural hydroperiod. With the mine operation, we would expect that water level to be slightly beneficial to those WRAs and follow a more natural cycle.

CHAIRMAN STRAIN: So you feel like when the mine's water level goes up and down, the hydrology in the WRAs will go up and down with it; is that what you're --

MR. DURHAM: More or less, yes.

CHAIRMAN STRAIN: Okay. Tim, I'm going to have other questions --

MR. DURHAM: Sure.

CHAIRMAN STRAIN: -- but I'll wait till we get into general questions, and I've got plenty of -- they've been popping up once in a while. Thank you.

MR. DURHAM: Thank you.

MS. PERRY: Good afternoon. I'm Margaret Perry from WilsonMiller Stantec. I am here to talk on just a few slides very shortly about the issue of neighborhood compatibility and what we've proposed to do to try to address these issues.

Section 22.112 of your Code of Laws and Ordinances calls out the requirements for setbacks for an excavation. These are 50 feet from right-of-ways, highways, abutting properties, et cetera.

What we're proposing is a -- is a setback from both the western property line and Corkscrew Road of 300 feet, roughly the distance of a football field. Within that 300 feet, we're proposing a 70- to 80-foot-wide buffer, that is -- I'm sorry -- berm that is 8 feet high; along the western property line a Type A buffer modified to include a single row hedge, and along Corkscrew Road your typical Type D buffer, which is trees and a double row hedge.

So these first three slides are just various cross-sections. The first two are two samples along the western property line, and then this third one is the buffer proposed along Corkscrew Road.

Kind of in summary, this kind of tells the story. The area along the western boundary you can see the 300-foot setback, including the 70-foot-wide, 8-foot-high berm.

Some other things we wanted to talk about relative to neighborhood compatibility, what we have proposed. First of all, we're -- as you saw in our master plan, the operations center is centrally located, and internal paved roads will be provided to the operations center.

We plan to use best-management practices relative to dust control, as Dennis mentioned earlier, water trucks to -- water roads to keep the dust down.

We're proposing the wheel wash system off-site -- on-site, I'm sorry, at access to internal roads so it will be paved -- they won't go back to dirt -- with a minimum setback of 150 feet from perimeter boundaries.

We're also proposing the installation of deceleration/acceleration lines on 82 and Corkscrew Road, and I think those were discussed earlier, and we're working out the specifics of those.

We're proposing the queuing staging of all haul trucks on site, not backing up on either Corkscrew or State Road 82. And, of course, we'll be in compliance -- we'll have to stay in compliance -- with the county's noise ordinance.

To expand just a little bit on blasting that Dennis talked about earlier, we will handle any complaints and claims as required by Florida Statute. We have offered and have agreed to preblast and post-blast surveys provided to abutting property owners, and the associated cost for those surveys will be incurred by the mine owner or operator.

We've agreed to the formation of a neighborhood committee to select an independent engineer to assess any damage. This is similar to what was done for the Jones Mine mentioned earlier.

CHAIRMAN STRAIN: Did you read that 42-page --

MS. PERRY: Yes.

CHAIRMAN STRAIN: -- those 42 stipulations?

MS. PERRY: Yes.

CHAIRMAN STRAIN: Because they're going to be issues here today. Thank you.

MS. PERRY: Okay. And make a commitment to repair structures or wells, the cost, once again, to be incurred by the mine owner/operator.

Kind of switching gears here, getting away from compatibility, more about what a mine in this location would mean economically to both the county and the region.

At full operation the mine is expected to employ approximately 54 people with an annual payroll of approximately \$1.8 million.

The other value for Collier County we believe is the value of the approximately 21 acres that we're providing for stormwater-management lakes for State Road 82 estimated to be in the neighborhood of \$327,000.

And, eventually, the increase in tax base as the agriculture operation is turned over to mining, because there's a higher rate for mining as opposed to citrus.

With that, I'm going to turn it back over to Don to summarize, but I'll be happy to --

CHAIRMAN STRAIN: Stay right there until we get done with you.

Anybody? Brad?

COMMISSIONER SCHIFFER: Can you go back to your sections on the boundary lines?

MS. PERRY: Sure. That's along Corkscrew Road. This is one point along the western boundary.

COMMISSIONER SCHIFFER: Okay.

MS. PERRY: Another point along the western boundary.

COMMISSIONER SCHIFFER: Okay. And a couple things. Is there going to be any fencing around this -- on this site?

MS. PERRY: We were not planning to fence. We figured an 8-foot-high berm, you know, within a 300-foot setback would be adequate.

COMMISSIONER SCHIFFER: Okay. And then the future use of this thing, that would probably down the road become residential, do you think, or some sort of --

MS. PERRY: It's probable, yes.

COMMISSIONER SCHIFFER: Okay. So there -- so the people from Lee County will be able to just walk up that berm and then go into the -- have access to the quarry?

MS. PERRY: You know, that I don't know. It could be -- who knows what the future would hold for a future residential development. But are you talking right now or in future?

COMMISSIONER SCHIFFER: Yeah, just on this section alone. So there's no perimeter fencing, nothing that would restrict access.

MS. PERRY: That is what we're planning right now, yes.

COMMISSIONER SCHIFFER: Okay. Thank you.

COMMISSIONER BROUGHAM: Mark, just one.

CHAIRMAN STRAIN: Phil.

COMMISSIONER BROUGHAM: On the staging of trucks and queuing of trucks on site, mining operations commence at 6 a.m. daily?

MS. PERRY: Yes.

COMMISSIONER BROUGHAM: When do you anticipate the first trucks to arrive?

MS. PERRY: We'd anticipate, you know, 5:30, 5:45.

COMMISSIONER BROUGHAM: And how many trucks can you stage on site?

MS. PERRY: That one I don't know, because I'm not really a mining expert. Perhaps Dennis, our mining expert, could give you a better --

COMMISSIONER BROUGHAM: What if you have 500 trucks show up at one time; can you hold them all?

MS. PERRY: Well, I don't -- I really don't think that would happen. I think they would go, you know, through the day, but perhaps Dennis could more respond to that --

COMMISSIONER BROUGHAM: I'm just trying to get an idea of what the capacity for the staging queuing is on site beginning in -- first thing in the morning, for example.

MR. ROSA: It's -- we're probably going to be a couple thousand feet from State Road 82, so it's almost a half a mile. And that would queue up quite a few trucks.

COMMISSIONER BROUGHAM: So you're not going to -- there's not going to be any gate, per se? I mean, there's going to be an access road. The trucks will traverse down and then wait for the operation to be --

MR. ROSA: There'll be a gate at the north end of the staging area, or the processing area, yeah, the operation center.

COMMISSIONER BROUGHAM: And where do you stage; inside the gate?

MR. ROSA: Couple thousand feet. No, there'll be -- from that gate back to State Road 82 would be the area they would queue up.

COMMISSIONER BROUGHAM: Okay. All right. Thanks.

MR. ROSA: And to answer your question about the fence, federal mine safety laws requires a fence around a mine.

COMMISSIONER MIDNEY: All the queues would be on 82. There wouldn't be on Alico Road -- I mean on Corkscrew Road.

MR. ROSA: They'd all be within the property limits.

COMMISSIONER MIDNEY: But you might also have a queue on Corkscrew Road?

MR. ROSA: Coming off of Corkscrew Road there may be a couple trucks that would queue, but there is a pretty good distance also from Corkscrew to the operations center.

CHAIRMAN STRAIN: Yeah.

COMMISSIONER SCHIFFER: The fencing, where does that fence have to be? Is it --

MR. ROSA: It would be basically on the property line. We could have an internal fence that would fence off the mining area temporarily as the phases progress. But we have to have it fenced off and protected.

COMMISSIONER SCHIFFER: Okay. So the picture that's on the screen now, somewhere in that profile

would be -- how high a fence would that be?

MR. ROSA: It would probably be 6-foot-high fence.

COMMISSIONER SCHIFFER: Okay. So somewhere there'll be a fence added to that profile?

MR. ROSA: I would say the logical place is along the property line.

COMMISSIONER SCHIFFER: Okay. How about -- so obviously down around the panther area -- are you going to fence around that or --

MR. ROSA: To start with, we probably wouldn't. There would probably be an intermediate fence south of our first phase.

COMMISSIONER SCHIFFER: Okay.

MR. ROSA: That would not be fenced.

COMMISSIONER SCHIFFER: But the regulation is such that you have to fence off access to the open-water surface, right?

MR. ROSA: Yes. To the active mining areas, that's correct.

COMMISSIONER SCHIFFER: Okay. When you're mining the other lake, can you remove the fence on the past lake?

MR. ROSA: No.

COMMISSIONER SCHIFFER: Okay. So open water has to be fenced?

MR. ROSA: As long as it's a mine, it has to be fenced.

COMMISSIONER SCHIFFER: And I guess after you complete it and you sell it to residential lots, it's no longer a mine then; you could remove it?

MR. ROSA: That's correct.

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: Anybody else at this time?

About your fence. You said on the property line, so that means all those residences to the west and east, if you were to get approved, we would have to be looking at some, probably, rag-tag (sic) chain-link fence in back of their property.

MR. ROSA: Well, I said the logical place, and I think logical from our standpoint. But if we had to put a buffer out there, we could -- we could do that and back the fence up.

CHAIRMAN STRAIN: Okay. Well, I just want to make sure -- there's going to be so much to write down about this.

Thank you. And I have some questions of Margaret.

MS. PERRY: Yes.

CHAIRMAN STRAIN: Margaret, your slide said \$327,000 worth of donated land. How many acres are you involved in that?

MS. PERRY: That is 28.1 acres.

CHAIRMAN STRAIN: Is that for -- what? What 28.1 acres are you do- -- are you donating for that value? Which is -- what's -- who required it; for the road right-of-way?

MS. PERRY: Yeah -- not for road right-of-way. For the water management for -- from State Road 82.

CHAIRMAN STRAIN: Nick, do you -- that's -- divide that out. What kind of numbers we got on that?

MR. CASALANGUIDA: Mr. Strain, if you want us to talk about compensation, we can do that now, but the road --

CHAIRMAN STRAIN: I'm just responding to her slide, and she says that their land value is 327,000.

MS. PERRY: Yes.

CHAIRMAN STRAIN: If you divide 28 acres into that, that's -- what is it?

MS. PERRY: Fifteen thousand an acre. And that amount came from a recent appraisal that was done on other Alico property and the same type of citrus.

CHAIRMAN STRAIN: Oh, Nick.

MR. CASALANGUIDA: Commissioner?

CHAIRMAN STRAIN: You guys have been making really bad deals on land purchases.

MR. CASALANGUIDA: Commissioner, it's not -- let me explain. State Road 82 -- State Road -- State Road 29.

CHAIRMAN STRAIN: You're getting a little tongue-tied, Nick.

MR. CASALANGUIDA: No. We met with DOT, and they're both state roads. They have enough right-of-way. And we said, what do you want from this project? It's a conditional use.

Proportionate share is not required. DOT said, we have the right-of-way, we have preliminary designs, we need water management. We said, that's fine.

In -- under the recommendation that's in front of you, it's not acreage. It's acre feet. You have to provide X amount of acre feet of water management. They can do it at their discretion through the lakes that they're going to dig, through property they provide to DOT. So when DOT or the county asks for it -- and it's going to be DOT, not the county, they'll provide that acre feet of water management. How they provide it is up to them. It can be through ponds that they dig right now.

So to assign a value to it is arbitrary, in my opinion, right now.

CHAIRMAN STRAIN: Okay. Because we have other right-of-ways in the county that different values have been assigned to, and that's quite low.

So anyway, just to be fair, I'm surprised at the value that you assigned to your rural land.

Twenty-eight acres, do you agree with that -- that calculation?

MR. CASALANGUIDA: I haven't looked at it, you know, and I don't think DOT has. They've stipulated it as acre feet, which is impervious to be put into the site. You know, if they provide it as part of their lakes, then that calculation wouldn't apply to anything.

CHAIRMAN STRAIN: Okay. And I know proportionate share isn't required for a CU, but a CU isn't required to be approved either.

MR. CASALANGUIDA: That's right.

CHAIRMAN STRAIN: Okay. This buffer shows -- well, first of all, you talked about roads previously, that they're going to be 150 foot back from the perimeter boundaries. Perimeter boundaries of what?

MS. PERRY: You mean the wheel-wash system?

CHAIRMAN STRAIN: No. Well, you -- one of your slides you had it on. You can keep going forward. I thought it said roads, but I could have been wrong. It moved pretty fast.

Wheel-wash systems at accessed internal roads, and a setback of -- minimum 150 feet from perimeter boundaries.

So where do you -- so is that just -- okay. Let's start with two questions. Where do you intend to put the nearest internal paved road to the western or southern property line that isn't an exit road?

MS. PERRY: I'm going to -- if you don't mind, I'm going to go back to the beginning showing the master plan that perhaps that would --

CHAIRMAN STRAIN: You're going to lose your place, you know.

MS. PERRY: I know, sorry. As you can see, the majority of the western property line contains the mining lake area. So I would presume the internal roadways would be on the gray area that you see here for the paved internal-roadway network.

CHAIRMAN STRAIN: The gray area, or is it -- okay. One guy -- if you're talking about the area that says "mine operation center" --

MS. PERRY: Mine operation center, and then if -- it's kind of another color gray down below that wraps around the WRA.

In essence, it appears that the mining area along the western boundary, there isn't going to be internal roads next to the western boundary.

CHAIRMAN STRAIN: That's what I was getting at. So you are not intending in the setback to put any internal roads? I don't care about the -- I understand the buffer, but the setback to whatever that comes out, you won't be putting roads in the setback?

MS. PERRY: That's correct.

CHAIRMAN STRAIN: Okay. You won't be putting a wheel wash in the setback?

MS. PERRY: That's correct.

CHAIRMAN STRAIN: Okay. Because the way that reads now, a wheel wash could go within 150 feet of the boundary, and that's what my concern was.

MS. PERRY: Yeah, you're right.

CHAIRMAN STRAIN: Okay. On your buffers, you showed a series of citrus trees.

MS. PERRY: Yes.

CHAIRMAN STRAIN: Are you going to maintain those citrus trees for perpetuity as part of the buffer system?

MS. PERRY: We cannot guarantee perpetuity because we don't know about greening or canker or something. Our intent is to leave three to four rows there, keep them viable, hopefully. But, you know, perpetuity, no, because we can't -- we can't guarantee that.

CHAIRMAN STRAIN: Well, if you show a buffer system or a set -- or a system like that on an exhibit to a conditional use. I'm wondering how -- if it goes away just because the trees die or you have to maintain it. That's where I was wondering why the word "perpetuity" came into play.

MS. PERRY: Well, I think our description, our written description as opposed -- I don't think these illustrative cross-sections should be attached to any kind of approval. They were just given to you to show what it would look like.

I think our written description of the Type A buffer and the Type D buffer and the height and the width of the berm, plus the setback adequately describes what we intend to do.

CHAIRMAN STRAIN: I'll have to run that with staff then to make sure that the language in your description is comparable to or -- comparable to what your graphic shows. Because it's one thing to show something, and it's another thing to make sure it's written down the same way.

I'll have a lot more -- all the slides that you showed that showed the standards you were going to maintain on the site as far as things you saw as compatible, increasing the compatibility.

MS. PERRY: Yes.

CHAIRMAN STRAIN: Those -- I don't know how many of them are actually worded into the document, because some of them, I think, came as a result of maybe your review of the Jones Mine stipulations. I would assume then that you're accepting all those -- or as a beginning of a stipulation list? I mean, if you're going to --

MS. PERRY: No.

CHAIRMAN STRAIN: No?

MS. PERRY: No.

CHAIRMAN STRAIN: Don't say something you can't do, because as far as I'm concerned anything you say is going to be stipulated. So why don't we go back to that list and you can tell me what ones you're now concerned about stipulating.

MS. PERRY: Okay. Not our list?

CHAIRMAN STRAIN: That's what I'm asking about, your list. I know you got some of them from the Jones Mine list, and you acknowledged, yes, you did. My question is, the ones that you have on the list you presented to us, this page and the next one, if they were stipulated to be part of your project, do you have a problem with that?

MS. PERRY: No.

CHAIRMAN STRAIN: Okay, good. That's all I was trying to get to.

MS. PERRY: I got confused.

CHAIRMAN STRAIN: We're good. Thank you. That's all.

Anybody else have anything?

(No response.)

CHAIRMAN STRAIN: Okay.

MR. SCHROTENBOER: Thank you. And we'll try to get this wrapped up here.

Mark, just to answer that last question, we were under the impression that you were saying that the Jones Mine conditions would be a stipulation. We just --

CHAIRMAN STRAIN: No, not yet.

MR. SCHROTENBOER: We just heard it incorrectly --

CHAIRMAN STRAIN: My intention is to get to those 42 stipulations and walk through them one by one to see where we're going to go with them all.

MR. SCHROTENBOER: I think you've made that very clear. Thank you.

Good. I just want to kind of wrap briefly, kind of in summary form what are some of the things we've heard today. Some of them may be repetitive, so bear with me, but we will work through it.

First and foremost, probably one of the more important things that we need to recognize, as you've already heard, is that the Lost Grove Mine has obtained and is in receipt of its environmental resource permit from the DEP on May 25th.

And I know it was quoted to you, once again, but I think it's worthwhile to reiterate these quotes from that permit itself.

The results of the preliminary well water testing have shown that the site can be mined without adverse affects to the regional groundwater. It doesn't talk about just the site itself. It's talking about the region.

The eventual replacement of the portion of the citrus groves with reclaimed quarry lakes should result in a net improvement in the water quality and quantities for the CREW lands through decreases in agricultural discharges and groundwater pumping.

So the testimony that you heard today is testimony from the experts themselves, but it has also been proven by the DEP.

The ERP is one of the crux of the issues between the two counties itself. Lee County, although it requires an ERP permit, obviously state sanctioned, they totally disregard its findings and task their own staff internally to find and justify their own, you know, findings to the same type of things.

They use different type of modeling; they use different types of science to achieve different results, but there is no recognition for the DEP permit within Lee County, as they have their own staff. Conversely, in Collier County your staff here puts full merit into the DEP knowing that it is well-proven science, well-proven modeling behind it, and years of experience, and the result -- or not the result, but the excruciating detail that the DEP puts into those permits.

This permit was obtained -- I think it was almost two years -- I think it was a good year and a half, maybe two years of working with DEP, having them personally come out on site and doing their own modeling and looking at their own science and achieving their results. Big difference between the two counties in that respect.

Furthermore, Lost Grove Mine does not impact any jurisdictional wetlands as determined by the Army Corps of Engineers and also the DEP.

Lost Grove Mine received unanimous approval earlier from the Environmental Advisory Council.

As was stated earlier, as the project progresses and upon completion, over 692 acres of lakes will provide groundwater benefits and enhance the environment to support further wildlife.

Surface-water management is designed to not discharge during the mining season -- during the mining phase. During the entire mining phase, there is no discharge from the mine. Upon completion of the mining phase, the surplus-water management will discharge at its pre-mining discharge rate, which is established by the county.

The community outreach program that I spoke about earlier resulted in numerous compatibility issues, and it resulted, thereof, as many of what Margaret has talked about and also in the conditions from your staff.

As determined by the Collier County staff that you'll hear from in just a few minutes, the Lost Grove Mine is found to be consistent with the -- Collier County's Growth Management Plan and the Land Development Code and thus will be approving or recommends approval of the CUP (sic) and the excavation permit before you today. And we, as the applicant, agree with the staff stipulations that will be brought forward.

And, again, as a reminder, and I'm quite positive that you'll be hearing this throughout the day possibly from your county legal staff, Heidi and Jeff, Lee County has no legal standing or jurisdiction over this petition. Furthermore, Lee County's LDC and Growth Management Plan cannot be legally utilized to evaluate this petition here before you in Collier County.

With that, I think our presentation is concluded, and myself and the rest of our team are available for your questions or comments.

Thank you.

CHAIRMAN STRAIN: I have a question. Your last two comments about Lee County.

MR. SCHROTENBOER: Yes.

CHAIRMAN STRAIN: I don't think this board has taken the position on any legal standing or jurisdiction. We're treating them as though they're another interested party offering comments, number one. I just want to keep the record square.

MR. SCHROTENBOER: And it is square.

CHAIRMAN STRAIN: And, number two, I don't believe any of us had anticipated or reviewed the -- Lee

County's LDC or Growth Management Plan. That's worse than our plan as far as trying to understand it. So I wouldn't even want to attempt to understand their plan.

MR. SCHROTENBOER: It's worse in a lot of ways other than just understanding it. But I appreciate it. You are on the record, and we fully recognize that.

CHAIRMAN STRAIN: Okay. And I -- there was something else I wanted to ask you. Oh, yes, sir. Go ahead.

COMMISSIONER MIDNEY: Yeah. You stated community outreach results in resolution of numerous compatibility issues?

MR. SCHROTENBOER: Yes.

COMMISSIONER MIDNEY: Could you talk about some of the things that you've changed in your plan in response to community input?

MR. SCHROTENBOER: Going the wrong way here. Yeah, many of them Margaret Perry touched upon in it. We have expanded the buffer. We have widened the berm. We have enhanced the landscape that was presented today. We have committed through this to do the paved roads that were highlighted from the public roads into the operational center.

What else was there? Oh, the queuing and the staging of the trucks on site was not originally a part of this application, and we have agreed to fully accommodate that.

Part of what came out of the EAC was the lighting limitation to 20 feet and, obviously, we have agreed to that. And some of the blasting issues -- I think I've got to go back here.

The blasting issues, as far as monitoring, setting up a neighborhood committee, a commitment to repair for any repairs or structures that are deemed to be from the mine are all commitments we've made during the community outreach.

And that may not even cover all of them. I know they are covered in your staff stipulations.

COMMISSIONER MIDNEY: Thank you. I think the statement implies that you sort of satisfied the community, but you're just saying that you moved in their direction?

MR. SCHROTENBOER: That is correct.

COMMISSIONER MIDNEY: Okay.

CHAIRMAN STRAIN: Yes, sir, Phil?

MR. BROUGHAM: Question, sort of a follow-up.

The preblast survey and post-blast survey would occur when? Before and after every blast?

MR. SCHROTENBOER: That -- I'm going to have to turn that question over either to Jeff Straw or to Dennis Rosa, if you don't mind.

MR. BROUGHAM: I mean, the word sound --

MR. SCHROTENBOER: Yes. I understand what that says. I want to clarify it so you understand.

CHAIRMAN STRAIN: You're a popular guy here today.

MR. ROSA: Not me, I'm telling you. I've never been.

Preblast survey would occur prior to any blast -- preblast survey would occur prior to any blasting.

COMMISSIONER BROUGHAM: So earlier you said that on average you'd be blasting twice a week?

MR. ROSA: Twice a week.

COMMISSIONER BROUGHAM: On average.

MR. ROSA: Right.

COMMISSIONER BROUGHAM: So before and after every blast?

MR. ROSA: No. Before we start any work, we would do a complete preblast survey of the structures in question.

MR. BROUGHAM: And then --

MR. ROSA: And then a post-blast survey would be after damage would occur or a complaint for damage.

COMMISSIONER BROUGHAM: That's not -- excuse me for interrupting.

MR. ROSA: So the -- after the blast if somebody complained that there was damage, then a post-blast survey would be started.

MR. BROUGHAM: So a preblast survey would be prior to the onset of any mining operations. You would survey all of the adjacent properties within a certain footage. I'm not sure what.

MR. ROSA: Whatever the agreed-upon footage is in the --

COMMISSIONER BROUGHAM: Then you commence -- perhaps you commence mining operations and blasting.

MR. ROSA: Right.

COMMISSIONER BROUGHAM: And only -- tell me if I heard you correctly, only if and when you receive a complaint from someone about damage would you then do a post-blast survey?

MR. ROSA: That's correct.

MR. BROUGHAM: And this would be for the period the mine's in operation?

MR. ROSA: For the entire period it's in operation, that's correct.

COMMISSIONER BROUGHAM: And is there -- I'm trying to phrase the right question. Some of these homes may or may not be occupied full time.

MR. ROSA: That's correct.

MR. BROUGHAM: Okay. So you do a preblast survey, and hopefully you get the majority of the homes surveyed and provide that documentation to the owner. And you commence mining operations, and a certain owner comes back to occupy his home six month later, eight months later and says, whoops, something happened. What's that process then that you would do a post-blast survey and come to some resolution? Is there a time limit between the blast that caused the damage and the reporting of the damage?

MR. ROSA: I think we would have to assume that the blast that caused the damage was fairly close to the time of the complaint. So, you know, it could be -- it could be two years after mining started, or it could be --

COMMISSIONER BROUGHAM: That could be problematic if that home is not occupied 100 percent of the time.

MR. ROSA: But if that person could establish that they were not there -- we have no idea -- if there is a complaint, we would have no idea what particular blast caused that problem.

COMMISSIONER BROUGHAM: I understand that.

MR. ROSA: So when we go out and do the post-blast survey and it indicates there's damage, at that point it would initiate a remedial action.

COMMISSIONER BROUGHAM: So you're not -- what I understood you to say just then, you would not be tying the complaint to a specific blast or a specific period of time? If there was damage that you -- that was determined to be caused by a blast, after the preblast survey, then there would be no argument about compensating or doing remedial action for that damage?

MR. ROSA: There would be no argument if it could be established that it was blasting that caused it.

COMMISSIONER BROUGHAM: And I'm just trying to get to the point that you're not going to tie homeowners necessarily up to a specific blast, a specific time to report the blast, et cetera, et cetera, which could be months.

MR. ROSA: Yeah. I understand your concern, and we would not do that. It would be --

COMMISSIONER BROUGHAM: So noted.

MR. ROSA: Yeah, so noted. My boss is back here ready to hang me, so --

CHAIRMAN STRAIN: No. Anybody else?

(No response.)

CHAIRMAN STRAIN: We just want answers. We appreciate you providing them.

And I had a question of Tim Durham. Is he still here somewhere? He ran off. Oh, okay.

MR. DURHAM: Sorry about that.

CHAIRMAN STRAIN: Hi, Tim.

MR. DURHAM: Hello.

CHAIRMAN STRAIN: I meant to ask this when you were up there before. You had some state permits and some federal permits. Were they retired? You talked about a series of permits. You said that you're outside the Corps of Engineers process.

MR. DURHAM: Correct.

CHAIRMAN STRAIN: Of the required permits that you were -- you had to have from the state and Feds --

MR. DURHAM: Yes.

CHAIRMAN STRAIN: -- can you tell me which -- which of them you had to have from state and which you

had to have from the Feds? The DEP for example, that was state. South Florida Water Management was state.

MR. DURHAM: Correct. And then the environmental aspect, those are the ERP permits for the site. That is required.

CHAIRMAN STRAIN: Okay. What about Feds? Did you have any required permits from the Feds?

MR. DURHAM: There are no wetland-related permits required from the Feds.

CHAIRMAN STRAIN: Okay. Are there any permits required from the Feds?

MR. DURHAM: We had a wetland jurisdictional determination done to officially evaluate whether wetlands were -- Corps just said whether wetlands would be impacted or not. That was --

CHAIRMAN STRAIN: Can you tell me --

MR. DURHAM: That was required, but not the permit afterwards.

CHAIRMAN STRAIN: Can you tell me the date of issuance of the state permits that you had and the date of issuance of the federal permits you had?

MR. ENGLISH: May 25, 2011, the ERP from DEP.

MR. DURHAM: The ERP from DEP, the date -- looks like it's right here -- say it again.

MR. ENGLISH: May 25, 2011.

MR. DURHAM: May 25, 2011.

CHAIRMAN STRAIN: Okay. That's the one state permit from the DEP. Does that also coincide with the South Florida Water Management District? And I just need a general year or month, and I'm not looking at specific days.

MR. ENGLISH: For the record, John English. The agricultural operation, its water-management system operates under a South Florida Water Management District permit. And under that permitting process, the -- any wetlands issues were handled at that time.

CHAIRMAN STRAIN: You had to modify the permit, though, when you went in with the mining excavation or mine -- and either the excavation permit or the -- yeah, for the excavation permit, didn't you?

MR. ENGLISH: Yeah. And the agreement we had was -- between DEP and the Water Management District is, we would apply for an ERP through DEP, and then we would file a letter of modification for a paper trail to remove that area from the Water Management District permitting.

CHAIRMAN STRAIN: Okay. And what about the wetlands jurisdictional lines? Do you know the date you attained those?

MR. ENGLISH: When we received the letter from the Army Corps stating no jurisdiction?

CHAIRMAN STRAIN: Right.

MR. ENGLISH: I do not have that date.

CHAIRMAN STRAIN: Do you know the year?

MR. ENGLISH: The year.

CHAIRMAN STRAIN: Yeah.

MR. ENGLISH: It was 2011.

CHAIRMAN STRAIN: That's all I needed. It's going to help Kay answer some questions.

MR. ENGLISH: If you need a specific date, I could probably call the office.

CHAIRMAN STRAIN: No. The year is fine in this case.

MR. ENGLISH: Thank you.

CHAIRMAN STRAIN: Thank you.

MR. SCHROTENBOER: Anything further, Chairman?

CHAIRMAN STRAIN: No, sir. I think we're fine.

MR. SCHROTENBOER: Okay, thank you.

CHAIRMAN STRAIN: I guess that concludes your presentation for now. I have a huge amount of questions that I know not many people are going to want to sit through. So what I'm going to do is hold all my questions off -- or at least the bulk of them. I shouldn't say all of them because then I'd be lying, because I already started too many questions -- until I hear all the presentations, including the comments from the public, because I want them to be heard first.

And then I'm going to ask to go back through all the questions that I have on the -- from your various experts and start all over, but I want to make sure the public -- we can get to them as quick as possible.

MR. SCHROTENBOER: I think that's an appropriate procedure. Thank you.

CHAIRMAN STRAIN: Okay. Now, the rest of you, it's up to you on call, but I think that ends the -- so far the presentation by the applicant.

Kay, I think you're up next. Then after Kay will be Lee County. After Lee County will be the members of the public who are here.

We'll start with you, and we'll go forward. Hi, Kay.

MS. DESELEM: Good afternoon. For the record, Kay Deselem, principal planner in zoning, and I've been the project manager for this particular petition.

We also have on staff with us today Mike Bosi. He can address comprehensive planning issues; Jack McKenna, the county engineer; and Steve Lenberger, who can address environmental issues; John Podczewinsky, who can address transportation issues, along with Nick Casalanguida; and we also have Ray Bellows here if you have any specific zoning issues that I'm not able to address.

You have received a copy of the staff report with its numerous attachments. The staff report is a document that was revised 10/26/11. The staff report goes into detail beginning on Page 2 talking about the surrounding land uses in zoning.

It contains a map on Page 3 that shows the general outline of the subject site and its relationship to the Lee County line and Corkscrew Road.

The Growth Management Plan consistency is discussed beginning on Page 3 addressing the Future Land Use Element, the RLSA issues, and the transportation element beginning on Page 5, and continuing with the Conservation and Coastal Management Element on Page 6.

The Conservation and Coastal Management Element issues are further discussed in the EAC staff report that was presented to the EAC, and that was also included in your packet.

On Page 7 of the staff report is a brief discussion about the Intergovernmental Coordination Element. Staff was unable to find any active interlocal agreements with Lee County, but we have, since the onset of the project submittal, worked with Collier County -- or with Lee County and provided documents to them.

We also contacted Hendry County and asked if they had any interest. They recognized that they received our letter, but we never got anything in follow-up from them.

The overall analysis begins on Page 8 of the staff report, going into the issues that are required to be addressed for conditional-use approval by the Land Development Code.

The first item talks about the conditional uses allowed in the rural agricultural zoning district, and this particular request is addressed as potential conditional-use application. It talks about the consistency with the Land Development Code and the Growth Management Plan, which ties into the prior discussions about the Growth Management Plan. It also goes into detail about some of the issues of the Land Development Code and how the particular project is in compliance with those issues.

On Page 9 it talks about the effects the conditional use would have on the neighboring properties in relation to noise, glare, economic or odor effects and discusses our position on those.

And this Article Item 4, it does talk about the interactions between Lee County and Collier County staff and the applicant. And we've tried to incorporate the concerns that have been given to us by Lee County. We've looked at the conditions they wish to have adopted, and we've evaluated them and worked with them and the applicant to try to come to some resolution that was agreeable and fair to all parties, and we think we have accomplished that.

On Page 10, Item No. 5 talks about compatibility with adjacent properties and, of course, this is linked to Item 4 as well and talks about the setbacks. And since this was written, you know, the applicant continues to make concessions as to what he's going to do to address compatibility and setback buffering.

There is a brief discussion about stormwater and just some additional comments regarding the environmental review and the transportation review.

We have provided the motion from the EAC. That particular meeting was held on September 7th.

The applicant conducted a neighborhood information meeting in Collier County pursuant to the Land Development Code requirements, and there is a notation and some comments, synopsis, about that meeting that was held on January 12th.

As you noted in the applicant's presentation, they also had an additional NIM, neighborhood information meeting, in Lee County at the request of Lee County residents.

Going onto Page 16, the staff recommendation is provided to you. There are several conditions. And Heidi has looked those over, and in the last few days has drafted some changes to these. I don't think there's substantive changes as far as changing any conditions, but I believe she will want to address that herself rather than having me do it for her.

But suffice it to say that staff is recommending the petition be found consistent with the Growth Management Plan, and we are recommending approval with the conditions provided to you in the staff report.

And I'd be happy to address any questions you have or direct them to the appropriate staff member.

CHAIRMAN STRAIN: Before I ask the bulk of my questions, I just have one question about procedure. And it -- I'm -- it was one I meant to point out when Don was up here talking.

In his discussion here he says under the third bullet from the bottom, thus recommends approval of the conditional use and excavation permits. I just want to make sure that the excavation permit is not an issue for discussion at this board because that is -- doesn't go through this board. So we are not going to recommend approval or denial for the excavation permit because it's not within our purview.

Is that a fair statement from staff's perspective?

MS. DESELEM: Yes, sir. Thank you for mentioning that. I also had put in my notes that I would mention that, too. The only thing that was advertised for consideration today is the conditional-use application identified as CU-PL2009-1412.

CHAIRMAN STRAIN: And that distinction is important. With all the material received, basically, the conditional use is the only thing that goes through the three boards. The excavation permit, by our code, only goes to the EAC and the Board of County Commissioners. So it's not one of our issues.

Now, as far as questions of Kay, Paul?

COMMISSIONER MIDNEY: Yeah. At some point I don't know -- you're probably not the one to answer this, but I'd be interested to know what happened at the Lee County NIM, because we don't have any information about that at all.

MS. DESELEM: I did not attend that meeting, and I don't have any notes from it. The petitioner's agents would have to provide that information to you.

CHAIRMAN STRAIN: Why didn't you attend?

MS. DESELEM: I was not required to attend because it wasn't a neighborhood information required by Land Development Code.

CHAIRMAN STRAIN: No, it's not a requirement, but we have an intergovernmental coordination element that says we're to cooperate. And I'm just wondering, wouldn't it have been good cooperation for our staff to be participatory on any of the actions on this mine so we could have a better picture of what we're doing?

MS. DESELEM: In hindsight, it wouldn't have been, you know, detrimental, but I mean, I don't know that it would have served too much purpose one way or the other. I would have been there, but I wouldn't have been a participant. I would have just been listening.

CHAIRMAN STRAIN: Right. But I -- well, I think in the spirit of cooperation it would have been -- in hindsight, maybe if this ever happens again, we can be more cooperative in the way we interact with our neighboring county.

Paul, do you have any more you wanted to ask?

COMMISSIONER MIDNEY: No.

CHAIRMAN STRAIN: Anybody else want to ask any?

COMMISSIONER MIDNEY: Well, just a comment, Mark.

CHAIRMAN STRAIN: Sure.

COMMISSIONER MIDNEY: At some point it was said that the neighbors in Lee County were not notified of the meeting here, and the reason was because it was not a requirement. If I lived in Collier County on the border and Lee County did something, I would certainly want to know about it. I think that we should do something to modify that rule so that neighboring property owners -- I mean, it's not an international boundary here.

CHAIRMAN STRAIN: You're right.

COMMISSIONER MIDNEY: They ought to be invited or at least be notified.

CHAIRMAN STRAIN: Better information --

MS. DESELEM: If I may just --

CHAIRMAN STRAIN: -- helps everybody, and we should have had that in this case.

MS. DESELEM: If I may respond. The Land Development Code only requires the applicant -- remember, it's applicant's meeting, not staff's. And it only requires the applicant to notify persons pursuant to the Collier County tax rolls.

I believe I was in contact with Lee County staff members and asked them to pass the word along, but that was the best avenue that we had available to us at the time.

COMMISSIONER MIDNEY: I would like to see the rule changed so that if it's a property that's on the border, that the bordering property owners would be notified, even if they were in another county.

CHAIRMAN STRAIN: Well, I think what we ought to be looking at is a -- we have a jurisdictional limitation. I'm not sure -- a notification limitation for when we send out notices of zoning changes, and I think it should apply regardless of where municipal boundaries are, whether it be the City of Naples, Lee County, Hendry County, or anywhere else, and I think that's something that could come up on our next round of LDC amendments as far as consideration.

Is that reasonable, Nick, from your department?

MR. CASALANGUIDA: Mr. Chairman, I agree with you, but I think more appropriate would be for us to do what we've done and contact Lee County, have Lee County do notice to their residents and invite them to our meeting, so Lee County representatives would attend also.

CHAIRMAN STRAIN: Okay. But why would the burden of cost to make that notification be put on the backs of the adjoining county when it should be the applicant?

MR. CASALANGUIDA: Shouldn't be. The applicant would pay that notice, but Lee County would make sure it's properly vetted, and they would attend the meeting as well.

CHAIRMAN STRAIN: I think, though, it just brings out what Paul has said. Our code needs to be looked at to make that change.

MR. CASALANGUIDA: I agree with you, Mr. Chairman.

MS. DESELEM: Yeah, I don't disagree with you. Let it be known I don't disagree with you.

CHAIRMAN STRAIN: Anybody else have questions of Kay?

COMMISSIONER EBERT: I do.

CHAIRMAN STRAIN: Go ahead.

COMMISSIONER EBERT: But just to lighten it up a little bit.

In No. 4, going to Page 10, it said that Collier County doesn't review elements beyond the scope of Collier County. And county staff, in compliance with the CCME Goal 13, a policy decision to avoid unnecessary duplication of reviews by other agencies -- and I was looking at the agencies and kind of had to start laughing because the U.S. Army Corps of Engineers, have you seen what they've done to the Everglades? I just -- sometimes I think they should be looked after.

CHAIRMAN STRAIN: Anybody else?

(No response.)

CHAIRMAN STRAIN: Okay. Kay, during break I mentioned to you that I needed to get the dates that you established a completed submission for the conditional use and the excavation permit. Have you been able to get those dates?

MS. DESELEM: Okay. I asked Jack McKenna to check into the excavation permit --

CHAIRMAN STRAIN: Right.

MS. DESELEM: -- because that's under his purview. The conditional-use application was accepted on 10/28/09. When I say accepted, the way it works in our system is if the application is complete, that is they have all the information that's been required through either discussions and agreements with the staff and the applicant and the preapp. notes, it's deemed to be complete at that time. They accept it. And they're allowed to make the payment, and it's processed for review.

The difference between complete and sufficient is sometimes questioned, because we get a complete application but staff hasn't reviewed it, and until we have gone through it, reviewed it, and are satisfied that we have adequate information to evaluate the petition, it's not deemed sufficient. Once it's deemed sufficient, it's scheduled for hearing. But as far as complete, this application was accepted and deemed complete on 10/28/09.

CHAIRMAN STRAIN: Okay. Well, that contradicts what you just said, because I told you a little while ago

during -- we came back from break, and I showed you the preapplication notes where it said the copies of the state and federal permits were required in order to be complete, and I just got acknowledgment from the applicant that they weren't done till 2011. I also have an affidavit from the owner -- or the CFO of Alico that was signed on May 21st of 2010 authorizing representation for the project to Mr. Schrotenboer.

So based on those dates, how did you come to the completion date prior to the submission of the federal and state permits that were required by the preapp.?

MS. DESELEM: We can only have them submit the permits that have been issued to that date. We don't commonly make them wait to submit their application for a conditional use until all the permits are issued. So normally they just give us what's been issued.

CHAIRMAN STRAIN: Right. But that's not what the preapp. note said.

MR. BELLOWS: For the record, can I make a clarification?

CHAIRMAN STRAIN: Sure.

MR. BELLOWS: Our process is designed to reflect a completed application if the application has -- provided documentation that they've applied for those permits, not that they had them in hand, because in most cases that isn't possible until late in the review process.

CHAIRMAN STRAIN: Let me read the ordinance to you. It says, existing usage shall include mines which have been approved by the county in mines for which a completed conditional use or excavation permit application has been submitted prior to the effective date of this ordinance.

My concern -- and maybe it's the County Attorney's Office who has to address this. We have an ordinance. The letter of the law requires us to stick to it. If you guys have a determination of completeness in regards to the reference to that ordinance, it seems contradictory so far from what I've heard under testimony. It sounds like it is complete when you accept it subject to the criteria of the preapp., but the criteria of the preapp. included the permits that are state and federal. And the applicant has testified that those didn't occur until 2011.

I'm just curious -- and you had -- and, Kay, I got a copy of a letter from you on May 14th on the or May 24th of that year saying that it wasn't complete. And I understand now that you are looking at being complete in a different manner than you did then.

But I guess from the county attorney's perspective, what is complete in regards to the request in the ordinance? And it's the impact-fee ordinance I'm reading about. Because in -- and I know there's a dollar difference here, and we need to understand, regardless of whose favor it is or it not in, that we've met the letter of the law. We just can't arbitrarily make the rules.

MS. ASHTON-CICKO: As I understand it, they've submitted everything that was required with the application except for the permits, which they did not have at that point, correct?

MS. DESELEM: That is correct.

MS. ASHTON-CICKO: Then my opinion is that they have completed the application to vest themselves under the impact-fee ordinance.

MR. BELLOWS: And if -- I'd like to clarify. We won't deem it complete unless they have provided documentation that they've applied for those state permits.

CHAIRMAN STRAIN: Okay. But the application requirement for the preapp. says copies of state and federal permits. If they don't have them, they couldn't provide them. If -- they couldn't provide them or they couldn't be complete if the criteria was that they provided all the things required from the preapp.

And, Nick, I understand it means we get less money out of them.

MR. CASALANGUIDA: It's not about the money.

CHAIRMAN STRAIN: I'm not trying to do that. I'm trying to make sure we meet the letter of the law. And I don't understand how we've done it with the conflicting testimony I've heard today.

MR. CASALANGUIDA: Commissioner, you've permitted a lot of projects, so you know. They're multi-jurisdictional permits. So if they submit a permit to DEP and the U.S. Army Corps showing X amount of impervious access points, how much they're going to dredge, and they get approved and go through our process and we change all that, what does it do to their permit?

So you submit at the same time, you get comments from both agencies at the same time, and they run concurrently parallel. So we want to make sure that they've submitted application so what they're providing to us is consistent to what they're providing with the agencies. They get their RAIs from the agencies, they get their RAIs

from us, and they run concurrently.

For them to go through and get a DEP permit or a Corps permit without having been reviewed by county staff in terms of buffers, setbacks, those things wouldn't make any sense.

CHAIRMAN STRAIN: Well, I think at some point down the road we need to understand the definition of complete submittal.

MR. CASALANGUIDA: We've had that discussion internally, and I think that's a point well taken that will probably be clarified by the Land Development Code update.

CHAIRMAN STRAIN: Okay. For right now, I mean, I understand from the county attorney's position what it is. I don't necessarily agree, but we'll move forward, because the county attorney basically has opined the ordinance has been met.

So we can go forward from there. And, Kay, I think everybody else had asked their questions. I had just a couple other. They talked about the buffers and whether or not the graphic was the -- they were going to use written narrative in lieu of the graphic. Have you reviewed the written narrative to assure that it meets the intent of the graphic?

MS. DESELEM: I don't think they're the same. I noticed I was looking as the discussion was ongoing with the applicant, and they don't show the citrus area as such, and -- but I do agree with Margaret's interpretation that the written material takes precedence over the graphic. And I'm sure Heidi can opine one way or the other if she sees it differently.

CHAIRMAN STRAIN: No, my question was not that. I know the written material take preference over the graphic.

MS. DESELEM: Yeah.

CHAIRMAN STRAIN: What I wanted to do is, they presented a graphic saying to the world this is what we're going to do. I want to make sure that what they're going to do is adequately stated in the narrative to match up. That's all, so --

MS. DESELEM: It doesn't precisely match. It mentions existing vegetation in some things, but it doesn't say that that will be maintained in perpetuity or replanted or anything of that nature.

My understanding, not being an expert, obviously, in agriculture, but citrus trees have a certain life, and then they die. That's just the nature of how they are, just like everything else. It's not like an oak tree. They're not going to usually be around for a hundred years.

CHAIRMAN STRAIN: Well, see, that was my concern is that if the citrus are shown in the graphic and it really wasn't going to be part of the graphic in perpetuity as a conditional-use requirement is, then let's write down what is going to be and make sure that it's accurate and then make sure everybody's aware of what it's going to look like.

MS. DESELEM: Yes. If there's going to be vegetation in there other than the citrus or to replace the citrus, that should be clarified.

CHAIRMAN STRAIN: In the staff report there was a reference to concurrency, and it said -- and it was after the SR82 impacts. It said, no subsequent concurrency links in Collier County are significantly impacted by this project. And I understand what that says, but did we look at Lee County?

MS. DESELEM: I would have to defer that question to John Podcz, because he did that review.

CHAIRMAN STRAIN: Okay. Thank you. He's right behind you.

MS. DESELEM: Oh, darn. Thank you.

MR. PODCZERWINSKY: For the record, John Podcz, transportation department.

CHAIRMAN STRAIN: John, the comment in here that there are no subsequent concurrency links in Collier County significantly impacted by this project, I understand what that is.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Did we check Lee County?

MR. PODCZERWINSKY: No, sir. I do not check Lee County's concurrency records.

CHAIRMAN STRAIN: Okay. Even though we have the ICE and the intergovernmental cooperation and all the things back and forth, did we make any attempt to find out if there was a concern with Lee County's concurrency issues on State Road 82?

MR. PODCZERWINSKY: We required the applicant to contact Lee County and let them know the situation

that they did have a significant impact on Collier County roadways up to the border.

CHAIRMAN STRAIN: So -- that they did have a significant impact?

MR. PODCZERWINSKY: Yes.

CHAIRMAN STRAIN: Okay. So you're saying that on 82 on our side of the road there is a significant impact?

MR. PODCZERWINSKY: On 82, I'd have to take a second and look. I don't recall.

CHAIRMAN STRAIN: Didn't you just say that?

MR. PODCZERWINSKY: I think it would be more along the lines of Corkscrew.

MR. CASALANGUIDA: Commissioner, your first link is always considered significant by our rules.

MR. PODCZERWINSKY: Always.

MR. CASALANGUIDA: So whatever driveway they put on, that's the first link, that's significant. I'm the one who said to John, make sure Lee County, Hendry County get a nod on this thing.

Rob Price is in the audience. We said, contact them, let them know. We can't force any rules on the applicant that's within our -- you know, that's with -- outside of our jurisdiction, but as a courtesy, make sure their transportation department knows, contact FDOT and let's get them all together in a room.

CHAIRMAN STRAIN: Okay. So you're saying the concurrency issue wouldn't go beyond our county border because the first link is all that you consider --

MR. CASALANGUIDA: It doesn't go beyond our border because of our Comprehensive Plan.

CHAIRMAN STRAIN: Okay. I'm just trying to -- and concurrency is important, whether it's in our county

--

MR. CASALANGUIDA: Yes.

CHAIRMAN STRAIN: -- or another county if the road connects.

MR. CASALANGUIDA: That's correct.

CHAIRMAN STRAIN: And 82 is a hurricane evacuation route in Lee County and so is Corkscrew. So my concern was, did we bother to make sure that the impacts there were at least addressed if there are any and to what extent they are?

MR. CASALANGUIDA: We made sure that Lee County was aware of it so they could coordinate with us and tell us what they were concerned about.

CHAIRMAN STRAIN: Thank you, John.

MR. PODCZERWINSKY: Yes, sir.

CHAIRMAN STRAIN: Jack, you've been patiently waiting.

MR. McKENNA: Yes. For the record, Jack McKenna, your Collier County engineer.

CHAIRMAN STRAIN: The DEP's reference to a gently sloped shoreline in regards to 5- -- 50,299 linear feet, do you know what slope that gently sloped shoreline is?

MR. McKENNA: I am not sure of the reclamation slopes, but the -- I've seen reference that says that they're going to be varying slopes, but the graphic seems to show 4 to 1. I'm going to ask the applicant to clarify that.

CHAIRMAN STRAIN: Do you know what the standard, like a littoral zone slope would be?

MR. McKENNA: It's got to be flatter than 4 to 1, typically.

CHAIRMAN STRAIN: Okay.

MR. McKENNA: They can vary from flat to 4 to 1.

CHAIRMAN STRAIN: The fetch formula, can you tell me how that would or would not be used in this particular application?

MR. McKENNA: The fetch formula is a -- it's in our excavation ordinance, particularly applicable to private and development excavations, and it's referenced also under commercial excavations.

But under the commercial excavations, it's to be utilized unless there's a hydrogeologic report that shows evidence that there wouldn't be any negative impact to the groundwater table.

And in this case they provided a report that didn't show any negative impact. It's not close to the saline boundary, and the -- so the fetch formula isn't utilized in this case in a mine application.

CHAIRMAN STRAIN: Okay. And I mentioned to this -- mentioned this next item to you as a heads-up yesterday. Policy 5.3.16 of our CCME. I think it -- yeah, CCME.

It says, Collier County Engineering Services Department shall work with the DEP and Florida Geological

Survey and local mining industry officials to inventory and assess the existing mineral reserves in Collier County.

The inventory and assessment will incorporate use of GIS-based database of all areas within Collier County that are permitted either by right or through a conditional-use permit to conduct mineral extraction operations as well as the volume of fill that is permitted to be removed for each such active mineral extraction operations.

And I know you've been looking diligently to find that information. Have you been able to find it yet?

MR. McKENNA: What I have -- we have approximately 103 million cubic yards that have been permitted within Collier County, and of that approximately 31 million has been excavated to date.

CHAIRMAN STRAIN: We have 133 million --

MR. McKENNA: A hundred and three.

CHAIRMAN STRAIN: A hundred and three, so we've got about a third of the --

MR. McKENNA: Correct.

CHAIRMAN STRAIN: Wow. So we still have over 60 million yards of excavated -- permitted excavation available to be dug in Collier County from what you can tell?

MR. McKENNA: Based on our current records, yes.

CHAIRMAN STRAIN: Didn't expect that.

COMMISSIONER EBERT: How much?

CHAIRMAN STRAIN: We have 103 million yards permitted, of which only 31 million yards have been utilized. So -- wow. We didn't have that information readily available when I asked you about it, so we've had to kind of hustle to get that together, you feel it's fairly accurate?

MR. McKENNA: It's my best information available at this time.

CHAIRMAN STRAIN: Okay. If you get any corrections on that and if this gets continued, I'd like to make sure we're as accurate as possible.

MR. McKENNA: You got it.

CHAIRMAN STRAIN: Okay. I think that's all I've got for now, Jack. Thank you.

Anybody else have questions? Go ahead, Brad.

COMMISSIONER SCHIFFER: Jack, down the road 40 years, what is this lake going to be, 145 feet deep? I mean, what is this thing? I mean, we may battle out a littoral zone.

MR. McKENNA: Well, I -- you know, I look at some of the other areas that were mined. The -- what's -- the quarry up off Immokalee Road. You know, from my point of view, they formed very functional, attractive lakes. The Quarry, the pit that is up on Airport Road, that was a Bonness pit. Don't know that those went to the 145-foot depth, but they're deep, you know. And I can't say that as an engineer that I find it dysfunctional, let me put it that way. And -- you know, and I would be happy to live on one myself.

COMMISSIONER SCHIFFER: Yeah. The service, but we've had testimony in the past that these things -- they call it rollover, and all of a sudden all the dead vegetation in the bottom comes up and stuff, so we don't know what kind of an organism this thing's going to be, this lake, do we?

MR. McKENNA: I -- my understanding is that when you -- once you get that deep, you're not -- it's not that there's dense vegetation at the bottom that's going to roll over. And we don't have the tendency to roll over as much in our southern climates as you see up north where the nighttime temperatures can get so cold and cause the warmer water on the bottom to rise up and actually overturn the lake.

I haven't seen any evidence since I've lived down here of those pits that I just mentioned, that -- really turning over and becoming an ugly -- or a, you know, major fish kills or anything like that.

COMMISSIONER SCHIFFER: So we're not creating a monster here?

MR. McKENNA: (Shakes head.)

COMMISSIONER SCHIFFER: The other question is, what's the quality of the product from this quarry? Do we -- is it going to be high-quality stone useful for everything, or -- do we know or --

MR. McKENNA: I'm sure the -- I don't -- I can't answer that specifically. I'm sure the applicant is intending for it to be DOT-quality stone, and that's why he's making this investment.

COMMISSIONER SCHIFFER: Okay. All right. Thanks.

CHAIRMAN STRAIN: Thanks, Jack.

Anybody else?

(No response.)

CHAIRMAN STRAIN: Kay, I have one final question before we'll take a break.

Terri's typing away, and I'm -- I don't take caffeine anymore, so I can't believe I talk as fast as I used to. So sorry, Terri. Maybe because we have so much to get through and I'm trying to get through it.

Kay, this mine is going to be accessing to two-lane, basically, rural roads, one state and one county. Do you know any mine in Collier County that doesn't start out on two-lane roads?

MS. DESELEM: I couldn't tell you for sure. I haven't really looked at them based on that criteria.

MR. CASALANGUIDA: Doesn't? Does or doesn't?

CHAIRMAN STRAIN: That doesn't start out on two-lane roads. The reason I'm asking is there's been a lot of issues about the two-lane-road application. And traffic is a major consideration, and I absolutely agree it is, but at the same time I'm trying to understand why you would have a four-lane road in a rural area so that the mine would have a four-lane road to access to, and what are the mines like in other places in Collier County where they could go? Do we have four-lane roads in those locations?

MR. CASALANGUIDA: The mine on 951 is on a new six-lane road that was four. The Brown mine, which -- the APAC mine on Golden Gate Boulevard comes off a two-lane local road and then goes onto a four-lane road.

The Jones Mine is on a two-lane section of Immokalee. The sand mine that was approved is on a two-lane section of 82. The other mine that's on the Immokalee bend is on a two-lane section.

So these typically space out their trips. If they have an acceleration lane, you're talking 47 peak hour p.m. peak when there's our traffic on the roads, directional trips, so it's not a lot in the nighttime time when we have experienced the high traffic volume.

In the morning sometimes I think they have more of an impact, but that's not what we measured against in our Comp Plan.

CHAIRMAN STRAIN: Well, the road impacts are concerning. But I'm trying to understand how we've always handled them, because if we've always had two-lane roads -- I mean, most of the time when you go in with a four-lane road or larger, you've got to have the rooftops to support it. So it makes sense that in a rural area we're not going to have too many four-lane roads unless it's like an I-75 or something plowing through.

But I'm trying to factor where a mine would go where they'd have a four-lane road access that would be still permissible today without being up against residential. I don't know of any.

MR. CASALANGUIDA: All of our --

CHAIRMAN STRAIN: Jones was the closest one I could think of.

MR. CASALANGUIDA: Right. And then we had some maps there I printed if you want to look at them, but there's residential all around Jones, residential all around APAC, which is the Brown mine.

CHAIRMAN STRAIN: Okay.

MR. CASALANGUIDA: Willow Run. So I don't see it as a compatibility issue with what's been in Collier County historically.

CHAIRMAN STRAIN: Okay. Let's take a break, and we'll come back at 2:40. We'll give Terri 15 minutes, so --

(A brief recess was had.)

CHAIRMAN STRAIN: Okay. We left off with wrapping up the Collier County discussion and presentation. If any of the Planning Commissioners have any further questions of Collier County -- again, I have more, but I'm going to hold off until we move further into the public's testimony.

So, Kay, it looks like you're off the hook for a while.

And at this point I'd like to ask Lee County to come up and make their presentation. We had a pre-discussion on their time frame. They said they needed 30 to 45 minutes, and then commissioners' questions after that, and so I will be holding you to that time frame.

So please come on up and introduce yourself for the record, if you'll state your name, and we'll proceed through your comments.

DR. RIX: Good afternoon. For the record, my name is Glen Rix. I'm a professor of civil --

UNIDENTIFIED SPEAKER: Can't hear you.

CHAIRMAN STRAIN: I think -- the mike, unfortunately, doesn't pick up too well sometimes.

DR. RIX: Is that better?

CHAIRMAN STRAIN: Nope.

COMMISSIONER BROUGHAM: Point it up.

DR. RIX: How's that?

COMMISSIONER BROUGHAM: Closer.

DR. RIX: All right.

CHAIRMAN STRAIN: There you go, sorry.

DR. RIX: No problem.

CHAIRMAN STRAIN: See, you're a bigger county, so you've probably got all those fancy microphones you can attach to your lapel and makes life real easy.

DR. RIX: No, no, no. This is standard practice.

CHAIRMAN STRAIN: Okay.

DR. RIX: For the record, once again, my name is Glen Rix. I'm a professor of civil and environmental engineering at the Georgia Institute of Technology in Atlanta. I'm here representing today a group of property owners and others that are affected -- potentially affected by this project, including the Estero Council of Community Leaders, the Conservancy of Southwest Florida, Judge Hugh Starnes, Mr. John Ban, Mr. Neal Hot (phonetic), Mr. Joe Steiger, and Mr. Kevin Hill.

CHAIRMAN STRAIN: Before you go too far, this time was allocated to Lee County. So what's your connection to Lee County?

DR. RIX: I have worked closely with the Lee County staff and, in fact, a portion of my fee is being paid by Lee County for my work.

CHAIRMAN STRAIN: Okay.

MR. NOBLE: If we could, Matt Noble, for the record. This is basically a partnership between the public and private sector. Due to financial constraints in Lee County, we've agreed to pay for the actual review of this project as we do with all mines in Lee County. Dr. Rix is on a retainer to do that work for every single mine in Lee County.

We were looking to the public -- private individuals to help pay for today's expenses, as we didn't really have that budgeted. So this is a joint effort.

CHAIRMAN STRAIN: Okay. That was a needed clarification. Thank you.

DR. RIX: By way of education, I have a bachelor's, master's and Ph.D. in civil and environmental engineering. I've been a faculty member at Georgia Tech for 22 years now, and my expertise is in a field that you might describe as sole dynamics and earthquake engineering, and that includes the measurement and analysis of blast vibration, the propagation of seismic waves through the ground, and other issues that are -- I think are relevant to my presentation today.

I have a copy of my vitae should you wish to enter that into the record.

CHAIRMAN STRAIN: Well, sir, that's something you -- if you want it entered into the record, you need to do so. These hearings, if there is a challenge, you will need to have everything you want on record. So I would suggest that anything that you're going to do like that, make sure our court reporter gets copies of it --

DR. RIX: I will.

CHAIRMAN STRAIN: -- and then we'll get it in the record.

DR. RIX: So very briefly today I want to talk a little bit about the blasting process, talk a little bit about how structures respond to blasting, and also talk about how humans respond to blasting in terms of their perception and annoyance.

CHAIRMAN STRAIN: You're -- unfortunately our system's not picking you up very well.

DR. RIX: I'm sorry. I've got to get right on top of this.

COMMISSIONER EBERT: There it is.

DR. RIX: So please bear with me as I explain some rather technical material today. I want you to understand as clearly as you can the process by which I have come to the conclusions that I have.

So when a blast is detonated at a point of interest to us, say a nearby structure, we measure the ground vibrations, and we measure them in three perpendicular directions, as indicated by this sample plot here.

We then characterize each of those with the largest or peak value of each of those three directions, the longitudinal, the vertical, and the transverse. And that's really the raw data that I'll be talking about today in terms of assessing the impact of blast vibrations.

So in the 1960s and 1970s, the U.S. Bureau of Mines did a very comprehensive study of blast-induced

vibrations that serves as the basis for many of the guidelines that we use today, including the State of Florida statutes.

And I just want to show you an example of that or one type of plot. Each of these three plots shows the peak particle velocity as a function of a quantity called the scale distance, which is -- one term that enters into it is the distance from the blast. And so as you see, this is data from 171 blasts at 26 different sites that were cited in their report.

And right now I want to draw your attention to these upper lines in each plot. These are the maximum, the upper bound of the data in those plots. The individual data points are not shown because there would be too many and they would sort of obscure the plots.

The thinner lines below are the average trends for each of the sites. But that upper line is the maximum or upper bound of the data. And I'm going to come back to that curve in just a minute.

And just so that we all understand this quantity that's on the axis of the plot, it's the scaled distance, which is the actual distance, measured usually in feet, divided by a term that is proportional to the amount of explosives that are used in a particular blast, the charge weight per delay.

And so as an example, if we're a thousand feet from a blast and they have used 300 pounds of explosives per delay, the scaled distance would be 57.7 feet per square root of pounds. It's a little bit unusual units, but you can see the origin of that term.

So that's how we incorporate both the distance from the blast as well as the amount of explosives that have been used in the blast, both of which have a very strong effect on the amplitude of the vibrations that we experience at any distance from the blast.

The other thing that the U.S. Bureau of Mines did was they looked at the levels of peak particle velocity that would cause threshold structural damage. And just so that we all understand, these two illustrations here really demonstrate how a structure responds to blasting and how damage is caused.

In the upper plot you get sort of diagram-like bending of the wall that often leads to rattling of windows. Pictures and plates and other things mounted on the wall are often knocked off the wall due to that type response.

In the lower plot you see a shear, or what they call racking. That's often responsible for causing cracks around existing openings, like doors and windows, as is illustrated in that figure.

So those are really the two types of response that tend to cause damage in structures as a result of ground vibrations from blasting.

And just so we're clear, what the U.S. Bureau of Mines was setting, their vibration limits deal with threshold damage, which is the first entry here. It's the opening of old cracks and the formation of new plaster cracks, dislodging of loose objects, for example, loose bricks and chimneys.

And you can see there are other, more serious levels of damage, but the vibration limits that the State of Florida has adopted, based upon the U.S. Bureau of Mines criteria, are intended to limit the potential for threshold damage. That's a very important point.

So this was one of the key figures from the U.S. Bureau of Mines study. It shows the vibration limits, which are peak particle velocity as a function of the frequency, the predominant frequency in the blast. And, in fact, it's exactly that figure that is used as the basis of the State of Florida Statutes, Section 552.30 as indicated by that quote there.

Now, there are multiple levels of peak particle velocity. But given the frequency of the blast that we're talking about here, quarry blasting, the most pertinent of these, I believe, is the 0.75-inch-per-second limit that you see in the center of the plot there that I have circled.

So that, again, is what I believe is the most relevant of the numbers shown in this plot for the case that we're dealing with today.

The other issue here -- and I think it's important. It's a very subtle point but important, okay. You'll find that many say that if you maintain less than 0.75 inches per second that there will be, quote, zero potential for damage. That's inconsistent with the intent of the U.S. Bureau of Mines.

If you look at what their intent was, they said the 0.5 inch level -- which if I may back up just a minute, that's the lower level. They sort of -- for plaster, there was a lower level there as opposed to drywall.

The 0.5-inch-per-second level will provide protection from blast damage in greater than 95 percent of the cases. So anyone who claims that maintaining less than 0.75 inches per second will preclude any damage or zero potential for damage, that's not truthful. The intent was that it would severely limit the potential for damage but not

preclude it. Again, a very subtle but important distinction.

Let's focus now on the minimum setback, okay. This is a figure the applicant showed just a little while ago along the western boundary. It shows a -- the 300-foot minimum setback to the property line, and they show the distance from the nearest home to the point of blasting to be 498 feet.

So the question is, with that setback can they keep the peak particle velocity below 0.75 inches per second?

So to help answer that question we went to the state fire marshal and we requested blasting data from Lee and Collier County, and also shown in this plot is data that I have acquired as a result of previous work that I've done in both counties. So this represents a total of 151 blasts in Lee and Collier Counties.

This is the same plot that we looked at earlier. Peak particle velocity, which is -- I don't understand why that came out. I'll have to fix that. I apologize. And then on the X axis is the scale distance. I have no idea why that happened. It looked great on my computer, let's put it that way.

But the plot is the same as we showed earlier. And, again, this is data from Lee and Collier County.

So now the red line represents a line that lies above 95 percent of the data. So it's a reasonable estimate of a -- sort of an upper bound. It's not quite exactly the upper bound, but it's a reasonable estimate.

How do I know that's right? Well, the black dashed line here is that maximum line from the earlier U.S. Bureau of Mines data. So the fact that those two lines are reasonably consistent tells me that using this data from Lee and Collier County, it makes sense. The upper bound is consistent with all of the earlier data that the U.S. Bureau of Mines obtained. So I have confidence that we've made a good estimate of an upper bound, if you like to call it that.

So now we can use this data to answer the question: How far away do they need to be to keep 0.75 inches per second? So I would enter the vertical axis there at 0.75. We go over to the red line and down, and that gives me a scale distance of 113 foot per square root pound, all right.

So now let's use the charge weight to convert that to an actual distance. Remember how we defined scale distance.

So in the absence of a blasting plan from the applicant, what I did was I went back to the data provided by the state fire marshal and I found the minimum charge weight per delay in that data. It was 176 pounds per delay. You use that with the scale distance of 113, you get a minimum distance of 1,500 feet that they must be from the nearest structure off property.

By the way, the maximum charge weight contained in the data by the state fire marshal was 447 pounds of explosive per delay. If you use that charge weight, then you must be nearly 2,400 feet from the blast in order to assure yourself that you can maintain peak particle velocities less than 0.75 inches per second.

I'd now like to talk about the human perception and annoyance from ground vibration. The first one I want to make is humans are much more sensitive to vibrations than are structures. So we've been using 0.75 inches per second for structures. The International Standards Organization -- ISO, International Standards Organization, actually defines an annoyance level for daytime residential occupants of 0.35 inches per second, about half of that that is regarded as important for structures.

So, also going back to the U.S. Bureau of Mines, which also looked at human annoyance and things like that -- this is the plot from that U.S. Bureau of Mines report. At 0.75 inches per second, using the 95th percentile, which is reasonable, you're expecting probably about 20 percent of the people who are going to be, quote, very annoyed by that blast. Human response is subjective, so that's about the most we can say is, quote, very annoying.

Here's another plot from an earlier U.S. Bureau of Mines study. Nicholls and others, 1971. Again, if I go in at 0.75 inches per second over and down, it's somewhere between 10 and 20 percent of the people will complain. And so that's not inconsistent with the previous slide.

And, finally, I'm not going to address it in detail, but all of the data that I've shown pertains to ground vibrations. There's also, of course, the air blast from the blasting, from the explosive, okay, and that also has the potential, independently of the ground vibrations, to cause human annoyance, okay.

So I don't really have any data that I can use to sort of do the same type of construction here, but I do want to make you aware that there is another source of, quote, annoyance for human beings, and that's the airborne vibrations of the air blast.

And, finally, one of the few studies we have that has looked comprehensively at the frequency of blasting is, in fact, based upon artillery fire, but it's remarkable in the sense that they sampled over 2,000 people. And it's almost odd, because it goes without saying the more frequently these blasts occur, the more people are going to be annoyed.

So we heard earlier testimony from the applicant that the blasting would be about twice per week. I guess, of the data shown here, several per week might be the closest to that. So you're -- again, you're looking at 25, 30 percent of the people who are going to be annoyed by that.

So I think, although subjective, all of this human-annoyance data sort of points to the same trend, and that is you're looking at 20 or 30 percent of the people who are going to be annoyed and are going to complaint about this type of blasting.

So in conclusion, blasting's a complex process. It's difficult to predict ground vibrations in advance with any level of certainty, and that's why we do the kinds of analyses that I've showed you today where we look at previously recorded data and try to make reasonable interpretations of it.

The State of Florida statutes allow up to 0.75 inches per second in the frequency range of interest. Maintaining peak particle velocities less than that reduces the likelihood of threshold structural damage but does not preclude it.

Based upon data from other quarries in Lee and Collier Counties, a 300-foot minimum setback from the property line is insufficient in order to achieve those requirements. And in my opinion the minimum setback should be at least 1,500 feet if one assumes they're going to use relatively small amounts of explosives. If they increase the amount of explosive, I would prefer to see a setback on the order of 2,400 feet in order to protect property owners on the western and southern boundaries.

Humans perceive ground-borne and airborne vibrations at levels that are significantly lower than those that cause threshold structural damage.

And, finally, human annoyance increases with the amplitude of vibration, the length of exposure, and the frequency of events.

Thank you very much.

CHAIRMAN STRAIN: Okay. We want to ask some questions of your expert. I won't use that as time against you in your overall presentation, so -- and rather than wait till the end, do you guys have any problems with that?

(No response.)

CHAIRMAN STRAIN: Okay. Anybody have any questions of this gentleman while he's here?

COMMISSIONER SCHIFFER: I do.

CHAIRMAN STRAIN: Go ahead, Brad.

DR. RIX: Yes.

COMMISSIONER SCHIFFER: As the blasts are occurring, they'll start higher up at the surface, then they go down deeper and deeper into the ground. What -- how does that change the frequency?

DR. RIX: The frequency?

COMMISSIONER SCHIFFER: Or whatever. You know, your .75 inch per second.

DR. RIX: Yes.

COMMISSIONER SCHIFFER: I mean, I'm visualizing that as movement, so --

DR. RIX: Yes, it is, it is. It's a movement of the ground.

COMMISSIONER SCHIFFER: Three-quarters of an inch in one second; is that what it's saying?

DR. RIX: Yes, exactly.

COMMISSIONER SCHIFFER: Okay. So as I go into the ground, what's happening, same distance?

DR. RIX: Well, the peak particle velocity that I'm referring to is that of the surface measured at some point distant from the blast, say, at the location of a home. Those are not velocities that are measured at the blast hole. Those are ground velocities measured at some point of interest far from the blast.

COMMISSIONER SCHIFFER: Right, I got it. But -- so the depth of that blast has nothing to do with that velocity? In other words, if I stayed -- from your background, if --

DR. RIX: Yes.

COMMISSIONER SCHIFFER: -- you did blast tests at different heights --

DR. RIX: Yes.

COMMISSIONER SCHIFFER: -- would the highest one be the most -- cause the most movement or the lowest one?

DR. RIX: The blasting near the surface would likely cause the largest amplitudes just because it excites a

particular type of seismic wave --

COMMISSIONER SCHIFFER: Okay.

DR. RIX: -- a surface wave that propagates the furthest and attenuates the least.

COMMISSIONER SCHIFFER: Okay. So from the distance -- I think they had 489 feet or something.

DR. RIX: Yes.

COMMISSIONER SCHIFFER: Did you ever calculate what that blast would be to keep it at that .75?

DR. RIX: Well, that's the point; they can't. If the distance from the blast to the nearest structure off site is 498 feet, even if they used what I regard to be a very small explosive, charge weight, based upon the data that we acquired from the state fire marshal's office, I don't think they can maintain 0.75 inches per second with an offset of only 300 feet plus the additional 198 feet from the property line to the structure.

COMMISSIONER SCHIFFER: Okay. Another question is, you can see what we've done in the past; we've had engineers analyze the structures before and then after blast. Is that something you believe is good method to detective damage?

DR. RIX: Yes, I do. I think the idea of conducting a pre-blast survey to document conditions before any blasting is done is generally a good idea, and then there has to be appropriate followup to make sure that there has been no damage caused as a result of blasting.

COMMISSIONER SCHIFFER: Okay, thank you. I'm done.

CHAIRMAN STRAIN: Okay. Anybody else have any questions of this gentleman at this time?

(No response.)

CHAIRMAN STRAIN: I have a few. You talked about the vibrations being the cause of damage to the structure.

DR. RIX: Yes.

CHAIRMAN STRAIN: From the last mine that we had -- and I know you probably haven't read the documents on the Jones Mine. I wish that we had had time to distribute those, because it may --

DR. RIX: I have, in fact, seen that, yes.

CHAIRMAN STRAIN: Oh, have you?

DR. RIX: I have.

CHAIRMAN STRAIN: Okay. I know we tried to limit some of the issues that you actually have brought up. I don't know if we were successful based on what you've said, but we did try.

But during that case one of the things that seemed to happen is the blasts would cause vibrations so the soils would more or less liquefy and cause differential settlement which produced the cracks in the buildings.

Now, you seem to believe -- you seem -- your indications were that the blasting caused vibrations.

DR. RIX: Yes.

CHAIRMAN STRAIN: And that's caused the damages to the building?

DR. RIX: Yes.

CHAIRMAN STRAIN: What about settlement from the liquefaction of the soils underneath the building that would then cause differential settlement causing the cracking of the building?

DR. RIX: That is another independent source of potential damage to a structure, yeah. But you're exactly right, the U.S. Bureau of Mines focused on -- or most of their measures were performed in soil conditions where that particular issue was not a problem. So they focused on the vibration.

But here in Florida with the type of sands you have and the shallow groundwater table, absolutely, settlement -- you know, vibration-induced settlement of sands is another potential cause of damage to the structures.

CHAIRMAN STRAIN: Okay. And that seemed to be where the concerns were from the neighborhood that was around this other mine, and because of those concerns we had a lot more seismographic requirements --

DR. RIX: Yes.

CHAIRMAN STRAIN: -- and a lot more studies done and a lot more involvement with the mine operator with the local neighborhood.

DR. RIX: Yes.

CHAIRMAN STRAIN: How does that cause of damage affect the presentation you made? Because I don't know if you're -- if you're talking about soils typical to Georgia, I believe you guys have got a lot of clay up there or more clay-like material. You do not have the same problem we have here. So I really need to be more relative to

what the conditions are here in Florida versus maybe what your direction was in regards to the presentation.

DR. RIX: I think you have raised a valid point. I would be unable to sort of estimate, say, the relative magnitude of settlement right here, right now. But if that's something that you think is worth looking at, I'd be happy to consider that and try to estimate a potential magnitude of settlement.

CHAIRMAN STRAIN: Well, I'm -- I just want to make sure we stay focused on facts that will be more pertinent to Florida than they will elsewhere. And our ground conditions here being water and soil -- and we learned that in the Jones Mine thing, the vibration didn't affect the houses it seemed as much of a concern at the time as it did the settlement from the ground being shaken. That's a different application than what I think you've talked about.

DR. RIX: That is exactly right. Your point is valid.

CHAIRMAN STRAIN: Okay. So, I mean, I just want to make sure when we go forward with understanding this that we address those kind of issues.

The air blast, I believe from that application, too, we learned that the air blasts would be reduced by leaving the overburden in place, and we required them to blast prior to the removal of the overburden. Is that consistent with your understanding?

DR. RIX: I'm sorry. Could you repeat that?

CHAIRMAN STRAIN: The air blast.

DR. RIX: Yes.

CHAIRMAN STRAIN: The air-blast effect, if the overburden -- and they have 10 to 15 feet of sand --

DR. RIX: Yes.

CHAIRMAN STRAIN: -- if they were to remove some of that prior to placement of their charges, the air blasts would be greater than if they left the overburden in place and did the charges with the overburden in place.

DR. RIX: I'm going to pass on that.

CHAIRMAN STRAIN: Okay.

DR. RIX: The actual blasting process is not my area of expertise. My expertise is, you know, constrained to the propagation of seismic waves through the ground and the effect that those seismic waves have on structures and humans.

So I think there are others here who understand the blasting process better that could answer that. That's --

CHAIRMAN STRAIN: Okay. Well, you brought up air blasts, so I figured maybe I could ask you about it.

DR. RIX: No. You're right. I mean, I --

CHAIRMAN STRAIN: Okay.

DR. RIX: I did, and it was just to sort of make the point that the ground-borne vibrations on which I focused are not the only source of human annoyance, and that was really my point.

CHAIRMAN STRAIN: Okay. Because the air blasts, they could drill and set their holes if they're dewatering after the overburden's removed. It's a little sloppier and they're down in muck --

DR. RIX: Sure.

CHAIRMAN STRAIN: -- but it saves them drilling 10 or 15 feet of additional bore holes to drop their charges down, or they could do it from the surface. And I believe in the prior mine we had learned that if they left it in place, drilled their holes first, even though it was a longer drill -- and I think they pay by foot and blast size -- there was a difference to the public's perception of --

DR. RIX: It sounds plausible to me. But, again, I'll refrain from presenting myself as an expert on that particular topic.

CHAIRMAN STRAIN: Okay. And we talked about a blast vibration of 7.5 (sic) versus .5 and the blast weight.

DR. RIX: Yes.

CHAIRMAN STRAIN: And the blast weight, if I'm not mistaken, is relative to the size of the charge that's used to blast the hole.

DR. RIX: Exactly.

CHAIRMAN STRAIN: The greater the charge, the wider the grid pattern, the less holes you have to drill. So as you tighten down the -- if you reduce the charge, grid pattern reduces, you've got to drill more holes, and you're using less charges to do it with, but the reaction to that is you keep your vibration down, and you don't have -- you just pay more because you're drilling more.

DR. RIX: Right.

CHAIRMAN STRAIN: Is that -- okay.

DR. RIX: Well --

CHAIRMAN STRAIN: The incentive is to drill less and use bigger charges.

DR. RIX: Well, I suppose so, yes. But what the U.S. Bureau of Mines found in their study was the most important parameter related to the amount of explosives used was the charge weight or the amount of explosives used per delay in the blasting, because that's the way the blasting is performed is in a series of millisecond delays. Rather than setting everything off at once, it's set off in a tightly spaced sequence with a delay of only a millisecond between blasts.

CHAIRMAN STRAIN: Okay. So if they used the blast weight of the 176 pounds blast weight --

DR. RIX: Per delay.

CHAIRMAN STRAIN: -- per delay, and the delay would have to be what to minimize the effect then? What do we -- I mean, if we need to factor in a multiplier --

DR. RIX: It's on the order of milliseconds, which doesn't seem like much, but it really does help to do that. Rather than setting everything off at once, it helps to delay it. But, again, that's already been factored into that U.S. Bureau of Mines number, because the relevant parameter is the charge weight per delay, not the total amount of explosive; the charge weight per delay. So it's already been factored in.

CHAIRMAN STRAIN: Okay. So if they -- if they reduce the amount of explosives and go to more bore holes, that would produce a less of a vibration, is that -- or does it still go back to the delay factor?

DR. RIX: It's still comes back to the delay. The key parameter is the amount of explosives that is set off in each delay.

CHAIRMAN STRAIN: Okay. And if you were to consider a -- let's say a volume, amount of explosives per delay to put it into narrative text --

DR. RIX: Yes.

CHAIRMAN STRAIN: -- for a project like this to protect the neighborhood to some of the standards you suggested, how would you do that? What would you do? What would you say? Your terminology is tricky. And if it's not right --

DR. RIX: Yes. Yeah, no. I under- -- I appreciate that, and I'm trying to be as clear as I can, I really am.

The scale distance is the most important thing, and we saw that the minimum scale distance is 113 foot per square root pound. And that scaled distance is a function of the distance and the charge weight per delays.

So you can't specify one of those without specifying the other, okay, because they both are used -- enter into the calculation of a scale distance.

So, you know, if you want to ask me, you know, what distance or what charge weight, I can't give you an answer on those individually. I have to say, what is the combination of distance and charge weight that they should use?

CHAIRMAN STRAIN: Okay. Part of the point we try to do is strive to understand a way to protect the neighborhood.

DR. RIX: Right.

CHAIRMAN STRAIN: If this project were to be approved or even considered for approval, one of the things we'd want to make sure of is that the standards in which the neighborhood was protected were properly articulated in a -- in whatever it is you're trying to say.

DR. RIX: I hear you, I hear you.

CHAIRMAN STRAIN: Okay. I understand what you're saying; you need some parameters. I'm asking you for the parameters. I'm asking you for a suggestion that we can then debate with the applicant to see how their concerns are, because we're not going to do anything in a vacuum here. I want -- everybody's in participation.

So based on that statement, how --

DR. RIX: I'll answer your question.

CHAIRMAN STRAIN: Okay.

DR. RIX: So if you limited them to a charge weight of 176 pounds per delay, then you could reasonably say that there should be a 1,500-foot minimum distance from the location of the blasting to the nearest off-site structure.

If you increase the minimum charge weight that they are allowed to use -- let's go as high as the maximum

value that was present in the data we acquired from the state fire marshal's office, 447 pounds per delay, then you've got to say, no, 1,500 feet's not even good enough. You've got to go to 2,400 feet.

CHAIRMAN STRAIN: I understand. Okay. That makes it clear, and it also explains why this issue didn't come up so much in the Jones mining, because the nearest -- the nearest blast area was 2,200 or plus feet from the nearest neighborhood, and the excavation went outside that, up to about 1,500 feet, but the blast was further pulled back. So it's a little different --

DR. RIX: Yeah. My recollection from the Jones Mine is that along at least some of the property boundaries the offsets were on the order of 2,200 feet --

CHAIRMAN STRAIN: That's correct.

DR. RIX: -- to 2,600 feet, as I recall.

CHAIRMAN STRAIN: Yeah, they were substantial, yes.

DR. RIX: Yes. And so I guess maybe I'd like to make the point that those distances are not at all inconsistent with what I have found, that if they use a relatively large charge weight, then you're going to need that kind of distance in order to provide adequate protection for those homeowners.

CHAIRMAN STRAIN: Well, I believe they were limited to charge weights, too. I can't -- I'm going to have to go back and pull the records. But there was some discussion with charge weights. The .5 came up numerous times.

DR. RIX: Hundred pounds per hole.

CHAIRMAN STRAIN: Okay.

DR. RIX: Sometimes multiple holes would be detonated. So in some -- if you look at some of the data from the state fire marshals, if they use 100 pounds per hole and they detonate two holes simultaneously, the charge weight is 200 pounds per delay, so --

CHAIRMAN STRAIN: Okay.

DR. RIX: I think the stipulations in the Jones Mine are very consistent with my analysis in what I'm suggesting to you.

CHAIRMAN STRAIN: Okay. And that's why it's important that we're going to walk through this before this hearing is done, whether it's today or two weeks from now or two months from now. I don't want to break any records in length of hearings, but we've got to make sure we're right.

Go ahead, Brad.

COMMISSIONER SCHIFFER: Yeah, just to follow up on what you're thinking there, Mark. If we did the blasting, and maybe softer, closer to the perimeter, closer to the properties, first, wouldn't that be better; in other words, rather than marching towards them with the artillery, if we actually protected and fractured that connection close to them as -- then went back from there, wouldn't that be a better method to protect?

DR. RIX: I don't think it would make any substantial difference. And I can think of one or two reasons why that might actually be worse.

COMMISSIONER SCHIFFER: But the reason I think it might be better -- I'll share mine; you can give me yours -- is that it breaks up the ground, I mean. So essentially the idea of being able to transfer that vibration through fractured soil and everything at that point, or fractured rock, might lessen the movement of the vibration.

DR. RIX: That's a reasonable thought, yeah, I mean, because there's no question that the propagation of those waves through the ground is affected by the properties of the ground.

COMMISSIONER SCHIFFER: Correct.

DR. RIX: What I would think is if you do that initial blasting quite closer, because there is no free face that would absorb a lot of that energy, you would, in fact, propagate much more energy through the ground in those initial blasts that now you've placed right up against their minimum setback. So I don't think that would be a good idea.

COMMISSIONER SCHIFFER: Remember, I was proposing we could be really soft, multiple delays, and do it a little bit tender, because once we did get it open, if we actually were quarrying and actually quarrying at depth, that would protect the vibration from ever going that way at a much closer distance.

DR. RIX: Well --

COMMISSIONER SCHIFFER: And we can talk to our mining guy to get that.

DR. RIX: Yeah. And I would think that that would have to be stipulated very precisely in order to protect those homeowners if you're going to start that blasting up against that setback.

COMMISSIONER SCHIFFER: Okay. Well, Mark's shown we can be very precise, so we'll get it.

CHAIRMAN STRAIN: Do you have something, Melissa? Go ahead.

COMMISSIONER AHERN: The .75 per second you --

DR. RIX: Yes.

COMMISSIONER AHERN: -- said was a Florida Statute max?

DR. RIX: Yes. That -- in the range of frequency that I think is most relevant for quarry blasting and the problem we're discussing today, yes, that is the -- I think the best single number to use off of that plot. The State of Florida adopted the plot, but it's helpful in discussions like this to pick a number from that plot to use in calculations and things like that.

So in my opinion that 0.75 inches was the most relevant number to extract from that plot and use.

COMMISSIONER AHERN: So this isn't a figure where the applicant would have to demonstrate that they're not going to exceed it --

DR. RIX: Yes, they do.

COMMISSIONER AHERN: -- or that they're --

DR. RIX: That's part of each blast monitoring is -- the data is recorded by a seismograph that's placed on the ground. And, in fact, the output is shown relative to those limits on the plot. So that's part of the blast-vibration monitoring.

COMMISSIONER AHERN: So if that is the case, how will they be able to go closer to the nearest structure than the 1,500 feet that you established?

DR. RIX: How would they be -- how would they be able to blast closer?

COMMISSIONER AHERN: Right. If they're required to maintain the .75 and you're --

DR. RIX: Yes, they are.

COMMISSIONER AHERN: -- stating that in order to do that you have to be 1,500 feet away --

DR. RIX: Yes. Well, but by suggesting that number, I think I'm suggesting to you, respectfully, that you be proactive in specifying what that minimum is so that you protect those property owners and it's not necessarily left up to them.

CHAIRMAN STRAIN: I think what he's suggesting is when -- we establish and recommend a setback that meets the criteria he's come up with.

DR. RIX: Yes.

COMMISSIONER AHERN: No, I understand that. I'm just --

DR. RIX: I'm just -- you know, that's the purpose is I'm trying to recommend what I think is a reasonable minimum setback beyond which you could take some comfort in that, you know, you have done your part to satisfy the State of Florida statutes, respectfully.

COMMISSIONER AHERN: Okay, thank you.

CHAIRMAN STRAIN: Anybody else? One other question. The -- if there was a perimeter water column --

DR. RIX: Yes.

CHAIRMAN STRAIN: -- down the top of where you would blast -- obviously you wouldn't want to blast at the very perimeter because then you'd be too close -- would that water column help reduce the vibrations that the damage caused from vibrations or the feel or perception of the vibration?

DR. RIX: By water column, you're thinking sort of of a linear trench?

CHAIRMAN STRAIN: Yes.

DR. RIX: How deep do you have in mind?

CHAIRMAN STRAIN: Probably down to where you'd have to start blasting. In this case I'd have to look at the soil test to know where the rock starts. But to create a water column and blast down -- but you're saying the vibration's going to travel through the rock layer regardless of the water column?

DR. RIX: Yeah. That trench -- trenches do have the potential to serve as barriers for ground vibrations, but the depth of the trench would have to be far greater than 10 or 15 feet in order to do that.

CHAIRMAN STRAIN: I was afraid you'd say that.

Anybody else have any questions? No?

Sir, thank you very much. We appreciate your expertise. Thank you.

DR. RIX: Thank you. And may I give my vitae to --

CHAIRMAN STRAIN: Please do, yes.

By the way, that gentleman's PowerPoint, could that be sent to county staff so we could have copies at the Planning Commission level? Hello? Earth to speaker podium. Sir? I asked you a question. I'm sorry.

The PowerPoint that he showed us, could you send a copy of that, and yours as well, to county staff so that they could distribute it to the Planning Commission?

MR. NOBLE: Certainly.

CHAIRMAN STRAIN: Great, thank you.

MR. NOBLE: For the record, Matt Noble, division of planning with Lee County.

I first wanted to apologize to you. I'm sorry that Don had to have those disparaging words about Lee County and Lee County staff. I don't really understand those words. I've had nothing but good luck working with Don on projects in Lee County, so I'm a little discouraged by his words today.

The meeting that he referenced, yes, Lee County staff asked to meet with Collier County staff and the applicant. We had never sat down with the applicant or Collier County staff.

It was, I think, an unfortunate meeting, in a couple of different regards. I don't think the Collier County Attorney's Office was actually very open to discussing the issues. We pretty much got an attitude from the Collier County Attorney's Office that it was Collier County and we were going to decide these things in Collier County, and I understand --

CHAIRMAN STRAIN: Let me give you a little advice. We're not here to discuss your feelings towards Collier County or Collier County's towards you. We're here to discuss facts of the case, so I'd ask that you move towards those, if you could.

MR. NOBLE: I am. I love Collier County. I've had nothing but good feelings and I've had good luck working with Collier County staff. I don't have anything bad to say about Collier County.

I just wanted to make the point that that was the first time that Lee County staff sat down with everybody, and the applicant provided some conditions. It's not typical that Lee County staff responds in that kind of meeting on the fly as to what we feel about those conditions. We need to take it back and evaluate it, think about it, and then respond. So I will move on.

I will address compatibility and consistency with the Collier County Growth Management Plan and other issues that affect Lee County.

I will be followed by additional Lee County staff: Rebecca Sweigert from our environmental sciences division will address you, will address environmental issues, followed by Rob Price. He's the senior engineer with Lee County. He will address transportation. Following him will be Anura Karuna-Muni. He's with our natural resources operation. He will be dealing with hydrology issues. And then we will have Chip Block kind of wrapping it up providing a summary and a recommendation from Lee County staff.

My name is Matt Noble. I have been a practicing planner in Lee County about 21 years now. I am a member of the American Institute of Certified Planners. I'm a member of the American Planning Association.

I have provided expert-witness testimony in a variety of forums from court cases to Department of Administrative Hearings to a variety of other boards and other jurisdictions in the State of Florida.

I'd like to start with this, which is a rendering of where the residential properties are in relationship to the mine as well as the conservation lands that are owned by the public in both counties. As you can see from this exhibit, that the property has residential uses to the south in Collier County as well as the Wild Cat Farms residential area as well as a little appendage of Lehigh Acres hanging down just south of State Road 82.

I'd also like to -- like you to note just to the west of the Imperial Marsh is what we call in Lee County the Alico Road traditional mining area. That is where all of the operational mines are in existence today.

You may notice there is some disturbance. That is a mine that was operational, the Westwind mine, Preferred Rocks on Corkscrew Road. It is no longer operational as of today.

I need you to understand what a mine is. A mine has uses, activities, and typical equipment. Typical uses are, of course, the excavation, administrative offices, scale houses, a laboratory for testing of the materials, maintenance and storage areas. There might be in the future -- I know it's not being requested today, but it's typical with a mine you have ancillary uses. And so are uses such as a sand plant, asphalt batch plant, concrete block, concrete batch plant. These are all typical uses that you find around mines in Southwest Florida.

And the other thing I need to say is, this is probably the most intense land use that we have in Southwest

Florida. You're not going to find many other land uses that have these kind of attributes that generate this kind of traffic, have these kinds of impacts. This is a use that can shake the ground, can have a lot of noise and a lot of external off-site impacts.

You know, you will have trucks operating from the site. You'll have front loaders. I don't know if you've all experienced the backing sound of the front loaders, the beep, beep, beep. Clearly that will travel great distances in these kinds of environments.

You have excavator drill rigs lighting at night. I'd like you to note the lighting in the bottom right-hand corner. That is an operating facility in Lee County. These things are quite extensively lit at night. This is going to change the environment for those surrounding residential uses. It's going to light up that neighborhood.

I mentioned the ancillary plants and, of course, there are no ancillary plants with this request, but it's a typical thing.

Collier County staff has advised Lee County that there is no requirement for Lee County government or residents to be notified of these uses being added. It's going -- if they are added at a later date, if this is approved, that would be additional impact to the Lee County environment, to the Lee County residents. And we're certainly not taking that into account today.

How do you say no to those ancillary uses if it's approved? I mean, it's a typical thing in a mine.

This is a use that is high -- it's hard to hide. The stacks can be quite extensive. I've seen stacks in Lee County to be 70 feet tall. I have the rock-crushing plants close to 100 feet in height. I think they're 90 feet in the left-hand picture.

It's a use that can operate 24 hours a days. I know we have conditions here, but I've got to tell you, when the State of Florida comes to the mine operator and says "I need rock" at two a.m., it's been our experience the rock gets delivered.

I'd like to relate those kinds of pictures to the site plan. You know those stacks that you might have observed on the previous slide, that's what's going to be in the operations center. That's where the conveyor belts will all convene, that's where the main rock-crushing houses will be. You'll have extensive height at that location.

That's not to say that that's the only part of the property that you'll have that kind of effect on. I don't know if you know much about the process. When they dig this material, they first stack it. Those are known as muck piles. Those muck piles can be quite large in height. I've seen muck piles 50, 60 feet in height in Lee County.

The use inherently impacts its surrounding. It's a hard-to-control use. It has outside or off-site effects such as dust.

One of the first activities of a mine is to strip off the ground cover on the property. This opens up the property to our windy climate here.

This is a photo that was taken at Youngquist mine off Alico Road almost at the corner of Alico and Corkscrew Road. That mine has one of the best operations that I've observed. It has trucks running around spreading water, it has the wheelhouse, the wheel-wash facility, yet on the that I observed this, because of the climate conditions, they could not contain -- even with everything they were doing, they could not contain the dust on site. It's inherent in a mine. They're just dirty, dusty kinds of places.

As I've testified, it's hard to hide. It's almost impossible to hide. There's height issues with all kinds of things with a mine. We have draglines in Lee County that are 280 feet in height. We have no idea how tall the draglines are going to be with this operation. It's a very large mine, 740 acres that could have very extensive draglines.

Do you remember the applicant showed you a couple of cross-sections of their buffers? You should disregard those cross-sections. There's problems with those cross-sections.

They didn't depict anything behind the buffer. It didn't show you what the property was going to look like. Is it going to hide the muck piles? Is it going to hide the operations center? My experience is an 8-foot berm will not hide it. You will see it; the neighbors will see it. It's hard to hide.

This next two slides were taken in the review of a mine on Corkscrew Road and, and this makes the point about just how far the impacts can be felt.

I'm on Corkscrew Road, and I'm looking back kind of to the north and to the west towards the Youngquist mine and also the Florida Rock mine. Clearly visible over the treeline where the dragline's operating. This gives you an idea, clearly visible two-and-a-half miles away from the operation.

This is a picture of Alico Road in Lee County. I kind of wanted to touch on the two-lane -- it's not that Lee

County's objecting to the mine having access to a two-lane facility. All of the mines on Alico Road access a two-lane facility. It's the type of two-lane facility that Lee County is objecting to. It's -- with Corkscrew Road, that's viewed in Lee County as a residential road. And so this mine is attempting to place traffic on a residential road.

In Lee County, you don't put industrial traffic on a residential road. There's policies in our plan, in Goal 7, as well as in Goal 10, that preclude that type of activity.

Eighty-two, we've got issues with concurrency. It's actually exceeded its level of service.

But I want you to understand Alico Road, too. Alico Road is an industrial road. It was built by the mining industry. It was built stronger, has a deeper bed. It can withstand the weight of the haul trucks. It has direct access to I-75, U.S. 41. That's -- gives it a much better place to disperse its truck trips to the rest of the world.

Corkscrew Road, on the other hand, is a windy, narrow rural road that provides access to a series of residential communities that are wholly dependent upon that road.

Of course, utilizing Corkscrew and SR82 requires long distance to disperse the traffic. It's long distance to I-75 and U.S. 41.

I also want to mention a topic that hasn't come up yet, and I've personally experienced it, and that's being intimidated operating a passenger vehicle in and among the mine traffic.

I know I've felt intimidated before driving on Alico Road. I have felt that, you know, the truck's fully loaded, of course they take longer to stop, and if they're right on your bumper, it doesn't take much to imagine what could happen.

This slide is a collection of slides that have been entered into the public records in Lee County. Additional mining traffic can cause hazardous driving conditions due to the debris that's left behind by the individual haul operators, and that's another point that we need to make. The actual mine operator has very little control over the haulers. The haulers are all independent contractors.

This also is a slide that was entered into the public records in the review of mine cases along Corkscrew Road. And what you can clearly discern from that on the direction of the haul of fully loaded trucks versus coming back, the empty trucks, the damage that's been done to Corkscrew Road.

I wanted to touch back on this, the location of the public lands. The county has been acquiring a lot of lands in the density-reduction groundwater resource land-use category with our 2020 program. We're also a participant in the CREW project.

We have expended millions of dollars in conservation activities out in this general area. We're concerned about that level of investment and what that means with this proposal. This proposal could negatively impact some of those resources.

This system, this property, is actually connected to the Estero -- Estero River, Imperial River, and Cocohatchee River systems. This is at the headwaters of all those systems.

The natural systems are also connected down into the Everglades via Lake Trafford and the Fakahatchee Strand.

I want to mention compatibility with those neighboring uses. Those conservation uses. I'm aware that schoolchildren from both communities are brought to properties immediately opposite this proposal. I think there's probably -- you'll hear other testimony from the public about that. I don't find it, as a practicing planner, to be a very compatible activity against what I would call one of the crown jewels of our region.

You know, we're going to invite our tourists and our schoolchildren to come out and learn about the environment right opposite an active mine. That doesn't seem compatible to me.

This is the panther telemetry slide. There's a couple points I want to make with this, that we have learned a lot about the movement of panthers in the environment through the landscape over time. And one thing that I would point out is you kind of see there's, like, a hole in the doughnut, if you will. There's a lot of panther telemetry to the north and then a lot to the south where the Corkscrew Swamp is.

What we've learned over time is panthers tend to move in a circular fashion through the environment, that this property is located in a critical collection point between our counties for the movement of panthers.

And I think you've seen this, so I won't dwell on it. You know, this is, of course, the habitat.

But I don't think anybody really pointed this out. This is the master concept plan with the latest telemetry. It really shows that that panther on the site was utilizing the whole property, orange groves and all.

If -- let me back up. We've learned from Florida panther experts in Lee County in a variety of Lee County

hearings, such as one that just concluded last week, our DOA hearing on our plan amendment, that if we are to sustain a viable Florida panther population, we need to conserve their habitat and actually plan for a larger area, a larger habitat, if we expect to not only preserve the species but actually restore the species.

If we actually allow this property to be mined, there is no more chance of restoration of panther habitat on this property. I mean, I don't believe the panther's really going to use the mine pit the same way he was using the orange grove. The development of the mine will foreclose any possibility of restoring the property in the future for any species.

And then I just wanted to show you this. This came out of our study of the density-reduction groundwater resource category. This is the location of all of our residential communities in the DR/GR, the southeast part of the county. And, of course, you can clearly see Wild Cat Farms detected on it.

But then I'd also like you to note along Corkscrew Road all of those residential communities that are going to be impacted by this proposal if this is approved. There's the 6L Farms residential area, Burgundy Farms.

I don't know if you know the Corkscrew store, but there's a residential area kind of in the woods and around the Corkscrew store, Carter Road, for example.

And this is a good representation of where the single-family homes are in the area. This shows the actual location of the adjacent homes in both Collier County and Lee County. These communities will be adversely impacted by the mine. They will suffer from the increased traffic, noise, dust, changes to surface and groundwater hydrology, all generated by the proposed mine and very difficult to keep on the mine's site.

Again, this is just another image that shows you that within a mile and a half of this site there's at least 310 homes that we cataloged. Essentially the mine is being proposed in a residential neighborhood. Although it's a rural residential neighborhood, Lee County has recognized that rural residential neighbors have slightly different characteristics.

I know the staff report talked about vacant land. Well, that's all land associated with the residents that are living there. Lee County has recognized that as a residential subdivision.

This is just another graphical representation of distances from the proposed pit. This represents the new 300-foot setback.

I would also note that I think Lee County is helping Collier County in this regard. I think it's becoming a better project by Lee County's involvement.

You know, when it went to the environmental council, we had a setback of 50 feet we were talking about. At least now the applicant's talking about a 300-foot setback. We still don't believe that's sufficient. We're having issues with this use in this location given the surrounding uses.

Keep in mind that the equipment used to operate the mine; draglines, trucks, drilling rigs, conveyor belts, rock crushers, all that good stuff, it could be very close to these homes. You know, I haven't heard anything that they couldn't use some of that equipment within that 300-foot setback. I've heard particulars about the buffer, but there's nothing to say that they couldn't use some of that adjacent lands, unless somebody wants to correct me, for some of these other ancillary parts of the mining operation.

CHAIRMAN STRAIN: Well, we're not nearly done yet. By the time we get done, there will be other issues that we will discuss. So I just wanted you to know we're not finished. And as we finish, we usually get into those other issues, so.

MR. NOBLE: The point I wanted to make is, you can see there's quite a few homes within a thousand feet of the pit, you know. And Dr. Rix was talking about 1,500 feet, we could go out further. When do we start wondering about the appropriateness of the use and the location?

And this is the southern end again. On the southern end we actually have homes that are closer than on the northern end.

And then I just wanted to provide a series of the residential neighborhood, too, so that the record reflects this kind of rural lifestyle that is being pursued by the residents of Lee County and Collier County.

This is a home in Wild Cat Farms right on the property line. This house would be impacted by the mining activities. This is one of the homes on the northern -- if I go back two slides, it's the closest home on that northern part of the proposal.

This is a home on Wild Cat Farms Road. This is a little bit further away, but I wanted to give you not only pictures that -- of homes directly interfacing with the mine, but this home is a few hundred feet further into the

community. And you may -- you may remember it if you've ever driven along Wild Cat Farms Road.

CHAIRMAN STRAIN: Matt, did you have other people that you wanted to speak today? Because our agreement was for 45 minutes, and you're going to be up in three minutes with a full 45 excluding the time this commission asked questions. I don't -- and we'll look at more time for you. I just kind of wanted to get a handle on how far and how long you think you're going to speak, because if you have four or five other people that you mentioned, I just need to be aware of that.

MR. NOBLE: Yeah. And I can pick it up, you know.

CHAIRMAN STRAIN: Well, you -- Matt, I think you've got three minutes to finish.

MR. NOBLE: I don't think I can finish in three minutes.

CHAIRMAN STRAIN: Well, then what did you expect your other presenters to do; anything?

MR. NOBLE: Yeah. They are going to get up -- they're a lot shorter than I am, you know. I'm going to take up the bulk of the county presentation.

CHAIRMAN STRAIN: And, honestly, we welcome your information, but we have to have limitations, you know. So we already -- we already met the agreement that we basically had. So I'm asking you to expedite it quickly. We'll -- at five minutes to four, we're going to take a break for the court reporter for ten minutes. When we come back, it will be time for cross-examination, so --

MR. NOBLE: Sure.

CHAIRMAN STRAIN: -- between now and five minutes to four, you need to wrap up your presentation.

MR. NOBLE: I can move right along.

CHAIRMAN STRAIN: Okay.

MR. NOBLE: And I'll just briefly go through, this is just a -- represent the folks in these areas have a lot of livestock, too, and I know a lot of them are concerned as to the blasting activity and the effect on their livestock.

So I -- this home is very close, right -- almost at the right-angle corner. It's the first house in Lee County in Wild Cat Farms directly abutting the mine, would certainly be impacted. This is one of the closest homes to the mine. He's within 4- to 500 feet of the proposed pit.

And then I just wanted to show you that, yeah, we did drive down Wooden Loop Road. We do appreciate those residents there. This is kind of an iconic end-of-the-road kind of picture for me that shows, you know, we've got residents down there as well as their livestock.

Homes along Whidden Road, more homes along Whidden Road, the haul route. You know, 70 percent of this is going to affect Lee County. That's why we're concerned about this mine, one of the main reasons we're concerned about this. We're going to bear the brunt of all the truck traffic.

I do want to note at this point that there's no -- there's no requirement that the applicant use 82. And I know Chip is going to cover that point in more detail, but in the end, given the regulations in the county code, requiring them to access roads that they front on, you know, this proposal only fronts on Corkscrew Road.

And, of course, this is our point; Corkscrew Road is very narrow, several windy, difficult corners, no shoulders. Even though it says narrow shoulder, there is no shoulder.

Can you imagine another truck having to pass this truck on this stretch of Corkscrew Road? It's an accident waiting to happen.

And you're going to make residents interact with this level of truck traffic on a daily basis. You know, I went to that school bus turnaround. I think that would be a horrible thing to have school buses turning around on that corner with 1,400 dump trucks a day. And that's the corner where the school buses turn around.

Eighty-two, on the other hand, is much wider; it has paved shoulders, straight shot for the most part, much better facility. I think Rob will talk about that as well.

I did want to blow through the DR/GR. I know it's -- the point with talking about the DR/GR today is the conclusions that we arrived at through those studies, all the same issues are involved in this case that have led us to our conclusions.

And I won't take time, but this has been going on a long time in Lee County, you know. And, yes, this is the area in which 80 percent of Lee County gets its drinking-water supply, so the county is protective of that area. It is our drinking-water source.

There are many stakeholder meetings. We hired a whole team of consultants. This went on for several years. We looked at all the issues; truck traffic, wildlife issues, hydrology. There were many components to the study that

we looked at. And it's not quite complete. We just completed our administrative hearing for the amendment last Friday. Now we're down to a single issue in that process, which is our preferred mining map.

This study I only throw up here is -- because this provided a summary of all studies in the DR/GR that told us, this is a very important area. We need to plan very carefully because of our reliance on potable water from this area as well as the wildlife resources in this area. This is home to many protected species.

We created an action plan to deal with all of these issues. We initiated a Comprehensive Plan amendment. We had a steering committee, which was our sounding board. It had members of the mining community on it. I think Scott McKayla was on it, for example.

They provided a recommendation to the Board of County Commissioners. The plan amendment was initiated and, you know, this is just -- the public involvement was unbelievable. And that's another point I'd like to clarify with Don. Collier County did have an opportunity to review the DR/GR plan amendment. It was a -- it was reviewed at the Regional Planning Council.

What we learned from our truck evaluation study is mines are wholly dependent upon the economic conditions of the time. If the economy's booming, the mines are booming. So you should view the TIS that you have with a little bit of skepticism. You know, the mine traffic is going to be related to how busy they are, what kind of contracts they have and where it's going. You know, this is a work of art, the TIS.

This just shows you some of the documents that we went through. One of the solutions was to create a TDR program for the area to try and save as much of the area as we could. We realized that we didn't have the money to buy it all.

I throw this up because we're prioritizing those lands that we would target for acquisition. And if you see all those properties on Corkscrew Road north of it, the point I want to make with this was we were -- we gave those property owners extra credit, if you will. They get more TDRs if they preserve the southern half of those properties. Why? Because we realize that that is the panther connection corridor between our communities. And so that is one of our priorities to preserve. And, of course, this property is right adjacent to it.

This was out of our hydrology study. It just is an indication that a mine will change the hydrology of the area. It has two effects. It has an upstream effect as well as a downstream effect, and Anura will talk about more -- more about that. It causes a flattening of the water table.

This is the existing map out of the Lee plan that shows you the mines in Lee County are concentrated on the Alico corridor. This is the mine -- the map that we adopted that's under litigation now. Again, concentrating all of the mine use at Alico corridor.

Part of that study, we evaluated the entire market. We evaluated Collier County in that study. You know, we looked at the transportation costs associated with hauling; that really determines the market. And what we concluded through all of this -- you know, historically Lee County has provided 80 percent of the rock in the region -- that we have now approved or pending approval more mines in this area to accommodate the regional demand all the way out to 2030.

So my conclusion in that is, we don't even need this rock from this mine. We don't. We have enough already permitted in Lee County to take care of the regional need all the way out to 2030.

This is just an example of the Board of County Commissioners' determining of -- Corkscrew Road is a residential road and denying these mine requests along Corkscrew Road.

Again, just where the mines are, showing it concentrated on the Alico corridor. And I've already told you that one of the operational mines on Corkscrew Road is no longer operational.

And I want to talk about consistency with the -- with your regulations and plan. Collier County staff highlights this, but approving a mine in this location will not promote the continued utilization of these lands in a rural manner. The approval actually displaces the rural uses in favor of an intense industrial use.

I understand the land-use category allows the proposed mine use; however, approval of the mine request is counter to the Rural Land Stewardship Overlay in what that overlay is attempting to do. You know, it's attempting to achieve protection of the agricultural activities, prevent the conversion of agricultural lands to non-agricultural uses, and directing uses away from wetland and upland habitat.

Proposing a mine adjacent to the Corkscrew Swamp, the Wild Cat Farm residential subdivision, and the Old Corkscrew residential community is not a creative land-planning technique.

Can an application for a conditional use be denied? Certainly it can, certainly if the three factors in your code

are not met. Doesn't meet the intent of the zoning district. It fails to meet your criteria in Chapter 10 or consistent with the Comprehensive Plan.

The proposed mine use is not compatible with maintaining agricultural use of the property. The use would be displaced in favor of natural-resource extraction, as the limerock extraction, and the proposed use is potentially -- will potentially endanger the agricultural, environmental, and wildlife resources located in the two counties. And this is a difference between Lee County and Collier County. We consider potential ramifications of a proposal.

The use does not promote public health, safety, and welfare. The proposed use will reduce the comfort, the quiet enjoyment of those neighboring properties with the blasting activities.

It creates an inconvenience, that being the truck traffic. It negatively impacts the appearance of the area. We can't hide it. And not -- and it doesn't further the general welfare. It's -- certainly not of the nearby residents. It actually represents a threat to them.

The proposal is not consistent with Chapter 10 of the Land Development Code or Growth Management Plan. It doesn't have adequate access to a roadway. You know, and 82, it's failing. Corkscrew Road is a rural residential road. It's going to negatively impact the adjacent residential properties.

It has the potential to cause glare, ground vibration, and other hydrological impacts on those neighboring residential properties. It's also incompatible with the CREW lands to the south.

Approval of the proposed mine will not better to serve (sic) to protect environmentally sensitive areas or maintain the economic viability of agriculture and other rural land uses. The proposed use will displace agricultural uses and potentially affect the economic viability of other rural lands.

The use may, in fact, cause increased county maintenance expenditures due to the hauling associated with the mining operation. Roads may have to be rebuilt several times over the life of the mine.

This, of course, is the compatibility --

CHAIRMAN STRAIN: Matt, apparently you thought I was kidding. I'm not. We're going to take a ten-minute break. We'll resume -- Bruce, you wanted cross-examination when Lee County finished. They're finished. At five after four when we come back, you can start your cross-examination.

MR. BROOKS: I object. This is a quasijudicial hearing. You can't cut off -- a Lee County staff person is an expert. He's been offered as an expert.

CHAIRMAN STRAIN: Sir, if you want to talk, you come up to the microphone, identify yourself, and speak.

Heidi Ashton, it's up to you to find out if his comments are legal. Let me know if we have the right to cut this man off. I have told him numerous times we are participating until five minutes to four. They commented they needed 45 minutes maximum. It's going to be 55 minutes before he even finished, and he commented about five other people.

This isn't run by staff. This meeting is run by Collier County, and you will adhere to our rules.

So state your moment (sic) and then, Heidi, finish.

MR. BROOKS: My name is Attorney Ralph Brooks, for the record. For future court review, I want to lodge an objection that the county staff has been prevented from introducing their expert testimony in this hearing. Thank you.

CHAIRMAN STRAIN: Heidi, is there any grounds as to why we cannot go on like I had proposed, or do we have to go through the rest of their proposal regardless of their, say, disregard for our established time rules that they had actually asked for?

MS. ASHTON-CICKO: Well, from what you said is you gave them 45 minutes. They agreed that time would be sufficient, and now they've gone over. So I think you've given him ample opportunity. And if he has written records, he can introduce those into the record.

CHAIRMAN STRAIN: Okay. When we get back from break, you can introduce what written records you want, and we'll resume at five after four.

(A brief recess was had.)

CHAIRMAN STRAIN: Thank you. We're back on record. It's 4:07.

I'm trying to work out a reasonable solution to the lack of complete presentation by Lee County. It's important that we hear from everybody. We are going to continue this meeting till the 17th regardless because we can't get through the public speakers in the next -- well, we stop at five of five. So we don't have that much time to finish up

today.

Chip Block, if you wouldn't mind coming up to one of the podiums, I'd appreciate it, for a minute.

MR. BLOCK: Good afternoon.

CHAIRMAN STRAIN: Thank you, sir.

Of the people in the room from Lee County staff, are you in charge of all of the -- are you the highest ranking individual staff member here today?

MR. BLOCK: No, sir.

CHAIRMAN STRAIN: Okay. Who is?

MR. BLOCK: Between Matt Noble and myself and maybe Rob Price, the senior engineer, we're all kind of in the same level.

CHAIRMAN STRAIN: Are you -- would you be considered the spokesman?

MR. BLOCK: Yes, sir. I will speak for staff.

CHAIRMAN STRAIN: Okay. What I want to under- -- what I want to do is get a reasonable agreement with you as to the time frame that you feel Lee County needs to finish up, and we'll make a decision whether it be today or the 17th.

MR. BLOCK: After Matt's presentation, my expectation is -- correct me if I'm wrong, rest of the team. Rob, you're how long? Five minutes. Anura, ten minutes, and then I understood Becky was ten minutes, and I was less than ten minutes. So 10, 15, 20. I will commit to 20 minutes and have our staff do it.

CHAIRMAN STRAIN: Okay. So at 4:30 we can finish up, approximately.

MR. BLOCK: Do you think we can do that today, guys? Particularly if we can get Rob Price on board. I think we can do that, yes, sir.

CHAIRMAN STRAIN: Okay. We'll be much better off if we finish today and give a little bit of time for cross-exam -- if that's what Bruce Anderson still wants to do, because he asked for that and I granted it -- and then we got done with your presentation today. That means the public wouldn't really have any time today to get into their issues until we got -- on the 17th.

MR. BLOCK: I will ask our staff to be as brief as possible so that we can reserve as much time for the public after our presentation.

CHAIRMAN STRAIN: Okay. Do you agree that we did have an agreement that it would be 45 minutes?

MR. BLOCK: Absolutely, yes, sir.

CHAIRMAN STRAIN: Thank you, sir.

Okay. If you'll have your people come up one at a time, we'll start finishing up your presentation.

MR. ANDERSON: Mr. Chairman?

CHAIRMAN STRAIN: Yes, sir.

MR. ANDERSON: We will wait on our cross-exam so you can bring the public up to speak first.

CHAIRMAN STRAIN: The only problem with that is I don't want to force Lee County to come back here in force on the 17th and -- their taxpayers are paying for their time here.

So I'd assume -- or I presume that if we can get rid of some of your questions of their specific people, they may have a lesser contingent coming so that can save their department money.

So I'd rather proceed that way. Unfortunately, that's probably the best way to proceed.

Okay. Next speaker, if you'd come up and identify yourself for the record, we'll move forward.

MS. SWEIGERT: Good afternoon. I'm Becky Sweigert with the division of environmental sciences. I'm going to try to go as fast as I can. So I'm here to address the environmental --

COMMISSIONER EBERT: Can you bring it down? You're not quite on the --

MS. SWEIGERT: Sorry. Can you hear me now? Can you hear me now? Okay, thank you.

I'm going to speak to you on the wood stork and panther issues that you heard earlier. The first map before you is a slide of the core foraging areas for wood storks.

The next slide actually identifies Lost Grove Mine in red, and then the dots are actually four colonies for wood storks in the area.

One of the concerns we have for wood storks right now is that the reclamation plan as proposed does not include adequate or optimal foraging areas for wood storks. Wood storks -- successful foraging sites for wood storks are identified as those where the water is between 2 and 16 inches deep and states, good feeding conditions usually

occur where the water is relatively calm and uncluttered with dense thickets of aquatic vegetation. Often, dropping water level is necessary to concentrate fish at suitable densities.

This next slide is a slide you saw earlier that identifies the primary and secondary zone for panthers. This slide actually shows the most recent current telemetry for GPS and telemetry-collared panthers in the DR/GR in northern Lee County.

You can see the triangles actually identify panther deaths on Corkscrew Road, and then there are several dots throughout the area that represent kind of that circular panther movement that Matt had mentioned earlier.

This slide is actually just a close-up of the telemetry points that are on Lost Grove Mine. And you'll see that the agricultural fields, as well as the water-resource areas, are being utilized by the panthers today.

And this telemetry is -- or GPS data is through September 2011. And this map has both telemetry and GPS. So if there's any questions on that.

And just so you kind of understand that when the U.S. Fish and Wildlife Service is assessing for mitigation purposes for panther, they value a lake at a value of a zero, which means it's not very good, and they value the agricultural lands at a level of 4.7. So the agricultural lands do provide value. It's shown through the telemetry points that panthers are utilizing the site.

And then -- today was the first time we heard about the habitat conservation bank that the applicant is working on. We had heard some mention of it, but we did not know that an application had formally been made. But it's really not connected with this Collier County conditional-use permit that you're reviewing today.

That's kind of my presentation.

COMMISSIONER SCHIFFER: Question?

CHAIRMAN STRAIN: Thank you.

Go ahead, Brad.

COMMISSIONER SCHIFFER: You showed two mortalities almost in the same spot there. What were the dates of those?

MS. SWEIGERT: I don't know off the top of my head. This is a map that's generated through FWC. They actually generate the telemetry points and provided it to us with that mortality data.

COMMISSIONER SCHIFFER: Okay. I mean, was it recent? Was it, you know, the Eisenhower administration or --

MS. SWEIGERT: I think it's something that was actually in the last seven to ten years.

COMMISSIONER SCHIFFER: Okay. Thank you.

MS. SWEIGERT: So it's something a little more recent than --

COMMISSIONER SCHIFFER: Okay, thank you.

CHAIRMAN STRAIN: Okay. Thank you.

MS. SWEIGERT: Thank you. I hope I was speedy enough.

CHAIRMAN STRAIN: No, you were fine, thank you.

Next speaker, please?

MR. PRICE: Good afternoon, Commissioners. I'm Rob Price. I have actually testified in this forum previously when I was in the private sector, so -- I'm presently senior engineer with Lee County in the Department of Community Development, and I'm here to talk to you about the traffic issues related to the proposed mine.

Based on the applicant's hauling rate of 5 million tons per year, the proposed Lost Grove Mine is expected to generate approximately 1,300 truck trips per day over the 35-year life of the mine.

The traffic-impact statement that was submitted to Collier County indicated that approximately 70 percent of those 1,300 truck trips per day would be entering Lee County and impacting roads within Lee County. Specifically, 60 percent of those trips were shown on State Road 82, and an additional 10 percent were shown on Corkscrew Road in Lee County.

What's really important to note is that we have failing roadway link in Lee County on State Road 82 from Daniels Parkway -- that's also Gunnery Road to the north of State Road 82, all the way to Alabama Road, and I'll show you where that is here in a second.

Basically, this is a blow-up of the traffic distribution that's in the traffic study, and it -- also that has been submitted to you in the PowerPoint by the applicant today. We've extended it a little bit further to the west so you can see the roads in Lee County.

The failing roadway link -- and if I use the mouse here -- is from this location here to Alabama Road. So this roadway link here. And what we want to point out is, there -- 60 percent of their traffic is shown to the west. Mine traffic is not local traffic. It's not going to get captured by uses along State Road 82. All 60 percent of that traffic is going to impact that segment of State Road 82.

And another important fact, I know the applicant submitted a document this morning in his PowerPoint where he showed a bar graph of the traffic volumes along State Road 82. The capacity on this segment of State Road 82 is 960 vehicles.

On that bar graph that was submitted to you this morning, all but three of the hours of -- there was 15 hours displayed. All but three of them are over the capacity just based on the background traffic alone.

So, yeah, we agree that the mining traffic is really not impacting the p.m. peak hour. It's a morning and a midday peak. But we're showing that road failing during those hours as well.

One other important factor that I need to point out is the TIS showed two access points to the proposed mine. One was through an easement through the property to the north all the way to State Road 82, which is under common ownership. The second access was directly to Corkscrew Road.

Your conditions of approval in the staff report only require the access to Corkscrew Road. We have some serious concerns about having access not on State Road 82. If that access is not constructed, we're putting 100 percent of the mine traffic onto a residential, rural two-lane road that's just not built to withstand mining traffic.

And I have some quick figures here to show you. I'm just going to blow through this slide here. Basically, our -- for our purposes, Corkscrew Road is a two-lane rural residential road, and we have placed an emphasis on channeling our mining traffic onto Alico Road, because it was built by the mining industry, and it's built to withstand that traffic.

FDOT did recently complete a surface -- a resurfacing project in which they did widen the shoulders on State Road 82, and they do have a PD&E study underway for six-laning of that road; however, there is no funding in the foreseeable future for any improvements to that roadway.

What I have here is just a couple quick photos of Corkscrew Road and State Road 82. This is just a side-by-side shot. You can see the shot to the left. It's Corkscrew Road. There's actually a black strip of -- a darker strip of asphalt on the edge of the pavement. What that is -- it's not a shoulder. That's actually a strip of pavement that's been put down after the roadway has been paved to help stabilize the edge of pavement. What you see here is the lanes are so narrow, when you get the loaded dump trucks on the road, it actually starts to deteriorate the edge of pavement because there is no shoulder to help stabilize the edge.

So what we've had to do is come in and actually repave some of the edge to kind of add some stabilization.

But you can see on State Road 82 there isn't that problem. There's plenty of wide lanes. There's wide shoulders. It's really built to handle this kind of truck traffic. So that's why Lee County has concerns about the access being on Corkscrew Road.

Again, you can see, wide lanes, straight road, lots of wide shoulder, plenty of room for truck traffic.

Corkscrew Road. There's even signage pointing out the narrow shoulders. It's a curved road. There's curves -- from the mine west into Lee County it's all curves. So we're talking about a situation where it's not going to be as safe for the dump truck -- for a loaded dump truck and the mixing of passenger cars with the dump truck.

Last slide. Again, I point out the black pavement that's put in here in the curve. That is something that's put in to help stabilize the edge of pavement because it has been deteriorating.

That's really all I have. Next is Anura.

CHAIRMAN STRAIN: Before you leave, Bob. Your AUIR that was done last year, if -- I'll pull that up online between now and the 17th. I'm assuming I'll find on the AUIR that 82 is failed in that location and that it's in your five-year plan for upgrading or fixing? Or how would you -- how did you look at it?

MR. PRICE: It is shown to fail in our concurrency report, and we -- honestly at this point it's a state facility.

CHAIRMAN STRAIN: Okay.

MR. PRICE: So we don't have the funds to upgrade the road at this point.

CHAIRMAN STRAIN: Okay. The gentleman that made the presentation earlier today said there was almost 92 million allocated to be spent on 82, but I heard you say there's been no funding allocated to fix 82 or do -- work on 82. How does that -- that doesn't seem to balance.

MR. PRICE: The work on 82 that's being done, the six-laning that's occurring is actually ongoing, and that is

from Ortiz Avenue east of I-75 to Colonial Boulevard just east of Colonial Boulevard. That was --

CHAIRMAN STRAIN: Okay.

MR. PRICE: That one was failing before the link that we're talking about today.

CHAIRMAN STRAIN: Gotcha. Anybody else have any -- Brad?

COMMISSIONER SCHIFFER: You know, isn't the fact that 70 percent of the traffic's going into Lee County because it's serving the needs of Lee County?

MR. PRICE: I would say that we really -- we've demonstrated, and Matt demonstrated, that we don't have a need for the aggregate. We have rock mines that have the aggregate.

I think it's going to Lee County because it's going to I-75 and it's going to parts north and parts, you know, further north of Lee County.

COMMISSIONER SCHIFFER: Okay. But, I mean, it's the market that's going to draw through Lee County.

MR. PRICE: The market's going to drive wherever it is. We don't even know if it's really 70 percent. It could be all 100 percent.

COMMISSIONER SCHIFFER: Or it could be -- you know, if you get better prices with Lee County mines, it could be zero, so --

MR. PRICE: It could.

COMMISSIONER SCHIFFER: Yeah.

CHAIRMAN STRAIN: Anybody else got any traffic questions?

(No response.)

CHAIRMAN STRAIN: Thank you, sir.

MR. PRICE: No problem.

MR. KARUNA-MUNI: Anura Karuna-Muni, Lee County Division of Natural Resources. I'm going to talk about surface and groundwater issues.

And this map is based on LiDAR data. The LiDAR is -- this data was obtained from State of Florida in 2007. They flew over this area and collected data, and there are billions of data points on this.

And what you see is, like, brighter the color, orange and yellows, are the high elevations. Like, for example, like in the middle I show Elevation 30, and the green and blues are the low elevation.

And as you know, the surface water flows from higher elevation to lower elevation, and groundwater levels generally follow the ground elevations.

And this is a zoom-in into the previous slide that shows the project area. Let me see what I can do -- yeah. This is the county line here, and the project is in this area here.

And as I said before, same thing, the surface water follows the -- goes from high elevations to low elevations, and the groundwater follows the ground elevations. This is an important concept you need to keep in mind as we go along.

And what this slide shows is domestic water supplies in the area, and this is strictly on the Lee County side. And I don't show anything on the Collier County side. And this -- this slide shows the domestic supply plus the irrigation where it's permitted by Water Management District.

And as I said before, the groundwater follows the ground elevations. The applicant record the same idea. So what happens when you change the ground elevation? It's very simple logic. The hydrology is going to change. Very simple logic.

Let me show you -- let me give you a better graphic/illustration of what that means. And this is the pre-mining water levels. And you can see around -- I have a well -- water well on the upstream side, and I have a residence on the downstream side, the water table on the top, confining layer in the sandstone aquifer.

Let's see what happens after you put a mine on. What's in the red is the pre-mining water level. And what happened to it after mine? It flattened to groundwater level. And this is not something that I'm saying here.

First of all, this is common knowledge, plus this is a finding of the detailed (sic) study that the county done several years ago. So, for example, what happened in the upstream side? Your water levels -- if I can get mouse -- in the upstream side what you see is the pre-mining water level's going to drop, and if you had a well, you will see it will go dry faster.

And on the downstream side, what you see here is that you had the pre-mining water level in red and the post-mining water level in black. So what happened there is a mounding of water. So you can expect flooding on the

downstream side. So if you have a septic tank here, you're going to get flooded.

Okay. The applicant did not provide how to establish baseline conditions for surface and groundwater levels and qualities. Understanding the applicant has an ERP permit, but does it tell you what are the baseline conditions? Let's say applicant goes to construction; three years, two years down the road, you will be collecting data. Okay. Now we have the data. Let's see. The water levels are 20. Okay. What does that mean? That is why we need to establish the baseline condition. That is why we need to establish the background elevations, what this means, and that's the reason we ask these water levels be monitored at least about three years prior to start of the construction.

Okay. Once you have the water levels and water-quality data then, you know, someone has to analyze those and tell, okay, these are the standards that we -- that triggers, make triggers. That's where we have the red flags, and that has not been identified.

And, also, what happens when the water level drops or when the water qualities go bad? Do we have a contingency plan? I haven't seen one. Do we have remedial action? I haven't seen one.

Okay. The applicant should be denied because the applicant failed to address domestic and irrigation water supply; because wetland hydroperiods are -- they impact the wetland hydroperiods; because data impact to septic systems, as I demonstrated in my cartoon; and, also, it's going to cause flooding and surface water storage.

I think I did it in five minutes.

CHAIRMAN STRAIN: Well, we've got some questions and, of course, they won't impact your time.

Go ahead, Brad.

COMMISSIONER SCHIFFER: Quick question. How far would you want a well to be away from the property line or -- let me ask it the other way around. How far would you want open water to be away from a well in Lee County? It will be a private domestic well.

MR. KARUNA-MUNI: It really depends on the water levels. It really depends on the, you know, slope -- you know, I mean, you saw that cartoon graphics. If it gets very steep, yeah, you're going to have -- you need to have your well way down there. I mean, I haven't seen that information to tell you what.

COMMISSIONER SCHIFFER: If you could go back to that a second. And, actually, I can't resist asking you a question on that, so go back to that one.

What are those little things running around on top of the wells and stuff?

MR. KARUNA-MUNI: Those are the property owners who own the water wells.

COMMISSIONER SCHIFFER: So to prevent that, what would you recommend we set as conditions as to water location? I mean, it's easy to say it depends. Of course it depends, but we have to come up with something that's safe.

They're 300 feet away with open water now. I mean, in the design of distance between wells and septic tanks, that's far exceeding what you would normally do, so isn't that a safe number?

MR. KARUNA-MUNI: Again, I cannot give you -- it really -- I need to have more data to give you a safe number. But like in conceptual manner, if I were to recharge that area where the wells are going dry, you know, then I probably will avoid that situation.

COMMISSIONER SCHIFFER: I mean, we don't have -- this is like the hills in Maryland. Fortunately we're pretty flat here.

MR. KARUNA-MUNI: Flat. But if you'll recall, one of the slides, I believe John English had, showed the elevation difference -- I believe it's somewhere around 4 feet across the site. Again, I'm just -- I'm just thinking of, you know, what he had in his slide.

COMMISSIONER SCHIFFER: Okay. But you're saying they're not addressing these concerns. So if we were to address these concerns, you don't think that 300 feet is enough to protect a -- I mean, a well shouldn't be on the property line. That person should have been smart enough to put it some distance back to protect whatever somebody did over there anyway.

MR. KARUNA-MUNI: I think that is the whole idea of having to monitor the wells and establish the baseline so we know, if our baseline is 20 today before the mines are started --

COMMISSIONER SCHIFFER: Right, okay.

MR. KARUNA-MUNI: -- if it goes below it, 19, yeah, we have a problem.

COMMISSIONER SCHIFFER: Okay. We can monitor. That's good. All right, thank you.

COMMISSIONER EBERT: I have a question.

CHAIRMAN STRAIN: Go ahead, Diane.

COMMISSIONER EBERT: Could you go to a couple slides forward here where they don't -- can you go a couple forward here that -- where they did not provide. Okay. I have a question for you. Has Alico Land Development -- do they have any mines in Lee County?

MR. KARUNA-MUNI: I believe so.

COMMISSIONER EBERT: And they have answered all these questions for you, but --

MR. KARUNA-MUNI: I don't know.

COMMISSIONER EBERT: You approved their mines?

MR. KARUNA-MUNI: I didn't know. Maybe someone else in the county can approve -- answer that question.

MR. NOBLE: For the record, Matt Noble, division -- Lee County division of planning.

The old Cemex mine on Alico Road was on -- is currently on Alico property. It's a finished mine. That mine was approved in a different era, back -- way back in the '80s sometime, '90s, '70s? Yeah. I just -- I might remember one of the updates in the late '80s, but it's been around a long time.

COMMISSIONER EBERT: So they have no active mines in Lee County at all?

MR. NOBLE: I don't believe so.

CHAIRMAN STRAIN: Well, Alico's here to answer it for themselves. Go ahead.

MR. SCHROTENBOER: That must be appropriate.

For the record, Don Schrottenboer, president of Alico Land Development.

To answer your specific question, Alico Land Development does not have any current active mines. Let me reverse that question. Alico owns property in Lee County currently that is being currently mined by Cemex on the north side of Alico Road.

COMMISSIONER EBERT: Okay.

MR. SCHROTENBOER: Okay.

COMMISSIONER EBERT: Thank you.

CHAIRMAN STRAIN: Thank you. Anybody else have any questions? Go ahead, Melissa.

COMMISSIONER AHERN: Were a lot of your issues not addressed by the DEP permit?

MR. KARUNA-MUNI: No, I didn't -- I didn't see -- the DEP permit -- again, I don't want to talk bad about DEP because I worked for DEP several years ago.

So, yeah, the -- again, the key issue is, you know, you had to address the baseline condition. You have to establish the background levels today before you start mining. And that -- without that information, everybody will be scratching their head three years down the road, are these water levels okay or not?

How would -- one would say, I mean, it goes back to what this other commissioner asked. You know, what is the (sic) water level should be? Yes, I can answer that question if we have enough data today.

See, when we collect the data, you have to collect the data. But some years are dry years, some years are wet years, and that is why, in Lee County, if it's a mine in Lee County, we ask at least we provide -- the applicant provide at least three years of data so, you know, you kind of try to arrange (sic) the wet years and dry years.

Unless you have that background condition, you will be debating three years down the road or two years down the road. Once they start mining -- they will still give you their monitoring data, that's what the DEP says, okay. What are you going to do with that?

COMMISSIONER AHERN: I guess I would ask staff if that's not a requirement for the permit.

CHAIRMAN STRAIN: What do you mean staff, our staff?

COMMISSIONER AHERN: Yes.

CHAIRMAN STRAIN: I don't -- well, I think our staff relies upon the DEP's permit, so you really -- probably want to ask the hydrologist from Alico if they have done that kind of work when they -- at the chance we get. That's probably the best way to go, if we've established the baseline data, okay.

Okay. I have a couple questions as well. Could you go back to that page that showed the red and yellow dots for the wellsites, or the red dots for the wellsites. Right there.

Are the yellow dots -- okay, they're Lee County permit. So that's where your single-family homes would all have their wells located in the yellow dots, right?

MR. KARUNA-MUNI: That's correct.

CHAIRMAN STRAIN: Okay. I didn't see the note down at the bottom. That's fine. That's all I need. Thank you.

Anybody else have any questions?

(No response.)

CHAIRMAN STRAIN: Thank you, sir.

MR. KARUNA-MUNI: Thank you.

CHAIRMAN STRAIN: No, you'll have to wait till we finish Lee County. They have more time.

MR. BLOCK: Chairman Strain, for the record, my name is Chip Block. I'm also known as Alvin. Alvin's the real name; Chip's the nickname.

Commissioners, thank you very much for the additional time. I greatly appreciate it. I'm sure Lee County does, too. Commissioners, I'm going to be very, very brief in my presentation. I may not be Becky, but I'll try my best to.

The Lee County staff has reviewed this application, has reviewed it per the Collier County Growth Management Plan, per the Collier County Land Development Code, and per the Collier County Code of Ordinances, and we have provided you what we believe is substantial and competent evidence for your consideration today and in the future for this case in your decision-making process.

What I've placed on the screen is something that you saw Matt Noble -- and which you are all very familiar with. It's Land Development Code Chapter 10, Section 10.08.00, and Letter D, and these are the findings that the Land Development Code specifically requires you to take a look at and matters that you have to take a look at for a conditional-use permit. I'm not going to read it to you. You know what it means, and you know what it says.

In our presentation, though, I believe that what we have pointed out to you, that the conditional use is not consistent with the Growth Management Plan. You have heard and may hear additional substantial competent evidence from the public regarding the requested conditional use, that it's inconsistent with a number of policies with the Collier County Growth Management Plan.

That we also believe that the designation -- we understand that the designation allows for earth-mining activities as part of one of the permitted uses on that, but it doesn't mean it has to be granted. There are other uses under the Growth Management Plan designation for the subject property that permits other uses on the subject property. This is not the only one.

Please take that into consideration. This is not the only one that they are allowed to have. They have other uses. And, in fact, the uses they have on the property today, agricultural, is a permitted use.

The proposed vehicular access to the subject property is of concern to county staff, the Lee County staff, and I hope to Collier County staff as a whole also, because when you look at the conceptual conditional-use plan that has been provided to you -- not the color version that you saw on the screen today -- but the black-and-white version, the two access points that they show, one to State Route 82 and one to Corkscrew Road, both say "potential road access." Doesn't mean it's going to be provided.

The only thing that's going to be required is when you look at the Growth Management Plan. And there's a requirement under the Growth Management Plan that property is accessed from the closest or abutting arterial or collector road. That's only Corkscrew Road. That could mean when they come in for permits for developing this site, unless conditions are established, sole access is Corkscrew Road and, and their entire transportation analysis that has been provided to you, to Collier County staff, is no longer valid.

Yeah, it's going to go out to State Route 82 and everything else, but if they only have access to Corkscrew Road, all of that access, all of the analysis and the transportation analysis is thrown out the window.

The proposed conditional use would have a negative impact due to noise, glare, and dust. You have heard and may hear again additional substantial competent evidence as to why this should not be approved based upon the Collier County codes and Collier County Growth Management Plan.

Please, keep an open mind. Consider that. You do not have to grant a conditional-use permit, just as you said, Chairman Strain, in the very beginning of this hearing.

The proposed conditional use is not compatible, at least in our opinion, with the adjacent properties and other properties in the district. A mine, due to noise, odor, dust, vibration, truck traffic, potential impacts to ground and surface waters, potential impacts on environmentally sensitive areas, habitats and species, is not compatible.

You, again, have heard and may hear additional substantial competent evidence that would support that

finding.

Finally, I would ask in the break that we're going to have between hearing dates that your County Attorney's Office go back and take a look at something, because I haven't heard it today in this public hearing, but I've heard it a lot in Lee County -- and mind you, I've handled a lot of mining operations since 1987.

Florida Statutes 552.3 specifically provides for the provision that, under blasting, the sole authority for granting blasting for construction materials mining operations is the state fire marshal's office.

And, in fact, let me read from that provision under 552. It says, they have the sole and exclusive authority to promulgate standards, limits, regulations regarding the use of explosives in conjunction with construction materials mining activities.

Such authority to regulate such use shall include, directly or indirectly -- directly or indirectly the operation, handling, licensure, or permitting of explosives and setting standards or limits, including, but not limited to, ground vibrations, frequency, intensity, blast pattern, air blast and time, date, occurrence, and notice restrictions.

We have been told by our county attorneys in Lee County when this was brought to our attention in 2007 that we have no authority to regulate blasting operations at all for construction materials mining operations. In fact, we received a declaratory statement from the state fire marshal's office back in 2007 that specifically said that.

So I would be careful if you consider conditions, and I would ask that the County Attorney's Office for Collier County take a look at those standards and also take a look at the standards for remediation purposes that the applicant has addressed today, how they're going to remediate it if there's a blasting problem and there's a complaint.

You're also going to find in that section -- if I remember correctly, it was 36, but I could be wrong. No, I am wrong.

Well, again, I would just ask the county attorney -- here it is. Division of Administrative Hearings under 552.36. The Division of Administrative Hearings has exclusive jurisdiction over all claims for damages to real or personal property caused by the use of explosives in connection with construction materials mining activities.

Regardless of what they have offered today, the Office of Administrative Hearings is the one that considers it.

So I would go back and think about that condition also and think about whether or not you have enough authority under these regulations to establish reasonable conditions which may protect the adjacent property owners, not only in Lee County that I'm representing, but in Collier County.

And with that, Mr. Chairman, I can only say that I've been directed to explain to Collier County that Lee County objects to this zoning application for conditional-use permit for construction materials mining operation on the subject property, and we, therefore, recommend to the Collier County Planning Commission consideration for a recommendation of denial of the request.

Thank you.

CHAIRMAN STRAIN: Thank you. And before you leave the podium, we may have some questions, but I've got a couple clarifications.

First of all, I want to thank you for your focused presentation. That is a lot more effective for us to understand, and I appreciate that.

MR. BLOCK: My pleasure to help.

CHAIRMAN STRAIN: You correctly pointed out that conditional uses are a "may" in Collier County, not a "shall," which provides the opportunity for boards to render decisions that could be in favor or against.

In that regard, I don't know what happened at the EAC meeting, but they were looking at two points. One was an evacuation permit -- an excavation permit, and the other was a conditional use. This board is only looking at a conditional use.

MR. BLOCK: Yes, sir.

CHAIRMAN STRAIN: We are not approving or disapproving blasting. We are simply saying, if blasting occurs, this is the conditions under which it might occur as a minimum standard for us.

Now, that doesn't mean we're saying they can do blasting. That's -- the permit process for that is up to them to attain.

And about -- a few minutes ago during your presentation you started out a sentence that said, and Mr. Chairman, as you said, and then you started saying -- referencing some incompatible issues with the project. I don't believe I ever rendered any kind of comment about incompatibility or anything.

MR. BLOCK: No, sir. I apologize for my placing that statement. But I saw you nodding your head as soon

as I reminded everybody that a conditional use is not --

CHAIRMAN STRAIN: Yeah.

MR. BLOCK: -- something that has to be granted, that it may be granted when it is found consistent with the Growth Management Plan, Land Development Code, and Code of Ordinances.

CHAIRMAN STRAIN: And that's correct, and I appreciate that because that is an issue that gets confused many times. So thank you.

Now, are there --

MR. BLOCK: Commissioner Strain, if I may, you -- I, again, would like to ask the Planning Commission to consider caution in the consideration of the conditions that you talked about for blasting. You're not granting an excavation permit, and I understand that. But you're talking about or have discussed in some fashion, as has the applicant and as has Collier County staff, the potential for conditions related to blasting, whether they be hours of operation, when it's going to -- you know, to what extent it's going to happen, and a lot of other different things that have been included in the conditions either by the applicant or Collier County staff.

I would just ask for caution to see if the Collier County Attorney's Office would go back and look at Chapter 552 and see if they concur with the county attorney's opinion for Lee County which says Lee County has no authority whatsoever to grant blasting through conditions.

CHAIRMAN STRAIN: And let me -- the process here -- we are purely a recommending board. We do not make a final decision.

MR. BLOCK: I do understand that.

CHAIRMAN STRAIN: Okay. And so what happens from here, it goes to the Board of County Commissioners, and it goes to -- it usually gets on their agenda on a day that they're packed with three-ring binders that deep of information that they have to get through, and it involves all kinds of things.

They don't normally spend the kind of time on an application for land use that this board is able to spend, because we focus strictly on land-use issues.

MR. BLOCK: And I appreciate that.

CHAIRMAN STRAIN: Well, we try to -- we try to package everything up with as much in it so that if they were to approve it and that -- the stipulations that we add to it would help with whatever conditions are there on the site.

So lacking any conditions in blasting, if it were to go before the board and it was approved and they didn't get into the fine art of the blasting process and they did it elevated above the state minimum, then you would be left with state minimums.

So we are more like a cautionary avenue to make sure that at least if it were to be approved -- not by this board necessarily because we don't approve it, we just recommend -- but if the other board does approve it, they can look to our stipulations as an added protection, let's say, in regards to some of the issues that were brought forth.

MR. BLOCK: But to make it more restrictive than Florida Statutes, you don't have the authority to grant such a condition, and I would just -- if you pass on a package of conditions, should you recommend approval to the Board of County Commissioners, Board of Zoning Appeals, please be cautious about the blasting conditions, because I would not want Collier County to adopt a conditional-use permit that could fail in the approval because it's illegal, potentially violating state law.

CHAIRMAN STRAIN: Appreciate your comments. Thank you.

Anybody else?

COMMISSIONER SCHIFFER: I do have a question.

COMMISSIONER MIDNEY: Brad?

COMMISSIONER SCHIFFER: So let me make sure I understand that point. So if we said, we'll give you this conditional use if you make everybody wear purple helmets on the day of blasting, you're saying the state fire marshal could eliminate that requirement?

MR. BLOCK: Actually, I think Florida Statute has already done it per the interpretation of our county attorney staff, because it says, the state fire marshal shall have the sole and exclusive authority to regulate -- to promulgate -- excuse me -- promulgate standards, limits, and regulations regarding the use of explosives in conjunction with construction materials mining operation. They are the sole authority --

COMMISSIONER SCHIFFER: And --

MR. BLOCK: -- regardless if it's local or not.

COMMISSIONER SCHIFFER: And they also are for fireworks and other things. So the point is, we could never do anything more restrictive than the state. So in other words, our purple-hat rule would just be pushed aside and they still have their conditional use?

MR. BLOCK: Hours of operation would not be existing.

CHAIRMAN STRAIN: No. We're going to have to have the county attorney weigh in on that, because --

MR. BLOCK: I understand.

CHAIRMAN STRAIN: -- honestly, that would turn a lot of our stipulations upside down that we've been doing for years, and those have been very effective to get a better -- better product for the people of this county and for your potential people as well, to be honest with you.

MR. BLOCK: Chairman -- and I sympathize with that, and if they come back with the opinion that you can do that, certainly you have the authority to do that in their opinion. I'm just passing on a concern that has been ours for many years now.

CHAIRMAN STRAIN: We're going to have to wrap this up. I want to get --

COMMISSIONER SCHIFFER: I just have one more.

COMMISSIONER AHERN: Then Melissa's got a question, then I've got to ask him some more questions about who's going to return for cross-exam on the 17th. So go ahead.

COMMISSIONER SCHIFFER: The question also, you're really concerned that this road's not going to go up -- or the access isn't going to go up to 82, but it is. I mean, they're testifying that we're going to have -- that's going to be the queuing area and everything, so I don't think I'd worry about them denying that access.

MR. BLOCK: I have had way too many opportunities in the past years since 1985 where an attorney has come before me and said, this master concept plan says I can do this or I don't have to do this. If it has "potential access to 82" --

COMMISSIONER SCHIFFER: Okay.

MR. BLOCK: -- it means it's only potential. They apply the rule in Collier County which says they only access to Corkscrew. If you condition it differently, fine.

COMMISSIONER SCHIFFER: Yeah, because the "potential" might be left behind here, so -- it might be "actual" before it leaves here.

I'm done, Mark.

CHAIRMAN STRAIN: Melissa?

COMMISSIONER AHERN: How does the blasting code affect the mines in Lee County?

MR. BLOCK: Which blasting code?

COMMISSIONER AHERN: The one that you're referencing with the fire marshal.

MR. BLOCK: The state fire marshal specific -- we have in Lee County interpreted that the state fire marshal has the sole and exclusive authority to regulate it; therefore, we have to consider that any construction material mining operation will have to comply with state law, and then we consider the impacts of state law, the extent of blasting that could be allowed on that subject property and then a determination, is it consistent with the comprehensive plan, and is it compatible with the surrounding with the surrounding land uses --

COMMISSIONER AHERN: So --

MR. BLOCK: -- based -- solely using state law.

COMMISSIONER AHERN: So the mines there can operate 24/7?

MR. BLOCK: If they want to blast and state law permits 24/7, they can blast 24/7. We do not regulate blasting.

COMMISSIONER AHERN: And how many mines do you have approved?

MR. BLOCK: How many? I'm sorry, I haven't counted them recently. I would say anywhere between a half a dozen and a dozen.

COMMISSIONER AHERN: Thank you.

CHAIRMAN STRAIN: Well, I'm glad that we have followed a different path. Right or wrong, it's been a better path for the mines we have because ours don't operate like yours do.

And now that you've told that to Bruce Anderson, I'm a little worried about what he's going to try to do. But maybe we'll get lucky and we'll find that our county attorney disagrees with you.

With that, Chip, next meeting, how many of your people will be here?

MR. BLOCK: I think all of us could be here on November 17th with the exception of Rob Price, our transportation expert, who is on vacation that day.

CHAIRMAN STRAIN: Okay. Bruce, did you have any cross-examination you needed to do to Rob -- with Rob Price in the next few minutes that we can accomplish today? Is -- that being necessary?

MR. BLOCK: Also Dr. Rix, I apologize, our first expert on blasting, he is a -- he'll be flying out. We don't have the ability to bring him back in November.

MR. ANDERSON: Yes. Nicole from the Conservancy asked me if we would go ahead and dispose of the professor from Georgia Tech, and so we're prepared to do that this afternoon so they and the neighbors don't have to fly him back.

CHAIRMAN STRAIN: Okay. What about Rob Price; you have any questions of him, cross-examine him?

MR. ANDERSON: No.

CHAIRMAN STRAIN: Okay. So then you can live with the rest of their staff coming back on the 17th for any potential concerns you have?

MR. ANDERSON: Yes.

CHAIRMAN STRAIN: Okay. I think that will work. It's close to quitting time. We have to -- the lights go off at around five of five, so to speak. The lights being K.D. across the hallway.

So I want to thank everybody for their time today, and I appreciate very much the public's attendance. I'm very sorry that we couldn't get to you. We have -- this has gone on a little bit longer than our rules allow. We generally allow five minutes per person with the difference being that the chair can allow additional time. I've allowed a lot more additional time today.

But I'd like to ask if you could come back on the 17th. We will certainly hear from everyone in the room. And so I appreciate that very much.

And with that, we'll adjourn this meeting -- or continue this meeting. I've got to have a vote for a continuance. Go ahead.

MR. ANDERSON: Well, the Conservancy asked us to go ahead and question the professor from Georgia today so they don't have to pay to fly him back.

CHAIRMAN STRAIN: I'm sorry. I thought you said you -- I thought you said you agree to dismiss him. You mean you wanted to hear him. Oh.

MR. ANDERSON: I said dispose of him, and that was probably --

CHAIRMAN STRAIN: Well, I thought you misstated. Okay. Well, let's get that -- welcome, sir. Sorry for the confusion.

MR. ANDERSON: And I'm going to turn this over to my partner, Bob Menzies.

CHAIRMAN STRAIN: Well, Bruce, you are confusing at times. This was one of them.

MR. ANDERSON: Thank you.

MR. MENZIES: I only question witnesses I don't dispose.

I'm Bob Menzies on behalf of the applicant. I'm one of Bruce's partners.

Doctor, if you could pull up your PowerPoint, if that's possible.

DR. RIX: Let me try.

MR. MENZIES: I'll be as brief as I can.

DR. RIX: Yes.

MR. MENZIES: What I want to go to is your first slide with the raw data, the slides with the data.

DR. RIX: Yes.

MR. MENZIES: I want to go to the first one of those.

DR. RIX: This slide?

MR. MENZIES: Right.

DR. RIX: Yes.

MR. MENZIES: I think that's the one you testified that exhibited 151 blasts from records you received from the fire marshal.

DR. RIX: Yes, as well as those that are in my own files from previous cases that I have been involved with here in Lee and Collier Counties.

MR. MENZIES: And all of those records -- well, some of those records you retrieved from the state fire marshal?

DR. RIX: Yes.

MR. MENZIES: And other ones you have in your own files?

DR. RIX: Yes.

MR. MENZIES: And could we get copies of all those records and that raw data?

DR. RIX: Certainly. Yeah, no problem.

MR. MENZIES: What would be the yearly -- how many blasts? You said 151?

DR. RIX: Hundred and fifty-one.

MR. MENZIES: Over what span of time?

DR. RIX: I believe the earliest blast I have is from 1998, and the most recent is probably within the last two or three years, I think. Something on that order.

MR. MENZIES: And, again, that's all from your records -- your personal records with respect to your work here in Lee County and records from the state fire marshal?

DR. RIX: That's correct.

MR. MENZIES: And if we could have those before the next meeting, that would be helpful.

CHAIRMAN STRAIN: Will that be possible for you to provide them?

DR. RIX: Yeah, I think so. I'm just trying to think through my mind of where I have that raw data. I think I can get my hands on it quickly.

MR. MENZIES: Can you go to the next slide with data?

DR. RIX: Sure.

MR. MENZIES: There were some ones -- graphs and charts, I believe.

DR. RIX: This slide?

MR. MENZIES: No, that's the same one. Keep going, if you would, please. There. I'm actually looking -- scroll down some more, please.

DR. RIX: No, that's my summary. I'll go back up.

MR. MENZIES: The data with the Bureau of Mines.

DR. RIX: Yes, that was -- yes, yes, yes.

MR. MENZIES: Right.

DR. RIX: That data, yes.

MR. MENZIES: Can we get that raw data?

DR. RIX: Yeah, that's part of a published report, and so I can certainly provide the report, but I have no access to the raw data that's cited in the report.

MR. MENZIES: Okay. Thinking back on your entire report --

DR. RIX: Yes.

MR. MENZIES: -- what other raw data went into making the report that you've presented to the commission today?

DR. RIX: The data that I primarily relied upon for -- to draw my conclusions about distances and charge weights was, in fact, this set of data.

MR. MENZIES: All right. If you could get us a hard copy of that, the data that we've referred to, that would be great.

DR. RIX: I'd be happy to.

MR. MENZIES: I don't have any other questions. Thank you.

CHAIRMAN STRAIN: Great. Thank you very much. We appreciate it.

Go ahead -- you're going to cross-examine, too?

COMMISSIONER SCHIFFER: No. But could you replace that slide where the legends are in a language --

DR. RIX: Yes, I'm sorry.

COMMISSIONER SCHIFFER: -- for humans? Pick a language that a human would use.

DR. RIX: I'll try. See, I'm a Mac person, and this is a PC, and that's the nature of the problem there. So I'll work on that.

COMMISSIONER SCHIFFER: Okay, good.

CHAIRMAN STRAIN: Okay. We're good. I'd seek a motion to continue from the Planning Commission.

COMMISSIONER EBERT: I make a motion to continue this until the 17th.

CHAIRMAN STRAIN: Seventeenth.

COMMISSIONER EBERT: Of --

COMMISSIONER HOMIAK: Second.

CHAIRMAN STRAIN: Motion, and seconded by Commissioner Homiak.

Does that work for the applicant, since it's the applicant's hearing, the motion that's going to be continued to the 17th? And if you needed more time, you could -- that would work as. But the 17th it is.

Discussion?

(No response.)

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

COMMISSIONER SCHIFFER: Aye.

COMMISSIONER MIDNEY: Aye.

COMMISSIONER AHERN: Aye.

CHAIRMAN STRAIN: Aye.

COMMISSIONER HOMIAK: Aye.

COMMISSIONER EBERT: Aye.

COMMISSIONER BROUGHAM: Aye.

CHAIRMAN STRAIN: Anybody opposed?

(No response.)

CHAIRMAN STRAIN: Motion carries 7-0. We will continue this meeting till the first up on the 17th at nine o'clock in this room. We'll see you then.

Thank you. And is there a motion -- well, we're continued, so that's it.

There being no further business for the good of the County, the meeting was adjourned by order of the Chair at 4:57 p.m.

COLLIER COUNTY PLANNING COMMISSION


MARK STRAIN, CHAIRMAN

ATTEST
DWIGHT E. BROCK, CLERK

These minutes approved by the Board on 12-1-11, as presented or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF GREGORY COURT REPORTING SERVICES, INC.,
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.

